AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

106th Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1999—VOLUME I

REPORT

SUBMITTED TO THE

COMMITTEE ON INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

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

APRIL 2000

Printed for the use of the Committees on International Relations of the U.S. House of Representatives and Foreign Relations of the U.S. Senate respectively

U.S. GOVERNMENT PRINTING OFFICE
63–935 WASHINGTON : 2000

COMMITTEE ON INTERNATIONAL RELATIONS

BENJAMIN A. GILMAN, New York, *Chairman*

WILLIAM GOODLING, Pennsylvania
JAMES A LEACH, Iowa
HENRY J. HYDE, Illinois
DOUG BEREUTER, Nebraska
CHRISTOPHER H. SMITH, New Jersey
DAN BURTON, Indiana
ELTON GALLEGLY, California
ILEANA ROS–LEHTINEN, Florida
CASS BALLENGER, North Carolina
DANA ROHRABACHER, California
DONALD A. MANZULLO, Illinois
EDWARD R. ROYCE, California
PETER T. KING, New York
STEVE CHABOT, Ohio
MARSHALL "MARK" SANFORD, South Carolina
MATT SALMON, Arizona
AMO HOUGHTON, New York
TOM CAMPBELL, California
JOHN M. MCHUGH, New York
KEVIN BRADY, Texas
RICHARD BURR, North Carolina
PAUL E. GILLMOR, Ohio
GEORGE P. RADANOVICH, California
JOHN COOKSEY, Louisiana
THOMAS G. TANCREDO, Colorado
SAM GEJDENSON, Connecticut
TOM LANTOS, California
HOWARD L. BERMAN, California
GARY L. ACKERMAN, New York
ENI F.H. FALEOMAVAEGA, American Samoa
MATTHEW G. MARTINEZ, California
DONALD M. PAYNE, New Jersey
ROBERT MENENDEZ, New Jersey
SHERROD BROWN, Ohio
CYNTHIA A. MCKINNEY, Georgia
ALCEE L. HASTINGS, Florida
PAT DANNER, Missouri
EARL F. HILLIARD, Alabama
BRAD SHERMAN, California
ROBERT WEXLER, Florida
STEVEN R. ROTHMAN, New Jersey
JIM DAVIS, Florida
EARL POMEROY, North Dakota
WILLIAM D. DELAHUNT, Massachusetts
GREGORY W. MEEKS, New York
BARBARA LEE, California
JOSEPH CROWLEY, New York
JOSEPH M. HOEFFEL, Pennsylvania

RICHARD J. GARON, *Chief of Staff*
KATHLEEN BERTELSEN MOAZED, *Democratic Chief of Staff*

COMMITTEE ON FOREIGN RELATIONS

JESSE HELMS, North Carolina, *Chairman*

RICHARD G. LUGAR, Indiana
CHUCK HAGEL, Nebraska
GORDON H. SMITH, Oregon
ROD GRAMS, Minnesota
SAM BROWNBACK, Kansas
CRAIG THOMAS, Wyoming
JOHN ASHCROFT, Missouri
BILL FRIST, Tennessee
LINCOLN D. CHAFEE, Rhode Island
JOSEPH R. BIDEN, JR., Delaware
PAUL S. SARBANES, Maryland
CHRISTOPHER J. DODD, Connecticut
JOHN F. KERRY, Massachusetts
RUSSELL D. FEINGOLD, Wisconsin
PAUL D. WELLSTONE, Minnesota
BARBARA BOXER, California
ROBERT G. TORRICELLI, New Jersey

STEPHEN E. BIEGUN, *Staff Director*
EDWIN K. HALL, *Minority Staff Director*

CONTENTS

VOLUME I

	Page
FOREWORD	VII
LETTER OF TRANSMITTAL	IX
PREFACE	XI
INTRODUCTION	XV
AFRICA:	
Angola	1
Benin	14
Botswana	20
Burkina Faso	29
Burundi	39
Cameroon	47
Cape Verde	69
Central African Republic	74
Chad	85
Comoros	94
Congo, Democratic Republic of	99
Congo, Republic of	128
Cote d'Ivoire	138
Djibouti	155
Equatorial Guinea	166
Eritrea	173
Ethiopia	182
Gabon	203
Gambia, The	211
Ghana	220
Guinea	237
Guinea-Bissau	249
Kenya	256
Lesotho	279
Liberia	288
Madagascar	299
Malawi	305
Mali	313
Mauritania	321
Mauritius	337
Mozambique	343
Namibia	357
Niger	369
Nigeria	379
Rwanda	402
Sao Tome and Principe	412
Senegal	415
Seychelles	427
Sierra Leone	433
Somalia	442
South Africa	449
Sudan	464
Swaziland	482
Tanzania	490
Togo	505
Uganda	518
Zambia	535

Page

AFRICA—Continued
Zimbabwe 547

LATIN AMERICA, CANADA, AND THE CARIBBEAN:
Antigua and Barbuda 569
Argentina 573
Bahamas 584
Barbados 590
Belize 594
Bolivia 601
Brazil 611
Canada 634
Chile 641
Colombia 656
Costa Rica 691
Cuba 698
Dominica 718
Dominican Republic 722
Ecuador 737
El Salvador 747
Grenada 763
Guatemala 767
Guyana 792
Haiti 801
Honduras 815
Jamaica 829
Mexico 834
Nicaragua 857
Panama 872
Paraguay 885
Peru 896
St. Kitts and Nevis 924
Saint Lucia 928
St. Vincent and the Grenadines 932
Suriname 936
Trinidad and Tobago 943
Uruguay 948
Venezuela 954

EAST ASIA AND THE PACIFIC:
Australia 971
Brunei 978
Burma 984
Cambodia 1006
China (includes Hong Kong and Macau) 1018, 1089
China (Taiwan only) 1095
Fiji 1106
Indonesia 1113
Japan 1153
Kiribati 1166
Korea, Democratic People's Republic of 1179
Korea, Republic of 1169
Laos 1189
Malaysia 1199
Marshall Islands 1227
Micronesia, Federated States of 1230
Mongolia 1234
Nauru 1239
New Zealand 1242
Palau 1247
Papua New Guinea 1251
Philippines 1256
Samoa 1268
Singapore 1272
Solomon Islands 1288
Thailand 1292
Tonga 1306
Tuvalu 1309

Page

EAST ASIA AND THE PACIFIC—Continued
Vanuatu 1312
Vietnam 1316

VOLUME II

EUROPE:
Albania 1337
Andorra 1348
Armenia 1351
Austria 1366
Azerbaijan 1375
Belarus 1390
Belgium 1414
Bosnia and Herzegovina 1422
Bulgaria 1440
Croatia 1458
Cyprus 1479
Czech Republic 1488
Denmark 1503
Estonia 1507
Finland 1515
France 1519
Georgia 1531
Germany 1546
Greece 1559
Hungary 1574
Iceland 1585
Ireland 1590
Italy 1598
Kazakhstan 1606
Kyrgyz Republic 1628
Latvia 1640
Liechtenstein 1649
Lithuania 1652
Luxembourg 1661
Former Yugoslav Republic of Macedonia 1664
Malta 1675
Moldova 1678
Monaco 1688
Netherlands, The 1691
Norway 1698
Poland 1702
Portugal 1719
Romania 1725
Russia 1735
San Marino 1797
Serbia-Montenegro 1799
Slovak Republic 1844
Slovenia 1857
Spain 1861
Sweden 1875
Switzerland 1882
Tajikistan 1890
Turkey 1902
Turkmenistan 1937
Ukraine 1947
United Kingdom 1970
Uzbekistan 1988

NEAR EAST AND NORTH AFRICA:
Algeria 2009
Bahrain 2020
Egypt 2031
Iran 2050
Iraq 2070
Israel and the occupied territories 2092
Jordan 2124

Page

NEAR EAST AND NORTH AFRICA—Continued
Kuwait 2137
Lebanon 2151
Libya 2162
Morocco 2170
Western Sahara 2189
Oman 2192
Qatar 2201
Saudi Arabia 2207
Syria 2219
Tunisia 2230
United Arab Emirates 2248
Yemen 2256

SOUTH ASIA:
Afghanistan 2277
Bangladesh 2294
Bhutan 2315
India 2325
Maldives 2367
Nepal 2374
Pakistan 2389
Sri Lanka 2434

APPENDICES:
A. Notes on Preparation of the Reports 2457
B. Reporting on Worker Rights 2459
C. International Human Rights Conventions 2462
D. Information on International Human Rights Conventions Listed in Appendix C 2468
E. FY 1999 U.S. Economic and Security Assistance (Actual Obligations) .. 2469
F. 55th Session of the U.N. Human Rights Commission Voting Record 2474
G. United Nations Universal Declaration of Human Rights 2478

FOREWORD

The country reports on human rights practices contained herein were prepared by the Department of State in accordance with sections 126(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 505(c) of the Trade Act of 1974, as amended.

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

BENJAMIN A. GILMAN,
Chairman, Committee on International Relations.

JESSE HELMS,
Chairman, Committee on Foreign Relations.

LETTER OF TRANSMITTAL

DEPARTMENT OF STATE,
Washington, DC, February 25, 1999.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations,
U.S. Senate.

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 1998,* prepared in compliance with sections 116(d)(1) and 502(B)(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

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

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.

Enclosure.

PREFACE 1999

HUMAN RIGHTS REPORTS

Why The Reports Are Prepared

This report is submitted to the Congress by the Department of State in compliance with sections 116(d) and 502(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 "a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act." We have also included reports on several countries that do not fall into the categories established by these statutes and that thus are not covered by the congressional requirement.

The responsibility of the United States to speak out on behalf of international human rights standards was formalized in the early 1970's. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. In 1994 the Congress created a position of Senior Advisor for Women's Rights. Congress also has written into law formal requirements that U.S. foreign and trade policy take into account countries' human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis. The first reports, in 1977, covered only countries receiving U.S. aid, numbering 82; this year 194 reports are submitted.

How The Reports Are Prepared

In August 1993, the Secretary of State moved to strengthen further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994 the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights, and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights, and democracy. The 1999 human rights reports reflect a year of dedicated effort by hundreds of State

Department, Foreign Service, and other U.S. Government employees.

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

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

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

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

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

Within the Bureau of Democracy, Human Rights, and Labor, the editorial staff of the Country Reports Team consists of: Editor in

Chief—Marc J. Susser; Supervisory Editor—Leslie A. Gerson; Managing Editor—Jeannette P. Dubrow; Technical Editor—Larry Arthur; Editors—Liana Brooks, Frank B. Crump, Joan Garner, Stanley Ifshin, David T. Jones, Lisa N. Kaplan, Susan F. Kovalik, Amy E. McKee, Gregory P. Moody, Diana D. Perry-Elby, Yvette Saint-Andre, Rachel D. Settlage, John C. Sheerin, Carol A. Timko, James C. Todd, Stephen W. Worrel; Assistant Editors—John Bradshaw, Charles J. Brown, Christine Camillo, Douglas B. Dearborn, Carol G. Finerty, Jose Garriga, Ramona Harper, Peter Higgins, Ann Hudock, Alex Kronemer, Susan Keogh, Paul Martin, Edmund McWilliams, Robert L. Norman, David Park, Maria Pica, Susan O'Sullivan, Tamara J. Resler, Mark D. Schall, Madeleine Seidenstricker, Wendy L. Shapiro, Wendy B. Silverman, Mark A. Simonoff, Yvonne F. Thayer, Amy Young, Robert C. Ward; Editorial Assistants—Charmaine Coleman, Linda Hayes, Katie Janick, Laura Muir, Carrie O'Connell, Jennifer Pekkinen, Joshua Rubinstein, Vonzella Taylor, Eunice Watson.

INTRODUCTION TO THE 1999 HUMAN RIGHTS REPORT

I. THE THIRD GLOBALIZATION: TRANSNATIONAL HUMAN RIGHTS NETWORKS

Today, all the talk is of globalization. But far too often, both its advocates and its critics have portrayed globalization as an exclusively economic and technological phenomenon. In fact, in the new millennium, there are at least three universal "languages:" money, the Internet, and democracy and human rights. An overlooked "third globalization"—the rise of transnational human rights networks of both public and private actors—has helped develop what may over time become an international civil society capable of working with governments, international institutions, and multinational corporations to promote both democracy and the standards embodied in the Universal Declaration of Human Rights.

In Davos recently, President Clinton noted that "Since globalization is about more than economics, our interdependence requires us to find ways to meet the challenges of advancing our values." In 1999 the United States continued to meet that challenge. As a leader in promoting democracy and human rights around the world, the United States played an essential and catalyzing role in the process of creating transnational human rights networks. Just this past year, President Clinton and Secretary Albright helped forge international solutions to the crises in Kosovo and East Timor by encouraging a wide range of governmental and nongovernmental actors to join together in public-private networks to promote international justice. The United States is committed to the long-term project of helping such networks develop into an international civil society, an effective partnership of governments, international agencies, multinational corporations, and nongovernmental organizations (NGO's) that will support democracy worldwide and promote the standards embodied in the Universal Declaration of Human Rights.

The great American civil rights leader Martin Luther King, Jr. acknowledged "the interrelatedness of all communities and states . . . caught in an inescapable network of mutuality, tied in a single garment of destiny." What Dr. King understood, even 40 years ago, was the need—in an increasingly interdependent world—for governments, businesses, NGO's, and individuals to work together as agents of change. But what Dr. King could not fully envision was an era in which these growing national networks would face both the profound opportunities and the challenges posed by globalization.

Traditionally, networks have evolved out of communities of like-minded individuals who gather around shared interests and values.

Often they begin as informal conversations, over dinner tables and conference tables, which help individuals identify a shared set of values and standards upon which they can base their behavior. They help generate what de Tocqueville called "habits of the heart"—those characteristics of human nature that encourage otherwise isolated individuals to connect with one another into a broader community. At times, private networks coalesce into a single NGO. More frequently, however, they remain loose coalitions of membership-based citizens' lobbies, labor unions, foundations, academics, professional associations, religious bodies, and other groups that share a desire to identify solutions to a single problem.

Such networks developed at the neighborhood, the community, and at times the national level. But today, new kinds of networks—linked by air transport, telecommunications, the global media, and the Internet—are helping create transnational communities of shared institutions, shared ideas, and—most importantly—shared values. We are rapidly moving toward a global network of government officials, activists, thinkers, and practitioners who share a common commitment to democracy, the universality of human rights, and respect for the rule of law.

Not surprisingly, the emergence of global telecommunications and commercial networks—the two other new "global languages"—have served as important driving forces behind this trend. Just as the Berlin Wall once stood as a physical barrier to movement and the free spread of democracy, governments that abuse human rights also seek to build walls that will stop the free flow of information. But the global information revolution has perforated such walls: E-mail, the Internet, cell phones, and other technologies have helped activists from around the globe to connect with one another in ways that were impossible only 10 years ago. The Internet has created a world in which traditional hierarchical, bidirectional models of authority have been replaced by nonhierarchical, multidirectional systems that naturally feed the growth of transnational networks. Similarly, the global commercial revolution has multiplied contact points between open and closed societies. As corporations, banks, international financial institutions, and private investors engage with transitional societies, they increasingly serve as transmission belts for human rights norms and advocates for human rights improvements.

Increasingly, some of the most successful transnational networks are those that partner with, respond to, or support government initiatives on behalf of democracy and human rights. Perhaps the best example of the power of such public-private network partnerships can be found in the developments over the past year in Kosovo and East Timor. In the days and weeks leading up to both NATO's decision to use military force to stop Serb atrocities in Kosovo and the United Nations' decision to use military force to stop militia and army human rights abuses in East Timor, transnational networks of human rights activists played a key role. During and after the Kosovo crisis, networks of human rights advocates and humanitarian relief workers worked closely with governments, the International Criminal Tribunal for the Former Yugoslavia, and NATO and KFOR forces to document allegations of war crimes and violations of humanitarian law. In both Kosovo and East Timor, NGO's

are working with U.N. missions to build networks to support reconstruction, document human rights abuses, and support justice initiatives.

When nongovernmental groups worked with intergovernmental agencies and national governments in Kosovo and East Timor, NGO efforts enriched government policy-creation efforts, and governments in turn helped guide and coordinate the work of NGO's. As a result of this public-private collaboration, governments successfully pooled their military and financial resources to halt the atrocities, and the international community began the hard work of rebuilding badly damaged societies.

Transnational human rights networks of governments and nongovernmental actors have also worked closely together to secure the adoption of a wide range of declarations, international treaties, conventions, and protocols addressing key human rights issues. Many of these networks emerged from the world human rights conferences that took place in the 1990's. At the World Conference on Human Rights in Vienna in 1993 and the Fourth World Conference on Women in Beijing in 1995, NGO activists worked with democratic governments to combat efforts made by dictatorships to distort the conferences' final declarations. Both conferences also led to the creation of permanent confederations of NGO's, which have continued to work in partnership with democratic governments. More recently, NGO's and governments have worked together to secure agreements on eliminating the worst forms of child labor and ending the use of child soldiers.

Transnational networks have played an important role in shaping the robust debate over how to guarantee international justice. While various actors in the international community do not yet agree fully on how best to address past human rights violations, particularly in the context of difficult democratic transitions, a great deal of concrete progress nonetheless has been made. As recently as the Vienna Conference on Human Rights, most governments (and many NGO's) regarded efforts to establish international judicial mechanisms to promote justice as remote or even utopian. Yet 7 years later, the world has witnessed the establishment of International Criminal Tribunals for the Former Yugoslavia and Rwanda. Indeed, there also has been active and sometimes controversial domestic civil and criminal litigation against former dictators.

Each of these developments took place in part because like-minded governments worked with NGO's to create a public-private network through which "the international community" could address critical human rights concerns. To be sure, no international consensus yet exists on many international justice issues, including the establishment of an International Criminal Court. However, the critical achievements of transnational human rights networks have been to place international justice issues on the agenda and to search for forums in which justice ultimately can be reached.

The United States continues to be a leader in the formation of new transnational human rights networks. For example, the U.S. Institute of Peace and the Department of State recently hosted a roundtable on justice and reconciliation at which visiting Indonesian officials drew on the experiences of five other countries—El

Salvador, Chile, Argentina, South Africa, and South Korea—that have confronted the human rights abuses of prior authoritarian regimes while making the transition to democracy. Participants focused on the advantages and disadvantages of a range of mechanisms for promoting justice and reconciliation: Truth commissions, noncriminal sanctions, criminal accountability, and compensation for victims. Other recent successful efforts at human rights networking began at a private-public conference at the United States Holocaust Museum in Washington to discuss the design of an atrocities prevention information and action network and at a public-private Organization for Security and Cooperation in Europe (OSCE) supplemental Human Dimension Meeting on Roma and Sinti issues.

In a number of critical areas, the Department of State has appointed special representatives to take the lead on building and working with existing human rights and civil society networks. As 1999 ended, Deputy Secretary of the Treasury Stuart Eizenstat, in his role as Special Representative of the President and Secretary of State on Holocaust-Era Issues, catalyzed efforts by the German Government and German industry to capitalize a multibillion dollar foundation to make payments to those who worked as forced and slave laborers for German companies during the Nazi era and to others who were injured during World War II. He also helped stimulate the work of the historical commissions of 19 nations, including the United States, to examine their roles during the War and their relationship to Holocaust-related assets.

Others have played an equally important role. Under Secretary of State for Economic Affairs Alan Larson has worked with a wide range of civil society groups in the Department's advisory group on international economic policy and the transatlantic consumer dialog. He also plays an active role in bringing the private business sector together with other civil society groups to address issues ranging from foreign economic policy to corporate responsibility. Robert Seiple, Ambassador at Large for International Religious Freedom, has worked closely with advisory groups and religious organizations, as well as the Commission on International Religious Freedom, to develop strategies to expand religious freedom worldwide. David Scheffer, Ambassador at Large for War Crimes Issues, has undertaken similar efforts along with governments, intergovernmental entities, and NGO's dedicated to accountability and justice for past abuses and prevention of future atrocities. Joseph Onek, the Department of State's Global Rule of Law Coordinator, has built partnerships with bar associations, ministries of justice, judicial and prosecutorial training centers, and legal academics to promote rule of law and legal institutions worldwide. Theresa Loar, the Department's Senior Coordinator on Women's Issues and Director of the President's Interagency Council on Women, has worked closely with existing global networks to promote women's rights as human rights leading to the fifth anniversary of the Beijing Women's Conference. Sandra Polaski, the Secretary's Special Representative for International Labor Affairs, has strengthened the connection between the Department of State and the international labor movement by regularly convening the Secretary's Advisory Com-

mittee on International Labor Diplomacy and expanding the international labor function within the Department of State.

Over the past 2 years, public-private transnational networks also have helped advance and promote the cause of democracy, as both a fundamental human right in itself and as a means to greater protection for a wide range of human rights. One of the most startling political changes of the post-Cold War era has been the explosion in the number of democracies worldwide: By most counts the number of democratic governments expanded fourfold in the last quarter of the 20th Century, from 30 in 1974 to some 120 today. The U.S. Government's democracy-promotion efforts have played an important role in bringing about this fundamental revolution in the way most nations are governed.

In 1999 U.S. democracy-promotion strategy set out upon four new paths: Priority-setting; resource-matching; standard-setting; and network-building. First, in an effort to give greater priority in U.S. support to countries that are at critical transition points in their movement toward democracy, Secretary of State Albright designated four countries—Colombia, Indonesia, Nigeria and Ukraine—as "democracy priority" countries. Second, the Secretary used her legislatively enhanced authority over the Agency for International Development to gain greater oversight over the assistance budgeting process, thereby seeking to channel more resources directly to the democracy priority countries. Third, to make clear that the right of democratic governance is not simply a privilege or a luxury, the United States introduced a resolution at the 55th Session of the United Nations Human Rights Commission in Geneva that explicitly reaffirmed that each individual has not just a hope of, but a right to, democratic governance: the resolution passed by a margin of 51–0, with only 2 member countries abstaining.

Fourth and finally, an impressive series of gatherings has helped lay the groundwork for creating a worldwide community of democracy activists and practitioners. In Mali, African governments and democratic activists met with aid officials from donor nations to discuss democratic development. In India, the world's democratic NGO's gathered in the first meeting of the "Worldwide Movement for Democracy" to discover shared values that transcend regional, cultural, or religious differences. In Yemen, small and emerging democracies met to identify common concerns. In Romania, new and restored democracies agreed on an agenda of action to support democracy in international fora. In the Republic of Korea, activists gathered at separate events to discuss the interrelationship between democracy and economic growth and the need for a network of Asian democrats. In Austria, Iceland, Northern Ireland, Trinidad and Tobago, and Uruguay, women from government and NGO communities gathered at Vital Voices conferences to promote greater political participation for women in democratic dialog.

In the first months of 2000, U.S. democracy-promotion efforts have expanded in two new directions. First, as challenges to democratic governance have emerged in Paraguay, Cote d'Ivoire, Ecuador, and Pakistan, the global democratic network has worked to develop common strategies not just to promote "democratic advance," but also to combat "democratic backsliding."

Second, to develop a full-fledged intergovernmental dialog among those nations of the world committed to pursuing a democratic path and to explore how best to strengthen democratic institutions and processes, the foreign ministers of Poland, the Czech Republic, Chile, India, the Republic of Korea, Mali, and the United States have agreed to convene in Warsaw, Poland, in June 2000 a meeting of the "Community of Democracies." This intergovernmental gathering should provide an unprecedented opportunity for established, emerging, and aspiring democracies to exchange experiences, to identify best practices, and to formulate an agenda for international cooperation in order to realize democracy's full potential. Concurrent with the ministerial meeting, a number of distinguished thinkers and path-breaking promoters of democracy from around the world will gather in Warsaw to discuss complementary issues and ideas. These representatives of intellectual life and civil society will present to the ministerial meeting their ideas as to how governments and citizens can better work together to strengthen and preserve democracy, thereby helping to strengthen the public-private regime dedicated to democracy-promotion and preservation.

Transnational human rights and democracy networks also can play an influential role in securing change within international institutions. In recent years, the World Bank, Regional Development Banks, and the United Nations Development Program, with the support of the U.S. Government, all actively have sought out dialog with a wide range of human rights and democracy groups to integrate respect for human rights, democratic governance, and the rule of law into their vision of human development. Much of the work of the U.N. Commissions on Human Rights and the Status of Women now takes place on the margins of the formal sessions, in informal networking among governments, and between NGO's and governments. Other U.N. bodies, such as UNICEF, UNIFEM, and the offices of the U.N. High Commissioners for Refugees and Human Rights frequently seek out the counsel of networks of like-minded governments, NGO's, and regional organizations, such as the European Union, the OSCE, the Council of Europe, the Organization of American States, and the Organization for African Unity.

In addition in areas ranging from environmental protection to human rights, corporations have begun to meet regularly not only with unions but with broader transnational human rights networks to identify how they can work together to solve problems. Corporate social responsibility increasingly has been accepted as a core tenet of global corporate citizenship, generating gatherings from Davos to San Francisco to London, as well as new networks of concern, including the new Global Sullivan Principles, the Fair Labor Association, the Worker Rights Consortium, the SA 8000 initiative, the "No Sweat" Initiative, and the Apparel Industry Partnership.

The U.S. Government has sought to encourage this trend by interacting and building alliances with multinational corporations that share a commitment has to establish a public-private network devoted to human rights advancement. In partnership with American companies, we have developed a set of voluntary Model Business Principles; we also have worked with the business and labor communities as well as the International Labor Organization to promote 1998's Declaration on Core Labor Standards. We are work-

ing closely with the garment and footwear industries, trade unions, and community activists to combat the still-too-pervasive reality of sweatshop labor at home and abroad. Most recently, we have been exploring new ways to work together with community activists, human rights NGO's, and corporations working in the extractive industries to promote human rights, support democratic institutions, and strengthen the rule of law, particularly in the three democracy-priority countries of Colombia, Indonesia, and Nigeria.

In every area, the work of the U.S. Government in democracy, human rights, and labor is increasingly being done not in isolation, but in partnership: Not just with other public entities, such as governments and intergovernmental organizations and international financial institutions, but with private entities, such as human rights and humanitarian NGO's; the media; labor unions; religious organizations; and corporations and commercial entities. As the new millennium unfolds, these transnational human rights networks will only expand and flourish. As international commerce and telecommunications continue to bind the world's peoples together, the United States will remain committed to using the universal language of human rights to build public-private networks to promote democracy and human rights worldwide.

II. The Year in Review

Perhaps because there was no defining moment like the collapse of the Berlin Wall, few analysts noticed that 1999 saw as profound a positive trend toward freedom as 1989. Thanks to democratic elections in Indonesia and Nigeria, two of the world's most populous states, more people came under democratic rule than in any other recent year, including 1989. In addition, the NATO intervention in Kosovo and the international intervention in East Timor demonstrated that the international community has the will and the capacity to act against the most profound violations of human rights.

Yet these significant gains in democracy and human rights cannot overshadow the fact that the past year also saw a number of profound challenges to human rights. Serbia's expulsion of over 850,000 Albanians, the Indonesian military's complicity in the militia rampage through East Timor, and the horrors perpetrated by rebels in Sierra Leone all show that the world still has a long way to go before it fully adheres to the precepts of the Universal Declaration of Human Rights. In addition, the coup in Pakistan and popular dissatisfaction in Latin America clearly demonstrate that the road to democratic governance is not without its problems and challenges. And despite the gains in Nigeria and Indonesia, too many authoritarian governments continue to deny basic human rights, including the right to democracy, to their citizens. The following sections highlight key developments over the past year in human rights, democracy, and labor.

A. Developments in Human Rights

1. *The Right to Democratic Dissent.* Article One of the United Nations Declaration on Human Rights Defenders states that "Everyone has the right . . . to promote and to strive for the protection

and realization of human rights and fundamental freedoms." All too often, we take this principle for granted. Yet each year, dedicated human rights activists and democratic dissidents around the world lose their lives defending this remarkable, transforming idea. In a large number of the countries covered in this report, human rights defenders and democratic dissidents face harassment, imprisonment, disappearances, or torture; in some cases, the risk comes from government sources. In many others, however, the risk is from nongovernmental insurgent, terrorist, or criminal elements.

Certain countries seem to take particular pleasure in restricting the right to democratic dissent. Take Serbia, where the Government of Federal Republic of Yugoslavia President Slobodan Milosevic initiated a brutal and indiscriminate police and military crackdown against ethnic Albanian opponents in Kosovo and sought to limit and suppress dissent closer to home. The Kosovo campaign ended only after the international community intervened militarily. Before and during the conflict, Kosovar Albanians known to oppose the regime were murdered, raped, disappeared, expelled, or detained in Serbian prisons. In addition over 850,000 Kosovar Albanian civilians were expelled forcibly to neighboring Albania, Montenegro, and the Former Yugoslav Republic of Macedonia. Severe violations of human rights, though less dramatic, also characterized the situation in the Serbian heartland, where the regime muzzled independent voices and forcibly dispersed citizens peaceably protesting government policies.

Similarly in Cuba, the regime of Fidel Castro continued to suppress opposition and criticism. Cuban authorities routinely harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. Many remained in prison at year's end. Although the Government sought to discourage and thwart foreign contacts with human rights activists, it did publicly state before the Ibero-American Summit in November that visiting delegations were free to meet with any person in the country, and about 20 dissidents met with 9 different delegations, including 3 heads of state. Prior to the summit, however, authorities temporarily detained a number of human rights activists to prevent them from preparing for meetings with the visiting leaders.

In Asia, dissidents and defenders face a range of challenges. In China, authorities broadened and intensified their efforts to suppress those perceived to threaten government power or national stability. Citizens who sought to express openly dissenting political and religious views faced widespread repression. In the weeks leading up to both June 4th, the 10th anniversary of the Tiananmen massacre, and October 1st, the 50th anniversary of the founding of the People's Republic, the Government moved against political dissidents across the country, detaining and formally arresting scores of activists in cities and provinces nationwide and thwarting any attempts to use the anniversaries as opportunities for protest. Authorities targeted members of the China Democracy Party (CDP), which had already had three of its leaders sentenced to lengthy

prison terms in December 1998. Beginning in May, dozens of CDP members were arrested in a widening crackdown, and additional CDP leaders were convicted of subversion and sentenced to long prison terms in closed trials that flagrantly violated due process. Others were kept detained for long periods without charge. In addition both leaders and followers of the popular Falun Gong spiritual movement faced harassment, beatings, arrest, detention, and in some cases, sentences to prison terms for protesting the Government's decision to outlaw their practice. Many not formally arrested reportedly were sentenced administratively, without trial, to up to 3 years in reeducation-through-labor camps. By year's end, almost all of the key leaders of the CDP were serving long prison terms, and only a handful of dissidents nationwide dared to remain active publicly.

In North Korea, government repression is so severe that no organized opposition to the regime is known to exist. The Government regards almost any independent activity—including listening to foreign broadcasts, writing letters, and possessing "reactionary" printed matter—crimes against the state. In Burma, the military junta intensified its systematic use of coercion and intimidation to restrict further freedom of association. Authorities undertook a sustained, systematic campaign to destroy the National League for Democracy (NLD) without formally banning it, pressuring thousands of NLD party members to resign and closing NLD offices throughout the country. Hundreds of prodemocracy activists remain in jail. Nobel laureate Aung San Suu Kyi has had to constrain her activities as a result of threats from the junta, which has severely restricted her freedom of movement.

Dissidents and defenders in the former Soviet Union also faced problems. In Belarus, two well-known opposition leaders disappeared under mysterious circumstances. Government security forces closely monitored human rights activists and arbitrarily arrested, detained, and beat political opponents and average citizens. Similarly in Uzbekistan, security forces arbitrarily arrested or detained human rights activists, pious Muslims, and other citizens on false charges. At least one human rights activist died in prison, allegedly after not receiving adequate medical care. In Turkmenistan, opposition figures and human rights activists regularly face arbitrary arrest, prolonged pretrial detention, unfair trials, and interference with privacy.

In the Middle East, dissidents and defenders had to contend with similar difficulties. In Iraq, the regime of Saddam Hussein continued to commit widespread, serious, and systematic human rights abuses, summarily executing actual and perceived political opponents. In Syria, the Government uses its vast powers to quash all organized political opposition.

Defenders and dissidents in Africa also faced severe challenges. In Sudan, despite the adoption of a new Constitution through a referendum in June 1998, the Government continues to restrict most civil liberties, including freedom of assembly, association, religion, and movement. Government security forces regularly tortured, beat, harassed, arbitrarily arrested, and detained opponents or suspected opponents of the Government, and they did so with impunity. Government forces also were responsible for extrajudicial

killings and disappearances. In Equatorial Guinea, the Government encouraged the illegal kidnaping and involuntary repatriation of political opponents living abroad. There are no effective domestic human rights NGO's, and in April the Government promulgated a new law that further restricted NGO's and precluded them from functioning in the area of human rights.

A growing trend around the world is the threat posed to democratic dissent by nongovernmental insurgent, terrorist, or criminal forces. In Colombia, for example, paramilitary forces, some with links to the armed forces, were responsible for the murder of numerous human rights activists as well as threats against many others. Guerrillas of the Revolutionary Armed Forces of Colombia (FARC) murdered three American indigenous rights activists who had traveled to that country to work with local indigenous leaders. In Sri Lanka, human rights defender and Tamil parliamentarian Neelan Tiruchelvam was killed by a suicide bomber believed to be linked with the separatist Liberation Tigers of Tamil Eelam (LTTE).

Some countries saw improvements in the treatment of defenders and dissidents. Domestic human rights organizations continued to play a significant and increasing role in securing improved human rights conditions, although some NGO's reported monitoring and interference by the authorities. In April the Parliament repealed the 1963 Anti-Subversion Law, although it subsequently incorporated six crimes specified in that law into the Criminal Code. In March, the Habibie Government freed 52 political prisoners, and in December the Wahid Government freed 196 more. However, activists working in East and West Timor, Aceh, and Papua (Irian Jaya) continued to face significant restrictions on and interference in their activity.

A number of governments took the positive step of releasing prominent defenders and dissidents. In Turkey, the Government suspended for 6 months the sentence of former Human Rights Association Chairman Akin Birdal, citing medical reasons stemming from injuries Birdal sustained during a May 1998 attempt on his life. However, Birdal is subject to reimprisonment to resume his sentence in March 2000 and also faces many other charges. In Tunisia, the Government released on early parole Tunisian Human Rights League Vice President Khemais Ksila, who was arrested in September 1997 and convicted on charges of defamation of the public order, dissemination of false information, and inciting the public to violence. In Morocco, political dissident Abraham Serfaty, who had been exiled since 1991, was allowed to return. In Bhutan, the Government released dissident and former government official Tek Nath Rizal, who had been held for nearly 10 years. In Russia, retired Russian naval captain and environmental activist Aleksandr Nikitin was acquitted of espionage charges, but his legal difficulties and official harassment continue. The passport and visa services office has refused to issue him an international passport, and the local tax police have called him in for questioning, claiming that he owes personal income tax on all funds that western organizations raised and spent on his legal defense.

2. Human Rights in Countries in Conflict. Civilians continue to endure human rights abuses, war crimes, and violations of humani-

tarian law in those countries facing internal insurgencies or civil war. Throughout the world, insurgents, paramilitary forces, and government security, military, and police forces used murder, rape, and inhumane tactics to assert control over territory, to secure the cooperation of civilians, and to silence opposition voices. As was the case in previous years, tens of thousands of civilian men, women, and children continued to die not only from conflict, but also from premeditated campaigns intended to instill terror among civilian populations.

Africa continues to be the locus of many of the world's worst conflicts. In Sierra Leone, rebel forces committed numerous egregious abuses, including murder, abduction, deliberate mutilations, and rape. Progovernment militias also committed abuses, albeit on a lesser scale. The rebels continued their particularly vicious practice of cutting off the ears, noses, hands, arms, and legs of noncombatants—including small children and elderly women. Rebel forces abducted missionaries, aid workers, U.N. personnel, and journalists; ambushed humanitarian relief convoys; raided refugee sites; and extorted and stole food. They abducted children to use as soldiers and other civilians to serve as forced laborers, sex slaves, and human shields. After the May cease-fire, insurgents continued to commit abuses, although significantly fewer were reported.

Continued civil conflict in the Democratic Republic of Congo saw government forces lose control of more than half the country's territory to rebels, who were often supported by troops from other African countries. Government security forces increasingly used arbitrary arrest and detention throughout the year and were responsible for numerous extrajudicial killings, disappearances, torture, beatings, rapes, and other abuses. Rebel forces also committed serious abuses, including murder, disappearances, torture, arbitrary arrests, rape, extortion, robbery, harassment of human rights workers and journalists, and recruitment of child soldiers.

In Angola, fighting between government and rebel forces led to numerous, serious human rights abuses by both sides. In Burundi, government forces killed both rebels and civilians, including women, children, and the elderly. Rebel forces also attacked and killed civilians. Rebel attacks on the military often generated army reprisals against civilians suspected of cooperating with the insurgents. At year's end, the army forcibly relocated an estimated 330,000 Hutus in "regroupment" sites in an effort to stop rebel attacks. In Uganda, insurgent groups, including the Lord's Resistance Army and Allied Democratic Forces, killed, tortured, maimed, raped, and abducted many persons (including children).

Other parts of the world were not immune to conflict. In Serbia, Government military and security forces forcibly expelled over 850,000 Kosovar Albanians from their homes. Many women were raped in the process. The International Criminal Tribunal for the former Yugoslavia is in the process of investigating reports of 11,000 persons killed and buried in 529 mass graves and has indicted Yugoslav Federal President Slobodan Milosevic and several other senior Government officials for war crimes and crimes against humanity. At the conclusion of the conflict, the international community assumed responsibility for the administration of Kosovo; since then it has had to contend both with Kosovar Alba-

nian reprisals against the rump Serbian population and Serb attacks against Albanians in the remaining Serb enclaves.

In Russia, the seizure by armed insurgent groups from Chechnya of villages in the neighboring republic of Dagestan escalated by year's end into a full-fledged attack by Russian forces on separatists in Chechnya, including the Chechen capital of Groznyy. The Russian attack included air strikes and the indiscriminate shelling of cities predominantly inhabited by civilians. These attacks, which in turn led to house-to-house fighting in Groznyy, led to the death of numerous civilians and the displacement of hundreds of thousands more. There are credible reports of Russian military forces carrying out summary executions of civilians in Alkhan-Yurt and in the course of the Groznyy offensive. As this report was going to press, there were credible reports that Russian forces were rounding up Chechen men of military age and sending them to "filtration" camps, where they allegedly were tortured. The Russian Government has a duty to protect its citizens from terrorist attacks but must comply with its international commitments and obligations to protect civilians and must not engage in extrajudicial killing, the blocking of borders to prevent civilians from fleeing, and other violations in the name of internal security. Chechen separatists also reportedly committed abuses, including the killing of civilians.

Afghanistan suffered its 20th consecutive year of civil war and political instability. Both the ultraconservative movement known as the Taliban (which controls roughly 90 percent of the country) and the United Front for Afghanistan (also known as the Northern Alliance) committed serious human rights abuses, particularly against women and girls, in the areas they occupied and during their attempts to conquer territory. Both also were responsible for the indiscriminate bombardment of civilians. Years of conflict have left an estimated 2.6 million Afghans living outside the country as refugees, while another 250,000 are internally displaced.

In Indonesia, civil conflict and violence continued or worsened despite the country's relatively successful struggle to move from dictatorship to democracy. A variety of motives drove the violence. Dissatisfaction that had remained pent up under the long-time rule of Soeharto boiled over under successor Governments. Anger at Indonesian military, security, and police units only fed widespread popular support for independence in East Timor, Aceh, and Papua (Irian Jaya). In Aceh, military forces and police committed numerous abuses, including extrajudicial killings, excessive force, disappearances, rape, arbitrary arrest, and detention without trial. Military forces sometimes resorted to force in order to disrupt peaceful demonstrations. Thousands of Acehnese residents fled their villages during various security crackdowns against separatist groups. In addition, dozens of low-level civil servants, police, and military personnel were murdered and abducted, most likely by separatists. In Ambon and throughout Maluku, fighting between Moslems and Christians left more than 1,000 dead by the end of the year. In West Kalimantan, more than 200 persons died in fighting pitting Madurese immigrants against indigenous Dayak and Melayu groups.

In East Timor, paramilitary units supported by or under the control of the Indonesian military went on a rampage of violence,

looting, and destruction after a United Nations-sponsored referendum saw more than 78 percent of Timorese vote for independence. Elements of the Indonesian security forces and the prointegration militias (which were armed and largely supported by the military) were responsible for numerous extrajudicial killings. In September hundreds of persons were killed in a wave of military-sponsored militia violence after the announcement of the proindependence vote. Over 250,000 East Timorese fled the violence. Violations included summary executions, massacres, rapes, deportations, and the destruction of property. Both an International Commission of Inquiry and an investigative commission established by the Indonesian Human Rights Commission subsequently concluded that the Indonesian military failed to stop, colluded in, or participated in the violence. In the early part of the year, proindependence groups also committed serious abuses, including killings.

In Sri Lanka, the Government's conflict with the separatist Liberation Tigers of Tamil Eelam (LTTE) continued to result in serious human rights abuses by both sides. Government security forces committed extrajudicial killings and at least 15 individuals disappeared from their custody. The Government did begin to investigate allegations that as many as 400 Tamils killed by security forces were buried in multiple graves in the town of Chemmani. Two exhumations recovered 15 bodies, but authorities have not yet sought criminal indictments against security forces in relation to the killings. LTTE forces were responsible for extrajudicial executions, disappearances, torture, arbitrary arrests, and detentions. LTTE attacks and suicide bombings killed close to 100 civilians, and at least 14 persons who were found guilty of offenses by the LTTE's self-described courts were executed publicly.

In Colombia, despite the Government's efforts to negotiate an end to hostilities, widespread internal armed conflict and rampant political and criminal violence persisted. Government security forces, paramilitary groups, guerrillas, and narcotics traffickers all continued to commit numerous serious abuses, including extrajudicial killings and torture. Throughout the country, paramilitary groups killed, tortured, and threatened civilians suspected of sympathizing with guerrillas in an orchestrated campaign to terrorize them into fleeing their homes. These groups were responsible for numerous massacres. Guerrillas regularly attacked civilian populations, kidnapped numerous individuals, committed massacres and summary executions, killed medical and religious personnel, and forcibly recruited civilians (including children). The Government took important steps toward ending collaboration by some security force members with the paramilitaries. President Pastrana, Vice President Bell, and members of the military high command declared repeatedly that collaboration—whether by commission or omission—by members of the security forces with paramilitary groups would not be tolerated. The President removed from service four generals and numerous mid-level officers and noncommissioned officers for collaboration, for failing to confront paramilitaries aggressively, or for failing to protect the local population.

3. Religious Freedom. In September the Department of State delivered to Congress the first Annual Report on International Religious Freedom. The Department carries a statutory responsibility to prepare these reports annually. The Report sought to create a comprehensive record of the state of religious freedom around the world and to highlight the most significant violations of this right. The Report demonstrates that violations of religious freedom, including religious persecution, are not confined to any one country, religion, or nationality. Throughout the world, Baha'is, Buddhists, Christians, Hindus, Jews, Muslims, and other believers continue to suffer for their faith.

Too much of the world's population still lives in countries in which religious freedom is restricted or prohibited. Totalitarian and authoritarian regimes remain determined to control religious belief and practice. Other regimes are hostile to minority or "unapproved" religions. Some tolerate, and thereby encourage, persecution or discrimination. Still other governments have adopted discriminatory legislation or policies that give preferences to favored religions while disadvantaging others. Some democratic states have indiscriminately identified minority religions as dangerous "sects" or "cults."

The International Religious Freedom Act also required the President or his designee (in this case the Secretary of State) to use the Annual Report on International Religious Freedom and other resources to identify those countries where the government has engaged in or tolerated "severe" or "particularly severe" violations of religious freedom. In October Secretary Albright informed Congress that she was designating five "Countries of Particular Concern": Burma, China, Iran, Iraq, and Sudan. The Secretary also informed Congress that she was identifying as particularly severe violators the Taliban regime in Afghanistan and the Government of Serbia. This last action was not taken under the auspices of the International Religious Freedom Act because the United States does not regard the Taliban as a government or Serbia as a country as envisioned by the act.

In Burma, the Government arrests and imprisons Buddhist monks who promote human and political rights. Security forces destroyed or looted churches, mosques, and Buddhist monasteries in some insurgent ethnic minority areas. In some insurgent China ethnic minority areas, security forces used coercive measures to induce Christians to convert to Buddhism.

China continued to restrict freedom of religion and intensified controls on some unregistered churches. Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference, repression, and persecution. The Government continued to enforce 1994 State Council regulations requiring all places of religious activity to register with the Government and come under the supervision of official, "patriotic" religious organizations. In some areas, authorities guided by national policy made strong efforts to control the activities of unapproved Catholic and Protestant churches; religious services were broken up and church leaders or adherents were harassed, fined, detained, and at times, beaten. According to reports, there were instances of torture. At year's end, some remained in

prison because of their religious activities, while others remained unaccounted for. In Tibet, the Government expanded and intensified its "patriotic education campaign" aimed at controlling monasteries and expelling supporters of the Dalai Lama, increasing pressure on Tibetan Buddhists. Controls on religious freedom in Xinjiang also remained tight. The Government also launched a crackdown against the Falun Gong spiritual movement in July. Tens of thousands of Falun Gong members reportedly were detained in outdoor stadiums and forced to sign statements disavowing the Falun Gong before being released.

In Iran, the Government committed numerous human rights abuses based in part on religion. Religious minorities, in particular Bahais, continued to suffer repression by conservative elements of the judiciary and security establishment. Thirteen Jews were arrested in February and March on suspicion of espionage on behalf of Israel, an offense punishable by death, leading to charges of anti-Semitism. In Iraq, the Government of Saddam Hussein has conducted a campaign of murder, summary execution and protracted arbitrary arrest against the religious leaders and adherents of the Shia Muslim population. Security forces have murdered senior Shia clerics, desecrated mosques and holy sites, and arrested untold numbers of Shi'a. In Sudan, discrimination and violence against religious minorities persisted. Government security forces harassed and detained persons on the basis of their religion. Eyewitnesses reported aerial bombardments of Christians, Muslims, and animists in the Nuba Mountains. Government-supported forces conducted raids, abducted persons—including women and children—and sold them into slavery. Many non-Muslims were converted forcibly to Islam.

In Afghanistan, the ultraconservative movement known as the Taliban, which controls about 90 percent of the country, enforced their interpretation of Islamic law through punishments such as public executions for adultery or murder and amputations of one hand and one foot for theft. Taliban militiamen often judged accused offenders and meted out punishments, such as beatings, on the spot. In Serbia, a predominantly Christian Orthodox country, authorities employed killing, torture, rape, and the forced mass emigration of Kosovar Albanians, who are overwhelmingly Muslim, in an effort to drive them from the country.

Other countries also saw significant violations of religious freedom. In Saudi Arabia, neither the Government nor society in general accepts the concept of separation of religion and state. The religious police enforce adherence to Islamic norms, intimidating, abusing, and detaining citizens and foreigners. In Pakistan, both the pre and postcoup Governments, as well as sectarian groups, continued to discriminate against religious minorities, particularly Ahmadis and Christians. Three Ahmadis sentenced in 1997 to life in prison for blasphemy remain incarcerated. Religious and ethnic-based rivalries resulted in numerous killings and civil disturbances. In India, there was widespread intercaste and communal violence.

In Uzbekistan, the Government harassed and arrested hundreds of Islamic leaders and believers on questionable grounds, citing the threat of extremism. While the Government tolerated the existence

of some Christian denominations and even facilitated their registration, its laws still have the potential to limit the activity of some evangelical Christian groups. In Vietnam, the Government arbitrarily arrested and detained citizens for the peaceful expression of their religious views. The Government significantly restricts the operation of religious organizations other than those approved by the State.

In countries such as Indonesia, the problem was not government repression, but communal violence. In Maluku province, fighting principally involved Muslims and Christians (mostly Protestants). More than a thousand died and tens of thousands were displaced. Clashes began in the provincial capital of Ambon in January, then spread to neighboring islands. Economic tensions between native Christians and Muslims who migrated to Maluku in recent decades were a significant factor. Christian and Muslim communities in Maluku blamed each other for initiating and perpetuating the violence. Exhaustive mediation efforts, including an initiative launched by the Indonesian military in April, failed to secure a durable peace.

In Azerbaijan, the news was better. President Aliyev publicly took law enforcement and security officials to task for the harassment of religious believers. He also pledged that such abuse would not continue and that violators would be punished. The Government rescinded deportation orders for foreign religious workers, secured the reinstatement of believers who had lost their jobs, and prosecuted members of a local police force accused of harassment.

4. Press Freedom and the Information Revolution. Attacks on independent media—whether print, broadcast, or electronic—remained commonplace. Journalists continued to risk harassment, arrest, and even death to report the news. Murder remained the leading cause of job-related deaths among journalists worldwide. A wide range of governments throughout the world continue to utilize a variety of tools, including licensing, limits on access to newsprint, control over government advertising, jamming, and censorship, to inhibit independent voices. The growth of new, Internet-based media did help facilitate public access to a wide range of information, but some governments continued to develop means to monitor e-mail and Internet use and restrict access to controversial, political, news-oriented, and human rights web sites. Other governments have chosen to prohibit Internet access or limit it to political elites.

In China, control and manipulation of the press by the Government for political purposes increased during the year. After authorities moved at the end of 1998 to close a number of newspapers and fire several editors, the press and publishing industries were more cautious. Nonetheless, the press continued to report on cases of corruption and abuse of power by some local officials. As part of its crackdown against the Falun Gong, the Government used the state-controlled media to conduct a nationwide propaganda campaign. By some estimates, as many as 8.9 million Chinese citizens had access to the Internet, but the Government increased its efforts to try to restrict information available on the Internet and to monitor usage.

In Cuba, the Castro regime continued to tightly control access to information. In February the National Assembly passed the Law to Protect National Independence and the Economy, which outlaws possession and dissemination of "subversive" literature or information that could be used by U.S. authorities in the application of U.S. legislation. The Government has not yet charged anyone under the new law, but many independent journalists have been threatened with arrest, some repeatedly. National Assembly President Ricardo Alarcon told foreign correspondents that even reporters working for accredited foreign media could be sentenced to up to 20 years in prison under the new law. The Government continued to subject independent journalists to internal travel bans, arbitrary and periodic brief detentions, small acts of repudiation, harassment, seizures of office and photographic equipment, and repeated threats of prolonged imprisonment. The Government tightly controls access to computers, limiting access to the Internet to certain Government offices, selected institutes, and foreigners.

In Serbia, the Government of Federal Republic of Yugoslavia President Slobodan Milosevic continues to harass and detain journalists and shut down their newspapers and radio stations. At least one journalist was murdered under suspicious circumstances. In Serbia's sister republic of Montenegro, however, the Government worked to provide a hospitable working environment to independent media, including media that were harassed, threatened, or shut down by Serbian authorities.

In Ethiopia, fewer journalists were detained than in previous years, but at least eight remained in detention at year's end. Some 45 journalists obtained bail during the year but still are subject to trial. In Peru, the Government inhibits freedom of speech and of the press. Journalists faced increased government harassment and intimidation and practiced a great degree of self-censorship.

In Ukraine, the Government increasingly interfered with freedom of the press, most notably in the period before the October presidential elections. Government authorities stepped up pressure on the media, particularly broadcast outlets, through tax inspections and other measures. In Russia, journalists complained of increasing governmental interference. In mid-January 2000, Russian authorities detained Radio Free Europe/Radio Liberty correspondent Andrey Babitskiy and held him incommunicado, but they did not make public his detention until the end of the month. On February 3, the Government claimed that Russian forces had turned Babitskiy over to Chechen forces in exchange for Russian soldiers; neither Babitskiy's wife nor his employer has heard from him since, and his whereabouts remain unknown.

In Turkey, Parliament suspended for 3 years the sentences of writers and journalists convicted of crimes involving freedom of expression through the media. By the end of the year, at least 25 had been released. However, the law did not apply to crimes committed through speech, and human rights observers and some released writers said the conditions for the suspension amount to censorship. Limits on freedom of speech and of the press remained a serious problem. Authorities banned or confiscated publications and raided newspaper offices, and security forces occasionally beat journalists. Police continued to interfere with the distribution of some

Kurdish newspapers, and radio and television broadcasts in Kurdish remained illegal. Although Kurdish music recordings were widely available, bans on certain songs and singers persisted. The Committee to Protect Journalists estimated at year's end that at least 18 journalists remain in prison.

5. Women. The plight of women in Afghanistan continued to be the most serious women's human rights crisis in the world today. Taliban discrimination against women and girls remained both systematic and institutionally sanctioned. The Taliban imposed strict dress codes and restricted women from working outside the home except in very limited circumstances such as health care and humanitarian assistance. They also severely restricted women's and girls' access to many levels and types of education. The impact of Taliban restrictions is most acutely felt in cities such as Kabul and Herat, where there are a number of educated and professional women.

Elsewhere, women continue to face a wide range of human rights abuses. On a daily basis, women faced violence, abuse, rape, and other forms of degradation by their spouses and by members of society at large. Women suffer domestic violence in most if not all countries around the world. Many governments still fail to act against "honor killings," domestic violence, and even rape. In Nigeria, for example, the law allows a husband to "chastise" his wife, as long as it does not result in "grievous harm." In China, many women contended with domestic violence. Coercive family planning practices sometimes included forced abortion and forced sterilization. Trafficking and prostitution continued. In India, Bangladesh, and Nepal, dowry-related violence remained a serious problem. In Egypt, India, Iran, Oman, Pakistan, Saudi Arabia, Sudan, Yemen, and a number of other societies where religion and tradition play a predominant role, societal and cultural constraints kept women in a subordinate position.

In Kuwait, women do not have the right to vote or seek election to the National Assembly. Although the ruling Amir issued a decree in May which sought to give women the right to vote, to seek election to the National Assembly beginning with the parliamentary election scheduled for 2003, and to hold cabinet office, the Parliament vetoed it on constitutional grounds. Subsequent identical legislation introduced by Members of Parliament was defeated by a two-vote margin.

Female genital mutilation, which has negative, life-long health consequences for women and girls, continues to be practiced in much of Sub-Saharan Africa, and to varying degrees in some countries in the Middle East, including Egypt, Oman, and Yemen. Trafficking of women and children remains endemic in many parts of the world; in response, the Department of State has for the first time established a separate section in each Country Report to highlight U.S. concern about this serious problem (see Section C.2 below).

6. Protection of Minorities. In some states, majorities in power choose to mistreat or persecute those not like themselves. However, persecution and discrimination is not confined to states but also can be present in societies. Much remains to be done on the national level, and far too many governments do not grant individuals

their rights because of race, sex, religion, disability, language, or social status. In many cases, such repression inevitably leads to violence and separatism.

In China, for example, particularly serious human rights abuses persisted in minority areas, especially in Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified. Some minority groups, particularly Tibetan Buddhists and Muslim Uighurs, came under increasing pressure as the Government clamped down on dissent and "separatist" activities. In Tibet, the Government expanded and intensified its continuing "patriotic education campaign" aimed at controlling the monasteries and expelling supporters of the Dalai Lama. In Xinjiang, where violence between the Government and separatist forces has escalated since 1996, authorities tightened restrictions on religion and other fundamental freedoms in an effort to control independence groups.

In Serbia, discrimination and violence against Kosovar Albanians, Muslims, Roma, and other religious and ethnic minorities worsened during the year. The Milosevic regime's oppressive policies toward Kosovo's ethnic Albanians imperiled prospects for interethnic cooperation and encouraged a separatist insurgency. In response, the regime launched a brutal police and military crackdown against the insurgents, which escalated into a full-fledged campaign of ethnic cleansing against civilians. As many as 850,000 Kosovars fled the province for squalid camps in neighboring states. After diplomatic intervention failed to resolve the matter, NATO forces began an air campaign against the Serbian regime. In June Serbia withdrew its forces from Kosovo, and the international community assumed responsibility for the province's administration. Since then, international peacekeeping forces have had to contend both with Kosovar Albanian reprisals against the rump Serbian population, and Serb attacks against Albanians in remaining Serb enclaves.

Although the erection of a wall to separate Roma from their neighbors in the Czech city of Usti nad Labem captured international attention, the problems facing Roma and Sinti populations in Europe went far beyond the building of a wall. Both populations suffer disproportionately from poverty, unemployment, and other socioeconomic ills. In many countries, particularly in Central and Southeastern Europe, they face prejudice, discrimination, and abuse.

7. The Holocaust: Completing the Historical Record. Spearheaded by Deputy Treasury Secretary Stuart Eizenstat in his capacity as Special Representative of the President and Secretary of State on Holocaust-era issues, the United States promoted further international recognition of the need for justice and remembrance for the victims of the greatest human rights violation of the 20th Century, the Holocaust. German industry and government pledged DM10 billion to capitalize a foundation that, among other things, will make payments to those who worked as forced and slave laborers for German companies during the Nazi era. Nineteen nations, including the United States, have established Holocaust Commissions to review their own involvement with Holocaust-era assets. Consistent with the 1998 Washington Conference on Art Principles, millions of dollars worth of art stolen by the Nazis are being re-

turned to rightful owners. At the Stockholm International Forum in January 2000, the United States, along with over 40 other governments, made an unprecedented common political commitment to strengthening Holocaust education, remembrance and research activities, and to opening archives bearing on the Holocaust.

B. Developments in Democracy

1. Democracies Under Threat. In The Third Wave, his seminal study of democratization, Samuel Huntington warned that the wave of democratization that began with Portugal in 1974 (and continues today) might suffer significant reversals in countries where conditions for democracy are weak. Over the past year, the number of democracies around the world continued to grow, but a small number of countries on the path to democracy saw reversals or threats to democratic governance.

This trend was particularly notable in Latin America, where elected governments in Ecuador and Paraguay confronted attempted coups or instability, and an elected government in Peru undermined democratic governance by concentrating power in the executive. In Ecuador, what could have been a disastrous coup became instead an unfortunate but ultimately constitutional succession. Indigenous activists, with the support of elements of the military, occupied the Ecuadorian Congress building, demanded the resignation of President Jamil Mahuad and attempted to replace him with a three-person junta that included an indigenous leader, a former Supreme Court judge, and a military officer. To end the institutional crisis, President Mahuad asked Ecuadorians to support Vice President Gustavo Noboa as his constitutional successor. The National Assembly confirmed the change in presidents the same day.

In Paraguay, President Raul Cubas Grau, a protege of retired General and coup plotter Lino Oviedo, sought to undercut the constitutional authority of the legislative and judicial branches. In March, Cubas' foe and Vice President Luis Maria Argana was assassinated, allegedly by Oviedo supporters. On March 28, after widespread demonstrations against Cubas and Oviedo, Cubas resigned, and Oviedo fled Paraguay. Senate president Luis Gonzalez Macchi assumed the presidency, forming a national unity Government that included, for the first time in 50 years, the two major opposition parties. By the end of the year, however, the Government faced economic difficulties, rural unrest, and increasing opposition.

In Peru, a dominant executive branch often uses its control of the legislature and the judiciary to the detriment of the democratic process. The Constitutional Tribunal has not functioned effectively since 1997, when Congress removed three of its members for opposing an interpretation of a law permitting President Fujimori to run for a third consecutive term. In Venezuela, President Hugo Chavez Frias, the leader of an attempted coup in 1992, was elected President on a promise of radical reform, including constitutional change through the election of a National Constitutional Assembly (ANC). In April, voters overwhelmingly approved his referendum, giving the ANC a 6-month mandate to rewrite the Constitution. The ANC, which was dominated by Chavez's political party, drafted

a new constitution, which was approved by voters in December. At year's end some observers remained concerned that too much power was being concentrated in Chavez's hands.

In other parts of the world, the main threat to democracy came from the military. In Pakistan, Army Chief of Staff General Pervaiz Musharraf overthrew the elected civilian Government of Prime Minister Nawaz Sharif in an October bloodless coup. Musharraf, in consultation with senior military commanders, designated himself Chief Executive, and suspended the Constitution, the National Assembly, the Senate, and the provincial assemblies. Despite repeated promises to restore democracy, Musharraf at year's end had not established either a timetable or milestones; his decision early in 2000 to require judges to swear a loyalty oath to the military (rather than the Constitution) further distanced his regime from a return to democratic rule.

In Cote d'Ivoire, retired General Robert Guei took over the Government after a mutiny that began in December evolved into a major military revolt and culminated in the dismissal and forced departure of President Henri Konan Bedie. The Guei regime arrested numerous Government ministers and military officers; by year's end, it had released all except 40. Guei has pledged to rewrite the Constitution, clean up government corruption, and hold fair and transparent elections.

2. Free and Fair Elections. According to Freedom House, there were 120 democracies at the end of 1999, a net increase of 3 over the previous year, and the largest number ever. As noted above, however, this trend away from dictatorship saw several reversals, most notably in Pakistan. Although Indonesia and Nigeria, two of the world's most populous states, made great strides toward democratic rule, a number of other states saw tainted or flawed elections stall their transitions to democracy.

Indonesia made significant progress in its transition from authoritarian to democratic rule. In June, the country held its first pluralistic, competitive, free, and fair parliamentary elections in 43 years. A new Parliament (DPR) and People's Consultative Assembly (MPR) were installed on October 1st. In accordance with constitutional procedures, the MPR subsequently elected, in a transparent balloting procedure, Abdurrahman Wahid as President, and Megawati Soekarnoputri as Vice President.

In Nigeria, the military regime of General Abdulsalami Abubakar completed its transition to democratic civilian rule with the election and subsequent May inauguration of retired General Olusegun Obasanjo as President. In accordance with Abubakar's transition program, members of the new civilian Government were chosen in four elections held over a 3-month period. Elections for local Government leaders were held in December 1998, those for state legislators and governors in January, and those for national legislators and president in February. The elections, most notably the presidential election, were flawed, but most observers agreed that the election of Obasanjo as President reflected the will of the majority of voters.

Several states saw limited gains. In Tunisia, the October presidential and legislative elections marked a modest step toward democratic development, with opposition presidential candidates al-

lowed to participate in the presidential race for the first time in Tunisia's history. However, the campaign and election processes greatly favored the ruling party, and there was wide disregard for the secrecy of the vote. In Niger, President Ibrahim Mainassara Bare, who overthrew a democratically elected Government in 1996, was assassinated in January by members of his presidential guard. A group of military officers led by Major Daouda Malam Wanke asserted control over the Government and announced a 9-month transition to a democratically elected Government. In July citizens voted to approve a new Constitution. In November they voted for a new National Assembly and for a new President; Tandja Mamadou was elected President with 60 percent of the vote in an election that was considered by international observers to be generally free and fair.

Other countries were not as successful in their transitions. In Belarus, Aleksandr Lukashenko's legal term as President expired in July. He had extended arbitrarily his term of office until 2001 after the illegal 1996 constitutional referendum. In Kazakhstan, President Nazarbayev was elected in January to a new 7-year term in an election that fell far short of international standards. Parliamentary elections held in October were an improvement over the presidential election but still fell short of international standards. In Azerbaijan, the country's first-ever municipal elections held in December, were marred by a nearly universal pattern of interference by local officials, which allowed them to control the selection of the election committees that supervised the election. In Armenia, irregularities marred both the May parliamentary elections and the October local elections. OSCE observers categorized the parliamentary elections as a step toward compliance with OSCE commitments, but said that they still failed to meet international standards.

In Haiti, a prolonged stalemate between President Rene Preval and the opposition-controlled legislature prevented the holding of elections in autumn 1998 to replace the Parliament as legally required. Preval announced that he would not recognize Parliament's decision to extend its incumbents' mandates until new elections could be held, thereby leaving the country without a functioning legislative branch for over a year. In March, Prime Minister Alexis formed a cabinet after negotiations with the five-party opposition coalition. Due to the absence of a parliament, the new ministers took office without being confirmed. The international community is assisting Haiti in preparations for new elections, scheduled for March and April 2000, with the goal of restoring the lapsed democratic institutions.

In Uganda, President Yoweri Museveni, elected to a 5-year term in 1996 under the 1995 Constitution, continued to dominate the Government. The 1995 Constitution formally extended the one-party movement form of government for 5 years and severely restricted political activity. Although Museveni supporters remained in control of the legislative branch, Parliament acted with increasing independence and assertiveness during the year. A national referendum on whether to allow multipartyism again is scheduled for 2000.

3. Civil Society. In many nations, civil society—that broad array of nongovernmental organizations, clubs, societies, trade unions, and political parties that are the domestic counterparts to transnational networks—played an increasingly influential role. Although some critics have warned that the emergence of the Internet culture would stunt social interaction, civil society groups showed no sign of slowing down at year's end, and as noted above, many were taking advantage of technological developments to establish new transnational networks of common interest and concern.

Many governments continue to seek means to limit, repress, or shut down the growth and development of civil society, which they regard as a profound threat to their authoritarian rule. In Belarus, for example, Government restrictions prevent an embryonic civil society from developing further. The security services infringed on citizens' privacy rights and monitored closely the activities of opposition politicians and other segments of the population. Restrictions on freedom of speech, the press, and peaceful assembly continued, and the Government did not respect freedom of association.

In Iraq, then-U.N. Special Rapporteur for Iraq Max Van der Stoel noted in his February and October reports that freedom of speech, press, assembly, movement, and association do not exist. The Government effectively has eliminated the civil rights to life, liberty, and physical integrity and the freedoms of thought, expression, association and assembly. In Cuba, the Government denied citizens the freedoms of speech, press, assembly, and association. Authorities routinely harass, threaten, arbitrarily arrest, detain, imprison, and defame members of independent associations, including human rights advocates, journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country.

In China, an unknown number of persons, estimated at several thousand, have been detained for peacefully expressing their political, religious, or social views. Persons or groups seeking to promote political change, monitor human rights, or in any way challenge the authority of the Communist Party were repressed, their leaders often harassed, beaten, and jailed. At the same time, most average citizens went about their daily lives without significant interference from the Government, enjoying looser economic controls, increased access to outside sources of information, greater room for individual choice, and more diversity in cultural life. Social groups with economic resources at their disposal continued to play an increasing role in community life. Pilot experiments with contested local village elections continued.

In Malaysia, a U.N. Special Rapporteur reported that the Government systematically curtailed freedom of expression. Government restrictions and proliferating slander and libel suits stifled freedom of speech, and the Government significantly restricted freedom of movement, association, and assembly. The Government prohibited some peaceful gatherings, prevented students from participating in some political activities, and regularly and harshly criticizes domestic NGO's that venture into the political arena.

In Turkey, which has an active and growing civil society movement, the Government still continued to limit freedom of assembly

and association, and police harassed, beat, abused, and detained a large number of demonstrators. The Saturday Mothers, who had held weekly vigils in Istanbul for more than 3 years to protest the disappearances of their relatives, discontinued their gatherings this year in the face of ongoing police harassment, abuse, and detention of the group's members. In general, the Government continued to harass, intimidate, indict, and imprison individuals for ideas that they had expressed in public forums. However, there were some signs of a growing tolerance for civil society: State Minister Irtemcelik and President Demirel met with NGO's, and one office of a human rights NGO reopened in October after being closed for 5 years.

4. Rule of Law. All too often, authoritarian governments insist that they respect the rule of law when in fact they abuse the law to justify their rule. In far too many countries—Belarus, Burma, Cuba, Iraq, Libya, North Korea, Sudan, Turkmenistan, Uzbekistan, and Vietnam, for example—absolute rulers use the legal system to serve their own interests. Without the rule of law, these leaders violate human rights with impunity, suspend democracy, void contracts, and engage in corrupt practices. Governments that respect the rule of law have transparent and fair legal systems that feature professional and independent judges who act as final arbiters of the law.

In China, abuses included instances of extrajudicial killings, torture, and other mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. In many cases, particularly in sensitive political cases, the judicial system denies criminal defendants basic legal safeguards and due process. A number of statutes passed in recent years hold the potential to enhance citizens' rights. If fully implemented, these laws would bring criminal laws closer toward compliance with international norms. However, the new statutes are violated routinely in cases involving political dissidents.

In Malaysia, police continued to use certain provisions of the legal code to detain some individuals without trial or charge. Prolonged pretrial detention occurs in some cases. The police were criticized for reports of physical abuse of prisoners and other citizens, although the number of police extrajudicial killings declined during the year. Many observers expressed serious concern about the decreasing independence and impartiality of the judiciary and about apparently politically motivated selective prosecution by the Attorney General.

In Pakistan, rule of law problems were rampant both before and after the October coup. The judiciary was subject to executive and other outside influence and suffers from inadequate resources, inefficiency, and corruption. The former Sharif Government used special antiterrorism courts to try the crimes of murder, gang rape, child molestation, and "illegal" strikes. After the coup, General Musharraf illegally detained a number of political figures from the Sharif Government and their families.

In Algeria, the authorities did not always respect defendants' rights to due process, and security forces committed extrajudicial killings, tortured detainees, and arbitrarily detained many individuals suspected of involvement with armed Islamist groups. How-

ever, there were no reports of new disappearances during the year in which the security forces were suspected. Prolonged pretrial detention and lengthy trial delays are problems, as are illegal searches and infringements on citizens' privacy rights.

In Peru, arbitrary arrest, prolonged pretrial detention, lack of due process, and lengthy trial delays remained problems. In July, the Government announced its withdrawal from the jurisdiction of the Inter-American Court of Human Rights after the Court determined that Peru had failed to provide due process in the case of four Chileans convicted by a military tribunal of treason. In Haiti, the judiciary remained plagued by understaffing, inadequate resources, and in many cases, corrupt and untrained judges. Judicial dockets remain clogged, and fair and expeditious trials are the exception rather than the rule. In a number of key cases, the executive branch continued to detain persons in defiance of release orders issued by judges. The 5-year-old Haitian National Police continues to benefit from international assistance, but it is grappling with problems of excessive use of force and other human rights abuses, including a marked increase over last year in the number of extrajudicial killings. Arbitrary arrest and detention and prolonged pretrial detention also remained problems.

Several countries saw positive developments in the rule of law. In Israel, a September decision by the High Court of Justice resulted in a significant reduction in the number of abuses committed by members of the security forces during the interrogation of security prisoners. In Cambodia, the Government withdrew a draft NGO law that had been criticized for its potential to place NGO's under arbitrary and severe restrictions on their ability to operate.

In Colombia, the Pastrana administration took measures to initiate structural reform and strengthen the rule of law. In July, the regional "anonymous" court system was abolished and replaced with a new specialized jurisdiction. In August, Congress passed a military penal reform bill that, while not yet implemented, is expected to correct some of the worst abuses in the military justice system and to be of great help in the fight against impunity. Thanks to the diligent efforts of the Prosecutor General's Human Rights Unit, a number of security force members were investigated, prosecuted, and convicted of past human rights violations. Impunity, although still widespread, is no longer total. Nonetheless, the civilian judiciary remains inefficient, overburdened by a large case backlog, and undermined by intimidation.

C. Developments in Labor

1. Worker Rights. Throughout the year, the impact of globalization on worker rights was the subject of serious discussion in many international forums. The World Trade Organization (WTO) Ministerial in Seattle saw a transnational network of human rights, environmental, and labor organizations focus debate on public concern that workers and their families, particularly in developing countries, receive a fair share of the benefits derived from the global economy. In response, the United States sought to win support for a proposal calling for establishment of a working group in the WTO that would examine the relationship between

trade and labor. On several occasions in Seattle, President Clinton strongly urged both the WTO and the international community to remember that free trade cannot come at the cost of excluding workers.

Despite the fact that Seattle did not lead to a new round of negotiations, a number of positive developments did take place during the year. In June, member nations of the International Labor Organization (ILO) unanimously adopted a landmark convention on the prohibition and immediate elimination of the worst forms of child labor. By this action, member nations pledged to ban a number of abuses, including child slavery; bonded labor; work that is inherently harmful to the health or morals of children, such as dangerous work or child prostitution; and the forced or compulsory recruitment of children under 18 for use in armed conflict.

President Clinton traveled to Geneva to support the adoption of the convention, and worked with Congress to ensure that the United States was one of the first countries in the world to sign and ratify it. In January 2000, governments again met in Geneva to adopt a draft optional protocol to the Convention on the Rights of the Child that prohibits governments and insurgencies from using child soldiers. It is expected that the protocol will be formally adopted by the United Nations General Assembly later this year. President Clinton has indicated that the United States is committed to a process of speedy review and signature and to working with the Senate to ensure ratification.

Notwithstanding the growing international consensus in support of worker rights, certain governments continued to violate core worker rights in defiance of their obligations under the ILO's Declaration on the Fundamental Principles and Rights at Work. Trade unions continued to face harassment and closure, many workers continued to face discrimination, and bonded and forced labor remained significant problems.

Despite the new convention, child labor remained a severe problem in many parts of the world. According to the ILO, more than 250 million children under the age of 15 work around the world, many in dangerous conditions. The ILO's International Program on the Elimination of Child Labor, to which the United States is by far the largest contributor, made some progress, but much more remains to be done.

Another problem common to many parts of the world is the misuse, mistreatment, and abuse of domestic labor. In much of the Middle East and parts of Europe, Asia, and the Americas, workers who travel from developing countries to work as domestic servants, as well as native-born workers, must contend with poor working and living conditions, minimal or nonexistent wages, violence, and sexual assault. Although some governments have taken steps to minimize abuses, many domestic workers find they must tolerate terrible working conditions to support their often far-off families.

Workers in a number of countries faced significant violations of their rights. In China, the Government continued to restrict tightly worker rights. The Communist Party controls the country's sole official union, and independent trade unions are illegal. The Government continued to detain and arrest independent labor activists, sentencing at least seven to terms ranging from 1 to 10 years. Nei-

ther the Constitution nor the labor law provides for the right to strike. Forced labor is a serious problem, particularly in penal institutions. Some prisons contract to perform manufacturing and assembly work, while others operate their own companies. A 1999 directory of Chinese corporations published by a foreign business-information company listed at least two prisons as business enterprises. The Government also maintains a network of reeducation-through-labor camps, whose inmates are required to work. There have been reports that products made in these facilities are exported. Most anecdotal reports conclude that work conditions in prison factories are similar to those in other factories, but conditions on the penal system's farms and in mines can be very harsh.

In Burma, the Government continued to restrict worker rights and ban unions. The forced use of citizens as porters by the army remained a common practice. Forced civilian labor remained widespread, although its use on major infrastructure projects has declined due to the use of soldiers. Child labor including forced child labor remained widespread. In Vietnam, the Government continues to restrict worker rights. Child labor is a problem and there were some reports of forced child labor. In Indonesia, enforcement of labor standards remained inconsistent and weak in some areas. Forced and bonded child labor remained a problem, particularly on fishing platforms, despite government efforts to reduce the problem. In Thailand, forced labor and illegal child labor are problems.

In the former Soviet Union, Belarus in particular stands out for its repression of the rights of workers. In Russia, workers face long delays in receiving their wages, as do pensioners. Conditions of work are health and even life threatening in many industries. Workers do have the right to join unions, but plant managers frequently work with the Federation of Independent Trade Unions, the successor to Communist trade unions, to destroy new unions. Court rulings have further limited the right of association by ruling that collective action based on nonpayment of wages is not a strike and that individuals who participate in such actions are not protected by the law. The Labor Code prohibits forced or compulsory labor, but there were credible reports of soldiers being "sold" by their superior officers to perform work for private citizens or organizations.

In Guatemala, poverty, the legacy of violent repression of labor activists and others, the deep hostility of many in business and the military towards trade unions, and a weak labor inspection and labor court system continued to constrain worker rights and limit enforcement of standards. In one case in which vigilantes abducted union leaders, physically abused them, and forced them to resign from their jobs and union positions, none of the vigilantes has been arrested, although more than a dozen suspects have been indicted on charges ranging from coercion to illegal detention. While the Constitution bars employment of minors under the age of 14, child labor remains a serious problem. Most child labor occurs in agriculture, domestic service, construction, stone quarrying, and family businesses. According to the Guatemalan Labor Ministry, 3,000 to 5,000 children are employed in the illegal cottage fireworks industry. This dangerous employment violates ILO Convention 182 banning the worst forms of child labor.

In Colombia, the Government, under strong international pressure, bowed to the demands of its unions, agreeing to the dispatch of a special ILO team to investigate killing and kidnaping of trade unionists and other worker rights violations. Physical intimidation of trade unionists, including killings, remains a very serious problem.

In India, the use of forced and bonded adult and child labor, though illegal, continues. While programs sponsored by the ILO and private groups have moved many children from, for example, carpet looms to classrooms, enforcement of child and bonded labor laws is spotty. Dalits and tribals, who constitute the majority of India's bonded labor, continue to face widespread discrimination. In Pakistan, child and bonded labor remains a serious problem. Thousands of families work in debt bondage, with children born into a life of bonded labor. While the Government has worked with the ILO to move children from work to school in several industries, enforcement of the laws against bonded and child labor has been inadequate. In Bangladesh, the Government failed to keep promises it had made to the international community with regard to worker rights, notably affording workers freedom of association and the right to organize in export processing zones. However, the Government has worked constructively with the ILO on a program to reduce child labor.

2. Trafficking of Persons. Trafficking in persons is a growing global problem that touches countries on every continent. The insidious reach of this modern-day form of slavery hurts women, children, and men from all walks of life, and of every age, religion, and culture. Traffickers rob their victims of basic human rights. They exploit and trade in human hopes and dreams to profit from inhuman suffering and misery. Victims are treated as chattel to be bought and sold across international and within national borders. This human tragedy rips the fabric of communities and tears families apart.

The trafficking industry is one of the fastest growing and most lucrative criminal enterprises in the world. Profits are enormous, generating billions of dollars annually and feeding into criminal syndicates' involvement in other illicit and violent activities. Trafficking in persons is considered the third largest source of profits for organized crime, behind only drugs and guns.

Trafficking cases appear in many forms. In some cases, traffickers move victims through transit countries using drugs, violence, and threats to ensure cooperation. In other cases, economically desperate parents sell their child to traffickers. Many times, trafficked victims begin their journey voluntarily and unwittingly fall into the hands of trafficking schemes.

In Russia and the Ukraine, for example, victims who yearn for economic independence within economies that offer few jobs, are lured by advertisements promising well-paying jobs abroad. However, once victims arrive in countries of destination, they are held captive and forced into bonded labor, domestic servitude or the commercial sex industry through threats, psychological coercion and severe physical brutality, including rape, torture, starvation, imprisonment, and death.

The majority of trafficking victims are girls and women. The reasons for this are linked to the economic and social status of women in many countries. Not all victims are women, however. Boys are frequently trafficked for prostitution, pornography, and in at least one country, used as camel jockeys. Men from a number of countries such as China are trafficked overseas to work in restaurants or in sweatshops in the garment industry. They travel to their destinations in rickety boats or cargo containers before becoming indentured servants to pay their "debts." If they try to leave employment, they risk violence or the extortion of their family members back home.

The underground nature of trafficking makes it difficult to quantify. The most reliable estimates place the level of trafficking at 1 to 2 million persons trafficked annually. As this report documents, trafficking into the commercial sex industry is merely one form of a broader range of trafficking exploited by organized criminal enterprises.

The problem is particularly widespread in South Asia. India and Pakistan are significant countries of origin, transit, and destination. Poor economic conditions in Nepal, Bangladesh, and rural areas of India result in women and children being trafficked into major cities for the sex trade and forced labor. In many cases, girls from poverty-stricken families are sold to traffickers by parents or relatives. Women who seek to return home often face stigmatization. Many are HIV positive. While criminal laws against trafficking exist, inadequate enforcement and lax penalties do little to stem trafficking patterns.

In East Asia, many women are coerced into prostitution under the guise of overseas employment contracts. In Thailand, women from hill tribes and neighboring countries are especially vulnerable to exploitation because of their inability to speak Thai. In Burma, women and children in border areas and from the Shan ethnic minority are particularly susceptible to being forced by traffickers into neighboring countries to work as prostitutes. In the Philippines, some women are lured into entering employment contracts overseas by unethical recruiters. Once they arrive at their destination, the women are subjected to work in the sex entertainment industry or suffer abuse at the hands of foreign employers or husbands.

The range and scope of trafficking in Africa remains largely undocumented. Officials in Europe, however, report an active and growing market from trafficking in women and children from Nigeria. There is evidence that Nigerian crime syndicates may use threats, physical injury, and legal coercion to stop women forced into the sex trade from escaping. Inside Nigeria, there is an active trade in child laborers, some exported to neighboring countries, from the Niger Delta region.

Trafficking also exists in the Western Hemisphere. Forced prostitution is also a problem in the Dominican Republic, where there are disparities in law enforcement. In Brazil, the sexual exploitation and prostitution of children is a serious problem. Prostitution rings foster a sexual tourism industry that exports children from the Amazon region to large urban centers and major cities.

III. CONCLUSION

The events of the past year have demonstrated the undisputed and growing power of transnational public-private networks in promoting democracy, human rights, and labor. Traditionally, "norm entrepreneurs" have been individuals whose role in society or government has given them the ability to influence the direction of policy. Oscar Arias Sanchez, former President Jimmy Carter, the Dalai Lama, Mahatma Gandhi, Vaclav Havel, Pope John Paul II, Martin Luther King, Nelson Mandela, and Eleanor Roosevelt are but a few of the human rights advocates who instantly come to mind. Such individuals still have an important role to play, but increasingly, public and private networks of transnational actors are becoming "norm entrepreneurs" in and of themselves—networks capable of mobilizing popular opinion and political support at the national and international level in order to secure international recognition and acceptance of new principles, standards, or approaches to complex human rights problems.

These transnational networks increasingly wield influence comparable to the power of individual nation-states, in their capacity to spotlight abuses, mobilize shame, generate political pressure, and develop structural solutions. But recent history also teaches that such networks cannot succeed without involving democratic governments dedicated to the same human rights goals. As President Clinton noted in Davos recently, all sides need to "lower the rhetoric and focus on results." No transnational network can firmly or permanently entrench human rights, democracy, or the rule of law in unfamiliar soil without forging partnerships with democratic governments and other domestic and international members of the emerging human rights community. These partnerships, which cross public and private, institutional and national lines, will be increasingly challenged to work together and prod one another to yield creative and enduring solutions to emerging problems. As this new century unfolds, the United States will continue to be a leader in creating and partnering with such transnational networks to seek democracy and human rights for all the world's peoples.

HAROLD HONGJU KOH,
Assistant Secretary of State,
Bureau of Democracy, Human Rights, and Labor.

AFRICA

ANGOLA

The Republic of Angola's transition from a single-party state to a multiparty democracy and its recovery from 25 years of civil conflict were hindered by a renewal of fighting between government forces and the National Union for the Total Independence of Angola (UNITA) in the second half of 1998, which continued throughout the year and led to a halt in the implementation of the 1994 Lusaka Peace Protocol between the Government and UNITA. The Popular Movement for the Liberation of Angola (MPLA) has ruled the country since its independence from Portugal in 1975. The country's competing independence movements began a civil war immediately after independence, which lasted until the signing of the Bicesse Accords in 1991. Under the Bicesse Accords, one-party rule ended with the passage of a new Constitution that legalized opposition parties and called for U.N.-monitored elections, which were held in 1992. President Jose Eduardo Dos Santos of the MPLA won a plurality of the votes cast in an election that U.N. observers considered free and fair. UNITA rejected the results of the vote and resumed the civil war. In 1998 the National Assembly voted to cancel the never-held runoff election between the leading presidential candidates and allow Dos Santos to hold the presidency until a determination is made that proper conditions exist to hold new elections. In 1994 in an effort to end the civil war, the Government and UNITA signed the Lusaka Protocol, which called for the demilitarization of UNITA, the creation of a national army, the seating of a government of national unity and reconciliation, and the extension of state administration to areas formerly under UNITA control. The Government generally complied with its obligations under the protocol, although the conduct of the police and, to a lesser extent, military units in former UNITA areas drew widespread criticism. UNITA failed to comply with several fundamental aspects of the protocol. It maintained a potent military capability and refused to return to state administration the territory it held. In April 1997, UNITA officials joined the newly formed national unity government; however, the Government continues to back a splinter group of UNITA dissidents who are challenging the leadership of UNITA's longtime party president Jonas Savimbi. Fighting resumed between the Government and UNITA at the end of 1998, and by August armed conflict had resumed throughout the country. UNITA had taken substantial territory and increased its military pressure on government-held areas. The judiciary, where it functions, is not independent of the President and the MPLA.

The Ministry of Interior is responsible for internal security, a function that it exercises through the Angolan National Police, the Rapid Intervention Police (PIR), and other organs of state security. The PIR was created in 1992 as an elite paramilitary force. The Armed Forces of Angola (FAA) are responsible for protecting the State against external threats and have intervened in regional conflicts every year since 1996. In 1997 the FAA integrated some 10,000 UNITA soldiers. With the resumption of localized hostilities inside the country the FAA became involved in counterinsurgency operations against UNITA. The FAA also is involved in similar operations, although on a smaller scale, against separatists who favor the independence of Cabinda province. The Government's security forces firmly are under civilian leadership. Security forces committed numerous, serious human rights abuses.

The security factors that inhibited the country's transition to full multiparty democracy had a similar effect on the country's transition from a directed, state-dominated economic system to one based on market principles. The Government's economic policies remained directed towards a military build-up, with the Government resisting calls for greater transparency in public accounting. The economy was in disarray and despite abundant natural resources, output per capita is extremely low. Angola produces about 780,000 barrels of oil per day. Diamond production by the formal sector in government-controlled areas was estimated at 2 million carats.

The estimated value of combined formal and informal sector diamond production in government-controlled areas was $320 million. Because the diamond-producing areas controlled by UNITA were reduced, diamond sales in UNITA-controlled areas declined significantly to less than $50 million. There also are lucrative untapped mineral, agricultural, and hydroelectrical resources in the country; however, corruption and mismanagement are pervasive in the public sector and widespread in the private sector. The Government has begun to liberalize its import regimes and reform its regulatory agencies to better allow the importation of the goods and services on which the economy depends. Annual per capita gross domestic product was approximately $450. The country's wealth continued to be concentrated in the hands of a small elite whose members used government positions for massive personal enrichment, and corruption continued to be a common practice at all levels. The average monthly salary of urban wage earners (approximately 20 percent of the labor force) was far below what is required for basic subsistence. Rural wages are even lower, as the majority of the rural economy is dependent on subsistence agriculture and is highly vulnerable to political unrest. Civilians residing in UNITA-held areas live under a primitive and brutal form of economic feudalism, their crops and other goods are subject to arbitrary seizure by armed UNITA elements, and they are vulnerable to forced labor, including military service. They suffer from extreme scarcities of consumer goods, basic medical supplies, and other necessities.

The Government's human rights record continued to be poor, and it continued to commit numerous serious abuses. Citizens have no effective means to change their government. The second round of the 1992 presidential elections were canceled in a government agreement with the breakaway faction of UNITA. New elections were postponed indefinitely until the U.N. determines proper conditions exist to hold them. Members of the security forces committed numerous extrajudicial killings, were responsible for disappearances, and tortured, beat, raped and otherwise abused persons. The Government was unable to pay the salaries of the majority of its security service personnel. The poor discipline and poor working conditions of the police force made it the worst offender; military units generally have better discipline and a more effective chain of command. Other than those personnel assigned to elite units, the Government took no effective action to prevent security personnel from supplementing their incomes through the extortion of the civilian population. Prison conditions were life threatening. The Government routinely used arbitrary arrest and detention, and lengthy pretrial detention is a problem. The Government was unable or unwilling to punish those in the security services who were responsible for abuses. The judiciary is subject to executive influence, only functions in parts of the country, and does not ensure due process. The Government infringed on citizen's privacy rights and forcibly recruited military-age males. The Government at times restricted freedom of speech and of the press, and intimidated journalists into practicing self-censorship. The Government restricted freedom of assembly, association, and movement. The Government continued to limit independent investigations of human rights abuses, although it allowed international human rights organizations, including Human Rights Watch and Amnesty International, to conduct research in the country. Discrimination and violence against women were common; adult and child prostitution is a problem; and children and the disabled continued to suffer as a result of the ongoing conflict and poor economic conditions. The Government continues to dominate the labor movement and restricts worker rights, although there were improvements in the independent labor sector. Forced labor and child labor are problems.

UNITA also was responsible for numerous, serious abuses. UNITA forces were responsible for killings, disappearances, torture, rape, and other abuse. UNITA military units reportedly pillaged rural areas; depopulated large parts of the country, killed traditional leaders, and eliminated all opposition, real or potential. UNITA tightly restricted freedom of speech, the press, assembly, association, and movement. UNITA refused all attempts to conduct investigations in areas under its control. UNITA continued forced military recruitment, including of underage males, and used forced labor for a large part of its local-level logistical support. The sexual abuse of women conscripted to work as porters was reportedly common in UNITA areas.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Incidents of extrajudicial killings occurred during the year as the war continued and, although figures and details were unavailable, observers believe that the number of such killings increased during the year. Security forces were responsible for numerous extrajudicial killings. Police fre-

quently participate in shakedowns, muggings, carjackings, and killings. Major human rights abuses occurred as government forces carried out counterinsurgency operations. In February government forces reportedly killed several civilians after retaking the town of Mbanza Congo from UNITA. In December there was an unconfirmed report that the FAA killed 47 civilians during operations in the Luanda Sul province. Government aircraft bombed military targets in UNITA-held towns, which reportedly resulted in civilian casualties.

Government soldiers sent to support the Government of the Republic of Congo committed acts of execution, rape, and looting while in the Republic of the Congo.

Prison conditions are life threatening due to inadequate food, medicine, and sanitation and many prisoners died in official custody (see Section 1.c.).

There were no investigations into, nor was any action taken against those responsible for, the extrajudicial killings of more than 40 persons during 1998, including the UNITA provincial secretary in Xa-Cessau, the UNITA communal secretary of Quibaxe, and the local UNITA secretary of Cangundu.

In January a U.N. chartered aircraft was shot down in an area of active military operations and all nine persons on board were killed. The Government and UNITA both deny responsibility for the shooting. An investigation was pending at year's end.

In January unknown gunmen killed Father Albino Saluaco, a Catholic parish priest, and two catechists in a town in the province of Huambo that was under UNITA military occupation (see Section 2.c.). In September UNITA National Assembly Deputy Joao Ngolongombe Jacob was killed by unknown persons.

A number of killings remain unsolved. The killings of senior UNITA officials in Luanda following the resumption of hostilities in 1992 never have been investigated. The Government has refused to return the bodies of UNITA vice president Jeremias Chitunda and secretary general Salupeto Pena to their families. The 1996 murders of independent journalist Ricardo de Mello and state-television reporter Antonio Casimiro, and the 1994 murder of the vice governor of Malange province also remain unsolved. The results of the investigation of the 1993 death of opposition politician Carlos Simea never were released.

Numerous localities changed hands during the year, a process that often involved the extrajudicial killing of government or UNITA administrators and persons accused of collaboration. Internally displaced persons and refugees risked their lives to flee to government-held areas or neighboring countries. Undocumented Congolese workers in diamond fields were targeted by government or UNITA forces seeking to take control of alluvial diamond mining operations. An unknown number of civilians died in the course of engagements between the security services and insurgents, particularly in the Central Highlands and in the northwest. Landmines laid by both sides during the conflict resulted in approximately 650 deaths. Strong anecdotal information suggests that both sides summarily execute prisoners of war (POW's).

UNITA troops committed numerous extrajudicial killings during attacks on villages. Interviews with refugees indicated that UNITA committed abuses, including public extrajudicial killings, as a deliberate policy. In February UNITA forces reportedly entered a village near Luena and killed the village's soba (traditional leader) and his family. In April UNITA soldiers reportedly killed 25 villagers who were attempting to return to their homes in Muconda in the Luanda Sul province. In July UNITA attacked the town of Catete, killing 9 persons and abducting 22 persons. There were unconfirmed reports that following military actions taken in the fall in Camacupa, Bie Province, mass graves were found containing the bodies of dozens of UNITA victims.

UNITA killed numerous civilians during attacks on civilian traffic on roads throughout the country; such attacks were designed to halt transportation, disrupt commerce, isolate populations, and maintain a climate of insecurity. For example, in April on a stretch of road between Gabela and Sumbe, UNITA soldiers reportedly attacked a clearly marked aid vehicle, killing five humanitarian workers. In June UNITA soldiers reportedly attacked another aid vehicle, killing two persons.

The shelling of cities by UNITA forces often killed civilians, particularly in Malange, Huambo, and Kuito. According to the Bishop of Malange, more than 1,000 persons were killed, and 700 injured, as a result of shelling; however, this report could not be confirmed.

UNITA allegedly was responsible for some civilian deaths in Namibia.

UNITA engaged in forced conscription and frequently killed persons who attempted to desert (see Section 1.g.).

UNITA never has accounted for the deaths of numerous senior party officials, including Wilson dos Santos and Tito Chingunji. A number of former high-ranking UNITA officials who have defected revealed the extent of extrajudicial killings in

UNITA-held areas. Two former UNITA secretary-generals, a former head of UNITA intelligence, and others have reported that Savimbi personally ordered extrajudicial killings of opponents and, in some cases, personally carried out the executions. UNITA also never has allowed the U.N. to investigate any claims of human rights abuses in areas of the country under its control unless those abuses were thought to be the work of government forces.

b. *Disappearance.*—The Government and UNITA continued to accuse each other of abductions and of causing the disappearances of civilians, including government officials, party activists, and traditional leaders. The number of allegations and the prevailing conditions of insecurity made it impossible for the U.N. and other organizations to investigate all of these allegations. Persons taken into police custody often are reported to disappear without a trace, particularly in rural areas. Suspects accused of illegal weapons ownership or collaboration with UNITA disappeared, as did UNITA party officials in some areas where the Government regained control.

Civilians abducted by UNITA generally either were forced to become soldiers or support personnel, or were considered government collaborators. There were unconfirmed reports in April from internally displaced persons that UNITA abducted persons in Nequile, Chitmebo, and Gimba Filili villages in Bie Province. In July UNITA abducted 22 persons during an attack on the town of Catete (see Section 1.a.). In December, UNITA abducted 20 persons from Namibia, who subsequently were rescued by Namibian forces. The frequent discovery of dead bodies in the aftermath of attacks suggested that suspected collaborators were executed summarily. Those who escaped UNITA custody and were able to return to government-held areas reported that they were subjected to torture, beatings, and sexual abuse (see Section 1.c.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code explicitly prohibit all forms of mistreatment of suspects, detainees, or prisoners; however, security forces tortured, beat, raped, and otherwise abused persons. The International Committee of the Red Cross (ICRC), the U.N., and human rights organizations report that there is widespread government abuse of suspects.

Security service personnel regularly employed torture and other forms of cruel and degrading treatment, including rape. Police used torture and induced confessions frequently during investigations, and rarely, if ever, are punished for such abuses. Those suspected of ties to UNITA regularly are incarcerated under inhuman conditions and are subjected to primitive and brutal forms of interrogation. There have been no cases in which an army or police official has been disciplined for use of excessive force against a UNITA suspect. Police often beat and released suspects in lieu of trials (see Section 1.d.) Police frequently participate in shakedowns, muggings, carjackings, and killings. Police extorted money from travelers at checkpoints, and routinely harassed refugees (see Section 2.d.).

There have been numerous reports of FAA soldiers crossing the border into Namibia and abusing and harassing Namibian civilians. There was at least one report of rape by an FAA soldier, and numerous reports of molestation of women and theft from small shops. In early December, the FAA commander in the south announced the arrest of three soldiers for abusing civilians in Namibia.

There were several incidents in which security forces mistreated journalists. In April a Voice of America (VOA) correspondent was assaulted by a soldier after she reported on the lack of whites or persons of mixed race at a military recruitment center. In May police reportedly beat a journalist during a routine traffic stop when they learned of his profession. In July two television crews were arrested after filming a gunfight between police and suspected robbers. During the arrest, members of one of the crews were threatened, kicked, and hit with the butts of machine guns. There were no investigations into any of these incidents, nor were any actions taken against those responsible.

Two of five UNITA deputies detained by the Government did not receive adequate medical attention when ill, and all of the deputies reported that they were denied food and water for periods of up to 36 hours (see Section 1.d).

Landmines laid by both sides during the conflict resulted in an increasing number of casualties, including maiming (see Section 1.g.)

The U.N. and human rights organizations report that abuse of suspects is universal in areas under UNITA control. Interviews with persons who fled UNITA-held areas revealed that UNITA uses cruel and inhuman practices, including public torture and mutilation, to punish dissent and deter further acts of disloyalty. There have been repeated credible allegations that UNITA President Jonas Savimbi has ordered suspects tortured and executed in his presence.

Prison conditions constituted a serious threat to the health and lives of prisoners. The Government and the National Assembly Committee on Human Rights have ac-

knowledged that conditions are inhuman. Cells are overcrowded and lack basic sanitary facilities. The prison system holds approximately five times the number of prisoners it was built to hold. Many prisons, lacking financial support from the Government, were unable to supply prisoners with adequate food and health care. There were credible reports that many prisoners died of malnutrition and disease.

Prison officials routinely beat detainees. Prisoners depend on families, friends, or international relief organizations for basic support. Prison officials, who are chronically unpaid, support themselves by stealing from their prisoners and extorting money from family members. Juveniles, often incarcerated for petty theft, are housed with adults and suffer abuse by guards and inmates.

The Government permitted local and international human rights monitors to visit prisons, but not individual prisoners, during the year.

According to widespread reports, UNITA prison conditions are extremely harsh. UNITA reportedly maintained a prison in its Andulo headquarters that included large numbers of persons accused of treason. There was at least one report that UNITA prison officials beat detainees.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are serious ongoing problems. Under the law, a person caught in the act of committing a crime may be arrested and detained immediately. Otherwise, the law requires that a judge or a provincial magistrate issue an arrest warrant. Arrest warrants also may be signed by prosecutors attached to police commands, and confirmed within 5 days by a magistrate. The Constitution provides for the right to prompt judicial determination of the legality of the detention. Under the law, the prosecution and defense have 90 days before a trial to prepare their case, although both sides generally have the right to request an extension of this deadline under extenuating circumstances. The Constitution also provides prisoners with the right to receive visits by family members. However, none of these rights exist in practice; there is a scarcity of personnel and resources, and a lack of official determination to ensure these rights. Although the Ministry of Justice is nominally in charge of the prison system, the Ministry of Interior continued to systematically, arbitrarily, and secretly arrest, and detain persons for all categories of crimes and for indefinite periods, often with no apparent intent to bring the detainees to trial.

In January authorities arrested five UNITA deputies and members of Parliament on suspicion of treason and subversion (see Section 3). While in prison, the deputies generally were held incommunicado and two deputies who were ill were denied adequate medical treatment (see Section 1.c.). One deputy was released in May and the other four remained in custody until the Supreme Court ordered their release in October due to lack of evidence.

In January authorities detained for 4 days a local employee of the U.N. Observer Mission in Angola (MONUA) on suspicion of being a UNITA spy. In June in response to UNITA shelling, government security forces engaged in large-scale arrests of suspected UNITA infiltrators and collaborators in Huambo and Malange. It is believed that more than 1,000 persons were detained, although most were released by year's end.

Police detained approximately 20 journalists for questioning in connection with charges of slander, defamation, and crimes against the security of the state; however, rather than charging journalists, police often inform journalists that they remain under investigation (see Section 2.a.). In January two journalists from Radio Morena were arrested for rebroadcasting a Portuguese radio interview with a UNITA official. On August 9 and 10 police detained for questioning the director, the news producer, an editor, and staff of Radio Ecclesia after the station rebroadcast a British Broadcasting Corporation (BBC) interview with Jonas Savimbi (see Section 2.a.). In August police detained a VOA journalist for 2 hours for questioning and accused him of defamation after he filed a report that local government officials had been diverting humanitarian aid. In September the director of Folha 8 and a journalist were detained and questioned in connection with an article on the Radio Ecclesia detentions. In October the National Department of Criminal Investigation (DNIC) detained Rafael Marques, an independent journalist and human rights activist known for his vocal criticism of the government, and charged him with defaming the President and slandering the Attorney General. Marques was held for approximately 5 weeks before being released in late November pending an indefinitely postponed trial.

In September the police detained several dozen foreign businessmen (see Section 2.d.).

Under criminal law a person may not be held for over 135 days without trial. The National Security Law provides for a maximum of 180 days preventative detention. In practice, over 90 percent of inmates in Luanda still are awaiting trial, and it is believed that the national average is over 50 percent. Inmates who have been await-

ing trial for 2 or 3 years are common. In many cases, police beat and then release detainees rather than make any effort to prepare a formal court case.

The Government holds an unknown number of suspected UNITA officials and supporters in areas where government control was regained. The Government invariably accused these persons of illegal weapons possession or collaboration with UNITA, although formal charges rarely were filed.

UNITA continues to detain persons against their will. The number of such persons is unknown, though a number of confirmed cases exist, including two Russian aircrews taken hostage in May and June when their planes were shot down, and four Portuguese and one Spaniard from M'banza, Congo.

In March, alleged FLEC activists kidnapped two Portuguese and one French oil worker who were released later for ransom.

The Lusaka Protocol provides for the release, under ICRC auspices, of persons detained for war-related reasons. With the resurgence in Government-UNITA fighting around the country, both sides have taken POW's. Neither the Government nor UNITA has allowed the ICRC or any other institution access to POW's. Strong anecdotal information suggests that both sides summarily execute POW's (see Section 1.a.).

The Government did not use forced exile as a form of punishment.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary, where it functions, is not independent of the President and the MPLA. In practice the court system lacks the means, experience, training, and political backing to assert its independence from the President and the ruling party. The President has strong appointive powers, including the power to appoint Supreme Court justices without confirmation by the National Assembly. The judicial system largely was destroyed during the civil war and did not function in large areas of the country.

The court system consists of the Supreme Court at the appellate level plus municipal and provincial courts of original jurisdiction under the nominal authority of the Supreme Court. Only 9 of the 12 seats on the Supreme Court were filled by year's end. The Supreme Court serves as the appellate division for questions of law and fact but does not have the authority to interpret the Constitution. The Constitution reserves that role for a Constitutional Court, which is mandated by the 1991 Constitution, but had yet to be established at year's end. Trials for political and security crimes are supposed to be handled exclusively by the Supreme Court.

Five UNITA parliamentarians, arrested in January on suspicion of treason and subversion, were held incommunicado. One was released in May and the other four were released in October by the Supreme Court for lack of evidence.

The Constitution provides defendants with the presumption of innocence, the right to a defense, and the right to appeal. Legal reform in 1991 established the right to public trials and a system of bail, and recognized the accused's right to counsel; however, the Government does not respect these rights in practice. Judges usually are lay persons, not licensed lawyers. The judge and two lay persons elected by the full court act as the jury.

UNITA has established a nominal military and civilian court system in territories under its control and claims that its Civil Code is equivalent to the Portuguese Civil Code currently used by the Government. UNITA President Jonas Savimbi appoints judges personally, and UNITA trials are not open to the public. Juries consist of male elders chosen from the community. The accused reportedly has the right to a lawyer. However, areas of the country under UNITA control remain under strict martial law.

There were no reports of government-held political prisoners.

There are probable cases of UNITA-held political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Government infringed on citizens' privacy rights. The Government maintained a sophisticated security apparatus dedicated to the surveillance, monitoring, and wiretapping of certain groups, including opposition party leaders, journalists, members of the National Assembly and foreign diplomats. Legal requirements for search warrants routinely are disregarded.

To enforce mandatory military laws, the military and police conducted forced conscription drives in many of the areas under the control of the Government, including Luanda, in which some minors may have been recruited. Persons who could prove that they had jobs usually were released, and those with financial means could buy their way out of the military. The Government denied that forced recruiting was taking place. Church groups, civil society institutions, and foreign embassies protested the manner of conscription.

UNITA continued to conscript civilians forcibly for military duty (see Section 1.g.).

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—The escalation in military operations by both the Government and UNITA resulted in a significant increase in the number and severity of human rights violations. The Government and humanitarian organizations reported that there are several hundred thousand new internally displaced persons, with estimates of the total internally displaced population varying between 1.5 and 3 million. Military attacks have resulted in indiscriminate and summary killings, torture, abductions, destruction of property, and theft. The provinces most affected were Lunda Norte, Lunda Sul, Malange, Bie, Uige, and Huambo. Congolese diamond miners were victims in numerous attacks on alluvial mining operations in Lunda Norte province.

The Government's frequent failure to pay, feed, and equip military and police personnel resulted in extortion and theft. Government personnel frequently confiscated food, including donated relief supplies, livestock, and personal property, including nongovernmental organization (NGO) vehicles, often after forcibly depopulating areas and robbing the displaced persons. However, the reports of such activity decreased in the latter half of the year due to increased troop support and improved field liaisons between humanitarian agencies and the military.

The Government and UNITA continued to use landmines to strengthen defensive positions, and in the case of UNITA, prevent residents within its own areas from fleeing to government-held areas (see Section 2.d.). Landmine explosions increased during the year to approximately 52 incidents per month and resulted in numerous casualties (see Section 1.a.). Approximately 1 in every 356 persons is an amputee as a result of landmine explosions. Observers believe that the increase in incidents is due not to new landmines, but to the movement of internally displaced persons into areas in which they are less familiar. There were reports that some internally displaced persons, desperate for nourishment, used the sticks that marked mined fields to light their cooking fires.

UNITA forces routinely violated citizens' rights and caused thousands of civilian casualties in pursuit of military objectives. UNITA's strategy included ambushes against civilian traffic to halt transportation, driving persons living in the countryside into town in order to overwhelm government services and take over their land, and laying siege to those towns by extensive mining and artillery shelling. The major provincial cities of Kuito, Huambo, and Malange in particular, were affected. In mid-March UNITA shelled Malange, killing 18 persons and wounding 15 others.

UNITA carried out forced recruiting, including of minors, throughout all of the country's disputed territory. Recruits were taken to isolated military camps and subjected to psychological stress and extreme hardships; those who attempted to desert were executed. Women, many as young as 13 years of age, were recruited forcibly to serve as porters and camp followers, and reports of sexual assault were widespread and credible.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press and specifically provides that the media cannot be subject to ideological, political, or artistic censorship; however, the Government does not respect this right in practice. Moreover, unlike 1998, when the Government's record in this area improved, it deteriorated during the year. The Government continued to intimidate and threaten journalists into practicing self-censorship. There were reports that the Government pays journalists to publish progovernment stories. Government authorities, including the Minister of Interior, and the presidential spokesman, consistently warned the press that they were subject to press and national security laws and would be subject to fines and imprisonment for reporting information that "threatens the security of the state." The Government detained or placed under investigation journalists who reported on sensitive issues, including military operations, government corruption, and UNITA, especially Jonas Savimbi. Journalists acknowledge that they exercise self-censorship.

In January the Government issued a memo that effectively ordered a news ban on coverage of the civil war. The ban largely was ignored by the independent media, prompting the Government to accuse it of supporting UNITA. In June and again in September, the Minister of Social Communication threatened the independent press with closure if it did not support the Government's war efforts against UNITA.

Between June and August, the Government prosecuted several cases in the courts against journalists for violating the press law. The editor of the private newspaper Agora received a suspended sentence and was fined approximately $5 (30 kwanzas) for 90 days for slandering two Ministers. Two other reporters received similar sentences. The Government restricted a small number of journalists from writing and traveling while their cases remained pending.

In April a soldier assaulted a VOA correspondent after she reported on the lack of whites or persons of mixed race at a military recruitment center (see Section 1.c.). In May police reportedly beat a journalist during a routine traffic stop when they learned of his profession. In July two television crews were arrested after filming a gunfight between police and suspected robbers, and during the arrest, police abused members of one of the crews (see Section 1.c.).

Police detained approximately 20 journalists for questioning in connection with charges of slander, defamation, and crimes against the security of the State. In January two journalists from Radio Morena were arrested for rebroadcasting a Portuguese radio interview with a UNITA official (see Section 1.d.). On August 9, Radio Ecclesia rebroadcast a BBC interview with Jonas Savimbi; shortly after the broadcast police raided the studio and detained for questioning the director, the news producer, and an editor. They were released the following morning. On August 10, the police again detained for questioning the journalists detained the previous evening in addition to five other staff members. All were released later that day. In August police detained a VOA journalist, Isaias Soares, for 2 hours for questioning and accused him of defamation after he filed a report that local government officials were diverting humanitarian aid. In September William Tonet, the editor of Folha 8, and another journalist, were detained and questioned in connection with an article on the Radio Ecclesia detentions. Shortly thereafter the Government warned Tonet that he still was under investigation and could not to leave the country. In October the National Department of Criminal Investigation (DNIC) detained Rafael Marques, an independent journalist and human rights activist known for his vocal criticism of the government. Marques was charged with defamation and slander, and held for approximately five weeks before being released pending a trial (see Section 1.d.).

The majority of the media is state-run and carries very little criticism of the Government. Semi-independent newspapers and private radio stations grew increasingly bold in their criticism of government policies and actions. There are five private weekly publications with circulations in the low thousands. There are also five commercial radio stations including the Catholic Radio Ecclesia, and Radio Lac Luanda, which openly criticize aspects of government policies and highlight poor socioeconomic conditions.

A committee composed of the Minister of Social Communication, the spokesman of the presidency, and the directors of state-run media organizations controls media policy and censorship. The MPLA's secretary general also influences the content and tone of state-run media reporting. The Government used its control of the media to engage in a hostile propaganda campaign against UNITA, including unconfirmed allegations of UNITA massacres, as a means of influencing local and international public opinion.

The Government generally did not restrict the activities of foreign media, including the BBC and the VOA; however, it continued to refuse to allow direct retransmission, and in January, after a Portugeuse daily newspaper ran a story criticizing the Government, authorities withdrew press credentials from one of the newspaper's reporters and ordered her to leave the country. The Government also denied entry into the country to another reporter from the newspaper. Foreign journalists require authorization from the Ministry of Interior in order to obtain access to government officials or to travel within the country. Travel to UNITA-controlled areas routinely was denied. The Government placed no abnormal visa restrictions on foreign journalists and generally allowed them to report freely on all aspects of society in government-controlled areas. The Government allowed the U.N. to contribute to broadcast content but denied it the ability to open its own radio station.

In UNITA-controlled areas no media organizations can function except under the absolute control of party officials. UNITA media includes Radio Vorgan, which broadcasts sporadically from the highlands, and a UNITA website. No media personnel were allowed free access to UNITA areas by either the Government or UNITA after the resumption of the conflict.

Academic life has been circumscribed severely by the civil war. Generally, there is academic freedom; however, the Government dismissed a university rector for political reasons during the year. Reportedly the rector came into conflict with the Ministry of Education for supporting higher wages for professors and increased academic standards. The rector's dismissal led to a strike by the university's professors (see Section 6.a.). Academics do not practice self-censorship.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government restricts this right in practice. The law requires a minimum of 3 days' prior notice before public or private assemblies are held, and makes participants liable for "offenses against the honor and consideration due to persons and to organs of sovereignty." Applications for progovernment

assemblies are granted routinely without delay; however, applications for protest assemblies rarely are granted.

The Constitution provides for the right of association; however, the Government restricts this right in practice. Legislation allows the Government to deny registration to private associations on security grounds, and the Government arbitrarily limits organized activities deemed adverse to its interests.

There is no freedom of assembly or association in areas of the country under UNITA control.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, including the separation of church and state, and the Government respects this right in practice. Members of the clergy in government-held areas regularly use their pulpits to highlight the human costs of war and to call on the Government and UNITA to make peace. Radio Ecclesia, run by the Catholic Church, is one of the few sources of independent news. The station began practicing self-censorship in August after the Government harassed it for rebroadcasting a Jonas Savimbi interview with the BBC (see Section 2.a.).

While in general UNITA permits freedom of religion, interviews with persons who left UNITA-controlled areas reveal that the clergy does not enjoy the right to criticize UNITA policies.

In January unknown gunmen killed Father Albino Saluaco, a Catholic parish priest, and two catechists in a town in the province of Huambo that was under UNITA military occupation. Father Saluaco had served as deputy director of a project to reintegrate child soldiers into their families.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement and residence, and freedom of exit from and entry into the country; however, the Government does not respect these rights in practice. A network of government checkpoints throughout the country interfered with the right to travel. Such checkpoints serve as a source of income for many of the country's security service personnel. Extortion at checkpoints is routine in the center of Luanda and pervasive on major commercial routes. The Government routinely cuts off access to areas of the country that are deemed insecure or beyond the administrative authority of the State. Transportation links between government- and UNITA-held territory were broken as a result of conflict. The Government did not place restrictions on emigration and repatriation. In September the police detained and harassed several dozen foreign businessmen in an effort to control currency speculation; several of the businessmen ultimately were deported.

As a result of the conflict approximately 75,000 citizens fled into neighboring countries during the year, including to the Democratic Republic of Congo, Namibia, and Zambia.

Human rights and relief workers who interviewed Angolan refugees and displaced persons reported that UNITA limits the free movement of the civilian population both by preventing persons from fleeing some areas under their control, and by displacing them to areas of government control. The patterns that emerged from the discussions suggested that UNITA uses military patrols, checkpoints, and landmines to keep persons from leaving their home areas. Refugees who fled the country and who were not part of the Ovimbundu majority within UNITA said that arbitrary public punishment, including death by firing squad or by immolation, was used to deter others from leaving. There is also some evidence to suggest a pattern of UNITA displacing persons and forcing them to flee to government-controlled cities in order to increase pressure on the Government to deal with increased humanitarian burdens.

Mines laid by UNITA forces on roads are a major impediment to the freedom of internal circulation. According to U.N. and NGO reports, UNITA uses antipersonnel and antivehicle mines to prevent government forces from entering areas under its control and to restrict movement of civilians, either by keeping them within areas it controls, or by keeping them from leaving government towns. UNITA also used landmines to make areas unsuitable for cultivation and to deny hostile populations access to water supplies and other necessities. Government use of landmines generally was confined to defensive positions and around towns under threat of UNITA attack. Estimates of the total number of landmines deployed throughout the country range into the millions. Fear of injury and death from landmines effectively imprisoned and impoverished entire communities. There were an unknown number of fatalities due to landmine explosions during the year, and there are over 80,000 survivors of landmine explosions.

The law provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees. The

Government provides first asylum to refugees. An eligibility committee to evaluate asylum claims meets regularly to evaluate asylum requests. There are approximately 11,000 refugees in the country, mostly from the Democratic Republic of Congo. The majority of Rwandan refugees in Luau, Moxico province, an area that reverted to government control in September 1997, had left the country for camps in Zambia by the end of 1998.

There were no reports of the forced expulsion of persons with valid claims to refugee status.

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

The Constitution provides all adult citizens with the right to vote by secret ballot in direct multiparty elections to choose the President of the Republic and deputies in the 220-seat National Assembly; however, in practice, citizens have no effective means to change their government. The Lusaka Protocol established the mechanism for returning the country to an electoral calendar, but in June the National Assembly voted to postpone new elections indefinitely due to the renewal of conflict. Opposition parties complain of harassment and intimidation by government security forces.

The President is elected by absolute majority. If no candidate wins such a majority, there is a runoff between the two candidates with the most votes. Of the 220 Deputies in the National Assembly, 130 are elected on a national ballot, and 90 are elected to represent the provinces. The Electoral Law also calls for the election of three additional deputies to represent citizens living abroad; however, those positions were not filled in the 1992 elections.

Ruling power is concentrated in the President and other members of the Council of Ministers, through which the President exercises executive power. The Council can enact decree-laws, decrees, and resolutions, thereby controlling most functions normally associated with the legislative branch. The National Assembly has served as an important debating forum; however, in matters of budget and legislation, it is largely a rubber stamp for executive decisions. Although the Constitution establishes the position of Prime Minister, the President dismissed the Prime Minister during the MPLA Party Congress at the end of 1998, and assumed the position himself by decree. The seating of 70 UNITA Deputies in April 1997 fostered substantive debates for the first time on issues ranging from the peace process to the Government's budgeting priorities and accountability. These debates have decreased since, due to the formation of UNITA-Renovada, a government-backed UNITA splinter group, and the Government's sensitivity to criticism following resumption of the conflict.

The National Assembly established a commission to revise the Constitution beginning in the fall. Deliberations are expected to continue through 2000 with participation from all parties represented in the National Assembly.

The 1992 elections were the first multiparty democratic elections in the country's history and were conducted with U.N. supervision and financial support. MPLA President Jose Eduardo dos Santos won a plurality of votes cast in the presidential election (49 percent) and UNITA leader Jonas Savimbi finished second (40 percent). Although local and international observers declared the election to be generally free and fair and called on UNITA to accept the results, UNITA claimed that the elections were fraudulent, rejected the results, and returned the country to civil war. The runoff election between Dos Santos and Savimbi never was held. The Lusaka Protocol stated that it would take place following a U.N. determination that requisite conditions exist. The National Assembly voted in June to cancel the runoff election pending a determination that conditions are appropriate for a new election.

In April 1997, UNITA and 10 smaller opposition parties joined the ruling MPLA in a government of national unity and reconciliation. In 1998 UNITA officials assumed 4 ministerial and 7 vice-ministerial positions, and 70 UNITA deputies took their seats. The remaining positions were filled by members of a dissident UNITA group, UNITA-Renovada, which is recognized and assisted by the Government. The National Assembly promulgated a special status for Savimbi, declaring him the leader of the largest opposition party and providing him with 5 official residences and a bodyguard contingent of 400 personnel. The National Assembly revoked Savimbi's status in 1998, for abrogating his duties under the Lusaka Protocol. During the year, the Government declared Savimbi a war criminal and issued a warrant for his arrest.

In January authorities arrested five UNITA deputies and Members of Parliament on suspicion of treason and subversion (see Section 1.d.). Under the law and the rules of the National Assembly, Members of Parliament are immune from arrest unless caught in act of committing a capital offense; however, two of the deputies were

asleep when the police came to their homes to arrest them. In February the National Assembly lifted the deputies' immunity. While in prison, the deputies generally were held incommunicado and two deputies who were ill were denied adequate medical treatment (see Section 1.c.). One deputy was released in May and the other four remained in custody until the Supreme Court ordered their release in October due to lack of evidence. In November the deputies resumed their seats in Parliament.

There are no legal barriers to the participation of women in the political process, and while women occupy a number of important government positions, they were underrepresented in government and politics. Women hold 10 of 83 cabinet positions and 35 of 220 seats in the National Assembly.

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

The Government does not formally prohibit independent investigations of its human rights record, but it fails to cooperate and often uses security conditions as pretext to deny access to affected areas.

There are over 120 registered NGO's operating in the country, of which approximately 45 are domestic NGO's.

Several international organizations have a permanent presence in the country including the ICRC, and the human rights division of MONUA. Human Rights Watch and Amnesty International visited the country during the year.

The Constitution provides for the creation of an office of the Provider of Justice, or ombudsman, designated by the National Assembly for a 4-year term, to defend citizens' rights and liberties; however, this office had not yet been filled at year's end.

The MONUA human rights division, established in 1997 to conduct human rights training for U.N. forces and investigate individual cases of human rights abuses, had a countrywide presence prior to the outbreak of hostilities in late 1998. The MONUA human rights division closed its team sites around the country in February and March, and as a result, the ability of local and international observers to conduct human rights investigations was limited.

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

Under the Constitution all citizens are equal before the law and enjoy the same rights and responsibilities regardless of color, race, ethnicity, sex, place of birth, religion, ideology, degree of education, or economic or social condition. The Government does not have the ability to enforce these provisions effectively.

Women.—Violence against women was widespread. Credible evidence indicated that a significant proportion of homicides was perpetrated against women, usually by their spouses. In 1997 a Ministry of Women was created to deal specifically with violence against women. During the year, the Ministry worked closely with NGO's and international organizations on a project to reduce violence against women and improve the status of women.

The Constitution and Family Code provide for equal rights without regard to gender; however societal discrimination against women remained a problem, particularly in rural areas. In addition, a portion of the Civil Code dates back to colonial times and includes discriminatory provisions against women in the areas of inheritance, property sales, and participation in commercial activities. A series of national conferences on women's rights, partially funded by foreign donors, continued to produce calls for the Government to amend the Civil Code to end women's legal inequality, create a social welfare program, and strengthen enforcement mechanisms for existing legislation.

The maternal mortality rate in 1996 was estimated at 1,500 deaths per 100,000 live births. There are no effective mechanisms to enforce child support laws, and women carry the major portion of responsibilities in raising children. Due to poor economic conditions, an increasing number of women engaged in prostitution.

Despite constitutional protections, women suffer from discrimination. The law provides for equal pay for equal work, but in practice, women rarely are compensated equally. Some women hold senior positions in the military (primarily in the medical field) and civil service, but women mostly are relegated to low-level positions in state-run industries and in the small private sector. In much of the country, women constituted a growing percentage of the disabled, since they were most likely to become victims of landmines while foraging for food and firewood in agricultural areas. Under the law, adult women may open bank accounts, accept employment, and own property without interference from their spouses. Upon the death of a male

head of household, the widow automatically is entitled to 50 percent of the estate with the remainder divided equally among legitimate children.

Children.—Some 50 percent of the population is believed to be under the age of 15; however, the Government gave little attention to children's rights and welfare. The Ministry of Education barely functions due to lack of resources. Private religious, community, or corporate groups have been unable to fill this vacuum. Teachers are chronically unpaid and the net enrollment rate of school-age children is 40 percent, with an 18 percent gap favoring boys over girls. Almost 1 million children are estimated to be out of school, with no prospect of integrating them into the education system. Most of the educational infrastructure is damaged either partially or totally and lacks basic equipment and teaching materials. Only 42 percent of the population are literate, and the illiteracy rate for women is almost twice that of men.

UNITA and the Government allowed 8,000 child soldiers to be demobilized in 1996–1997. The Government has not brought any significant number of children back into the armed forces, although some children might have been caught up in forced recruitment campaigns (see Section 1.f.). There are credible reports that UNITA forcibly has recruited children into its armed forces.

The U.N. Children's Fund (UNICEF) in 1998 estimated that there were approximately 5,000 street children in Luanda; some were orphans or abandoned while others ran away from their families or from government facilities that were unable to support them. Living conditions in government youth hostels are so poor that the majority of homeless children preferred to sleep on city streets. Street children shine shoes, wash cars, and carry water, but many resort to petty crime, begging, and prostitution in order to survive (see Section 6.d.). One international NGO that works with street children estimated that there were 500 to 1,000 underage prostitutes in Luanda.

The government-sponsored National Institute for Children is a well-intentioned organization, but it lacks the capacity to assist adequately efforts by international NGO's to assist dispossessed youth. There are no active private children's rights advocacy groups.

Female genital mutilation (FGM) is widely condemned by international health experts as damaging to both physical and psychological health. There has been very little evidence of FGM. There were rare occurrences in remote areas of Moxico province, bordering the Democratic Republic of Congo and Zambia in past years; however, information from local and international health workers, including midwives, indicated that indigenous groups do not practice FGM.

People with Disabilities.—The number of physically disabled persons includes an estimated 80,000 disabled landmine survivors. While there is no institutional discrimination against the disabled, the Government is doing little to improve their physical, financial, or social conditions. There is no legislation mandating accessibility for the disabled in public or private facilities, and, in view of the degradation of the country's infrastructure and high unemployment rate, it is difficult for the disabled to find employment or participate in the education system.

National/Racial/Ethnic Minorities.—The population includes 1 to 2 percent of Khoisan and other linguistically distinct hunter-gatherer tribes scattered through the provinces of Namibe, Cunene, and Cuando Cubango. There is no evidence that they suffer from official discrimination or harassment, but they do not participate actively in the political or economic life of the country and have no ability to influence government decisions concerning their interests.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right to form and join trade unions, engage in union activities, and strike; however, the Government does not respect these rights consistently in practice. The Government dominated the National Union of Angolan Workers (UNTA), which is the labor movement affiliated with the ruling MPLA party; however, the General Center of Independent and Free Labor Unions of Angola (CGSILA) is independent, and has approximately 51,000 members. The law requires that labor unions be recognized by the Government. Restrictions on civil liberties potentially prevent any labor activities not approved by the Government; however, the major impediment to labor's ability to advocate on behalf of workers is the 80 percent formal sector unemployment rate.

The Constitution provides for the right to strike. Legislation passed in 1991 provides the legal framework for, and strictly regulates, that right. The law prohibits lockouts and worker occupation of places of employment, and provides protection for nonstriking workers. It prohibits strikes by military and police personnel, prison workers, and firefighters. The law does not prohibit employer retribution against strikers effectively.

There were several public sector strikes over salaries and conditions, which deteriorated due to the high inflation rate. Public employees received major pay increases as a result of these strikes. The most notable strike took place in August when university professors protested the Government's dismissal of the university rector for political reasons (see Section 2.a.).

Unions have the right to affiliate internationally.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and for collective bargaining; however, the Government generally does not respect these rights in practice. The Government dominates the economy through state-run enterprises. The Ministry of Public Administration, Employment, and Social Security sets wages and benefits on an annual basis. Legislation prohibits discrimination against union members and calls for worker complaints to be adjudicated in regular civil courts. Under the law, employers found guilty of antiunion discrimination are required to reinstate workers who have been fired for union activities. In practice, neither the Labor Code nor the judicial system are capable of defending these rights.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law permits the Government to force workers back to work for breaches of worker discipline and participation in strikes, and has been cited by the International Labor Organization (ILO) as an example of forced labor in violation of ILO conventions. The law prohibits forced or bonded child labor, and there are no reports that such labor occurs in government-held areas; however, the Government does not have the capacity to enforce this legislation in nongovernment-held areas.

UNITA forces regularly abduct children for military service and other forms of forced labor. UNITA depends on forced labor for much of its logistical support. Refugees and internally displaced persons reported that rural women frequently are forced to work as porters for UNITA military units and kept in life threatening conditions of servitude. There also were credible reports of sexual assault.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment is 14 years. Children between the ages of 14 and 18 may not work at night, in dangerous conditions, or in occupations requiring great physical effort; however, these provisions generally are not enforced. The Inspector General of the Ministry of Public Administration, Employment, and Social Security is responsible for enforcing labor laws. The Ministry maintains employment centers where prospective employees register, and the center screens out applicants under the age of 14; however, many younger children work on family farms, as domestic servants, and in the informal sector. Family-based child labor in subsistence agriculture is common. Poverty and social upheavals have brought large numbers of orphaned and abandoned children, as well as runaways, into unregulated urban employment in the informal sector. The law prohibits forced or bonded child labor; however, the Government is unable to enforce these provisions (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum wage set by the Ministry of Public Administration, Employment, and Social Security was approximately $30 (180 kwanzas) per month prior to the rapid devaluation of the kwanza in the mid-1990's. During the year, the minimum wage was set at approximately $2.50 (15 kwanzas) per month; however, the Government does not enforce this standard. The majority of urban workers earn less than $20 (120 kwanzas) per month. Most workers hold second jobs, engage in subsistence agriculture, rely on aid from relatives, or engage in corruption to supplement their incomes. Neither the minimum wage nor the average monthly salary, which is estimated at $15 (90 kwanzas) to $200 (1200 kwanzas) per month, are sufficient to provide a decent standard of living for a worker and family. As a result, most wage earners depend on the informal sector, subsistence agriculture, corruption, or support from abroad to augment their incomes.

A 1994 government decree established a 37-hour workweek; however, the Ministry of Public Administration was unable to enforce this standard, just as it was unable to enforce existing occupational safety and health standards. Workers cannot remove themselves from dangerous work situation without jeopardizing their continued employment.

f. *Trafficking in Persons.*—The Constitution prohibits trafficking; however there continued to be allegations that UNITA abducted persons, including children, for forced labor, and abducted women for use as sex slaves.

BENIN

The Republic of Benin is a constitutional democracy headed by President Mathieu Kerekou, who was inaugurated on April 4, 1996, after elections that generally were viewed as free and fair. President Kerekou, who ruled Benin as a Socialist military dictator from 1972 to 1989, succeeded his democratically elected predecessor and continued the civilian, democratic rule begun in the 1990–91 constitutional process that ended his previous reign. There are 19 political parties represented in the unicameral, 83-member National Assembly. The March 30 parliamentary elections, which were free, fair, and transparent resulted in significant gains by the opposition, notably the party of former President Nicephore Soglo, which gained 27 seats in Parliament. Although a loose alliance of progovernment deputies holds a 42 to 41 seat majority, some progovernment deputies side with the opposition, depending on the issue. Consequently, legislative power is shared between opposition and progovernment forces. For example the President of the National Assembly belongs to an opposition party. The Government respects the constitutional provision for an independent judiciary; however, the executive has important powers in regard to the judiciary, and the judiciary is inefficient and susceptible to corruption at some levels.

The civilian-controlled security forces consist of the armed forces, headed by the Minister Delegate for Defense Matters in the office of the President, and the police force under the Interior Minister. The Ministry of Defense supervises the gendarmerie, which exercises police functions in rural areas while the Ministry of Interior supervises other police forces. The armed forces continued to play an apolitical role in government affairs despite concerns about morale within its ranks and its ethnic imbalance within the forces. Members of the police committed some human rights abuses.

Benin is an extremely poor country with average yearly per capita income below $400. The economy is based largely on subsistence agriculture, cotton production, regional trade (including transshipment of goods to neighboring countries), and small-scale offshore oil production. The port of Cotonou serves as a major conduit for goods entering neighboring Nigeria legally and illegally. The Kerekou administration continued, and in some cases stepped up, the austerity program begun by its predecessor; privatized state-owned enterprises; reduced fiscal expenditures; and deregulated trade. In spite of an inefficient bureaucracy and widespread unemployment, the country's economic recovery continued under liberal economic policies instituted since the return to democracy. Although the economy expanded, real growth was lower than in previous years. The Government estimated a 4 percent growth rate with inflation at 3.5 percent through August. The Government privatized the state-owned oil and cement companies.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Reports came to light of extrajudicial killings by police in 1998. There were credible reports that police sometimes beat suspects, and at times the authorities arbitrarily arrested and detained persons. The most prominent human rights problems continued to be the failure of police forces to curtail acts of vigilantism and mob justice; harsh and unhealthy prison conditions; serious administrative delays in processing ordinary criminal cases with attendant denial of timely, fair trials; judicial corruption; societal discrimination and violence against women; and trafficking in and abuse of children. The practice of female genital mutilation (FGM) and, to a lesser extent, infanticide also remain problems. Child labor continues to be a problem. The Constitutional Court continued to demonstrate independence. On several occasions during the year, the court ruled that legislation proposed by the Government and approved by the National Assembly was defective. On each occasion the legislation was redrafted to satisfy the court's objections, then reapproved by the legislature before promulgation. For example, the Constitutional Court ruled that some provisions of the decentralization law were unconstitutional; the legislature and the President accepted this decision.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of political or other extrajudicial killings by government officials. According to Amnesty International, Florent Adoko, died at the principal police station in Cotonou in January 1998 after being beaten by a guard. There were also reports that other detainees may have been killed on the same day at the same police station. The report also alleges that police killed Adjakieje Alexandre while dispersing a peaceful

demonstration in Gbendo, near Abomey, in May 1998. The State Prosecutor's office reportedly is investigating these allegations.

As in previous years, incidents of mob justice were reported by the media and other sources. These were most often cases of suspected criminals being killed or severely injured, particularly thieves caught in the act. Although a number of these incidents occurred in urban areas and were publicized in the press, the Government apparently made no concerted attempt to investigate or prosecute anyone involved. A rural demagogue incited mobs to lynch upwards of 100 suspected criminals in southwestern Benin between March and October. Most of the victims were burned alive, many after being abducted, beaten, and tortured by the demagogue's followers. Initially, police did not attempt to stop the so-called militias from carrying out the lynchings. The killings abated when soldiers dispatched by the Government extracted a promise from the demagogue that he would order his followers to cease lynching suspected wrongdoers and instead turn them over to the authorities. However, credible reports indicate that individual incidents of mob justice continue to occur nationwide and that police frequently ignore vigilante attacks.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that police sometimes beat criminal suspects. The Government continued to make payments to victims of torture under the military regime that ruled from 1972 to 1989.

Mob justice resulted in serious injuries to a number of persons (also see Section 1.a.).

Prison conditions continued to be extremely harsh. Extensive overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. The prison diet is seriously inadequate; malnutrition and disease are common. Prisoners are allowed to meet with visitors such as family members, lawyers, and others.

Some progress was made in 1998 with the opening of three modern facilities in the departments (provinces) of Borgou, Mono, and Atacora through foreign funding. The prisons provide, for the first time, separate units for men, women, and minors. The Government is expected to continue its plan for prison renovation, rehabilitation, and construction with assistance from foreign donors—both governments and nongovernmental organizations (NGO's).

The Government permits prison visits by human rights monitors. A special rapporteur from the Commission Africaine des Droits de l'Homme et des Peuples (African Human Rights Commission) visited prisons in August.

d. *Arbitrary Arrest, Detention, or Exile*.—The Constitution prohibits arbitrary arrest and detention; however, at times the authorities arbitrarily arrested and detained persons. The Constitution prohibits detention for more than 48 hours without a hearing by a magistrate whose order is required for continued detention. However, there were credible reports that authorities exceeded this 48-hour limit in many cases, sometimes by as long as 1 week, using the accepted practice of holding a person without specified time limit "at the disposition of" the public prosecutor's office before presenting the case to a magistrate. Approximately 75 percent of persons in prison are pretrial detainees.

The Constitution prohibits forced exile of citizens, and it is not practiced. Many citizens who went into exile prior to the establishment of democratic rule have returned.

e. *Denial of Fair Public Trial*.—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, the executive has important powers in regard to the judiciary, and the judiciary remains inefficient in some respects and is susceptible to corruption at some levels.

The President appoints career magistrates as judges in civil courts, and the Constitution gives the Ministry of Justice administrative authority over judges, including the power to transfer them. Inadequate facilities, poorly trained staff, and overcrowded dockets result in slow administration of justice. The low salaries of magistrates and clerks have a demoralizing effect on their commitment to efficient and timely justice and make them susceptible to corruption.

A civilian court system operates on the national and provincial levels. There is only one court of appeals. The Supreme Court is the court of last resort in all administrative and judicial matters. The Constitutional Court is charged with passing on the constitutionality of laws and on disputes between the President and the National Assembly and with resolving disputes regarding presidential and National Assembly elections. Its rulings against both the executive and legislative branches, which were respected by both branches, demonstrated its independence from both these branches of government. The Constitution also provides for a High Court of Justice to convene in the event of crimes committed by the President or government ministers against the State. Implementing legislation to create the High Court of

Justice was passed in 1996. Although the legislation was passed, the Constitutional Court later found some of its provisions to be unconstitutional. In accordance with the court's ruling, the National Assembly revised the law and sent the new legislation to the President. In 1998 he, in turn, submitted it to the court for reconsideration; textual errors were corrected in January, but the law has not yet been promulgated. Inefficiency and corruption particularly affect the judiciary at the trial court and investigating magistrate level. Military disciplinary councils deal with minor offenses by members of the military services, but have no jurisdiction over civilians.

The legal system is based on French civil law and local customary law. The Constitution provides for the right to a fair public trial. A defendant enjoys the presumption of innocence and has the right to be present at trial and to representation by an attorney, at public expense if necessary. In practice the court provides indigent defendants with court-appointed counsel upon request. A defendant also has the right to confront witnesses and to have access to government-held evidence. Trials are open to the public, but in exceptional circumstances the president of the court may decide to restrict access to preserve public order or to protect the parties.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—The Constitution prohibits such practices, and government authorities generally respect these prohibitions in practice. Police are required to obtain a judicial warrant before entering a private home, and they usually observed this requirement in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. The government entity with oversight responsibility for media operations is the High Authority for Audio-visual Media and Communications (HAAC), which requires broadcasters to submit weekly lists of planned programs and requires publishers to deposit copies of all publications with it. However, this requirement is not observed by the media in practice.

There is a large and active privately owned press consisting of more than a dozen daily newspapers. These publications criticize the Government freely and often, but their effect on public opinion is limited because of their urban concentration. The majority of citizens are illiterate and live in rural areas; they largely receive their news via radio. A nongovernmental media ethics commission (ODEM) was established in May and has censured a number of journalists for unethical conduct as well as commended some journalists for adherence to the standards of their profession.

In August a trial court sentenced five journalists to various jail terms not exceeding 1 year and fines for criminal libel in several cases that did not involve criticism of the Government. For example Vincent Foly, a reporter for Le Point au Quotidien, was arrested in January following a tough editorial and sentenced to 1 year in prison in August. At year's end, none of these sentences had been executed and appeals are pending.

New privately owned radio and television stations began broadcasting in December 1997. Throughout the year, they broadcast programs that criticized the Government without interference. It is unclear what effect the private electronic media have on public opinion; however, an increase in the number of "call-in" and panel shows has contributed to greater public involvement in political affairs and a heightened awareness of important national problems.

However, the Government continued to own and operate the media most influential in reaching the public. Until December 1997, it owned the only radio stations that transmitted locally. The Benin Office of Radio and Television (ORTB) transmits on the FM and AM bands and by short wave, in French and local languages. Radio France International (RFI) also transmits on a local FM band under an agreement with the Government. In June the British Broadcasting Corporation began French and English language broadcasting in Cotonou. Five rural radio stations governed by local committees broadcast several hours a day exclusively in local languages. These stations receive support from the ORTB. Radio is probably the most important information medium.

A similar arrangement is in place for television transmissions: the ORTB broadcasts 5 hours per day on a signal that is easily received in urban areas. Approximately 80 percent of the ORTB's television programming is in French. TV5, a commercial venture with investments by television broadcasting organizations in France, Canada, Belgium, and Switzerland, broadcasts locally 24 hours per day entirely in French under an agreement with the Government. A new privately owned television station, LC–2, began broadcasting in Cotonou in 1997. LC–2 is owned en-

tirely by a local businessman and features light entertainment and news, although news coverage requires payment in many circumstances. Although neither television station broadcasts partisan programs in support of, or unduly critical of, the Government, the vast majority of news programming centers on government officials' activities, government-sponsored conferences, and international stories provided by French television or other foreign sources.

The Government does not censor works by foreign journalists, authors, or artists.

HAAC regulations govern satellite reception equipment and movie and video clubs. There is little enforcement of these regulations.

In general academic freedom is respected. University professors are permitted to lecture freely, conduct research, and publish their work.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. The Government requires permits for use of public places for demonstrations and routinely grants such permits.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. The Government requires associations to register and routinely grants registrations. The Government did not take any actions against nonregistered organizations for failure or refusal to register.

c. *Freedom of Religion*.—The Constitution provides for freedom of religion, and the Government respects this right in practice. Persons who wish to form a religious group must register with the Ministry of the Interior. Registration requirements are identical for all religious groups. There were no reports that any group has been refused permission to register or has been subjected to untoward delays or obstacles in the registration process. Religious groups are free from taxation.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation*.—The Constitution provides for these rights, and the Government generally respects them in practice. However, the presence of police, gendarmes, and illegal roadblocks impedes domestic movement. Although ostensibly meant to enforce automotive safety and customs regulations, many of these checkpoints serve as a means for officials to exact bribes from travelers. The Government maintained previously implemented measures to combat such petty corruption at roadblocks.

The Government's policy toward transhumance allows migratory Fulani herdsmen from other countries to enter freely; it does not enforce designated entry points. Disputes have arisen between the herdsmen and local landowners over pasturage.

The Government does not restrict international travel for political reasons, and those who travel abroad may return without hindrance.

Historically, the Government has cooperated closely with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, including those in need of first asylum. The Government provided first asylum to up to 200,000 citizens of Togo during the 1993 political violence in that country. While most have returned to Togo, the UNHCR estimates that some 1,300 remain. Despite severe economic pressures that limit its ability to provide education for its children, the Government has allowed these Togolese to enroll their children in local schools and to participate in some economic activities. During the year, the Government welcomed about 690 at-risk refugees from the Democratic Republic of the Congo destined for eventual resettlement in another country.

In contrast the UNHCR estimates that 250 Ogoni refugees from Nigeria, disadvantaged because they do not speak French, cannot work, nor can their children attend schools. UNHCR officials have warned them to remain within the confines of the refugee camp.

In addition there are lesser numbers of other refugees from Nigeria, Algeria, Burundi, Cameroon, the Central African Republic, Chad, the Republic of Congo, the Democratic Republic of Congo, Ethiopia, Niger, Liberia, Rwanda, Sudan, and Sierra Leone.

There were no reports of the forced expulsion of persons having a valid claim to refugee status.

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

The Constitution provides citizens with the right to change their government peacefully. Citizens exercised this right in legislative elections in 1991, 1995, and in presidential elections in 1991 and 1996, all of which were considered free and fair. The Constitution provides for a 5-year term of office for the President (who is limited to two terms) and 4-year terms for National Assembly members (who may serve an unlimited number of terms).

Women participate actively in the political parties but are underrepresented in government positions. Following a Cabinet reshuffle in June, there are 2 women in

the 19-member Cabinet, 1 less than in the previous 18-member Cabinet. There are 5 female deputies in the 83-member, unicameral National Assembly, including the leader of the largest opposition party. The previous legislature consisted of 82 deputies with 6 female members. The President of the Constitutional Court and the Solicitor General are women.

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

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

The Beninese branch of Amnesty International and other NGO's reported during the year without government interference of the alleged discovery of hundreds of bodies of victims of Togolese security forces washed up on Beninese beaches in 1998.

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

The Constitution prohibits discrimination based on race, sex, and religion, but societal discrimination against women continued.

Women.—While no statistics are available, violence against women, including wife beating, occurred. The press sometimes reports incidents of abuse of women, but judges and police are reluctant to intervene in domestic disputes, considering such disputes a family matter.

Although the Constitution provides for equality for women in the political, economic, and social spheres, women experience extensive societal discrimination, especially in rural areas where they occupy a subordinate role and are responsible for much of the hard labor on subsistence farms. In urban areas, women dominate the trading sector in the open-air markets. By law women have equal inheritance and property rights, but local custom in some areas prevents them from inheriting real property. Women do not enjoy the same educational opportunities as men, and female literacy is about 16 percent (compared with 32 percent for males). However, elementary school pass rates in recent years highlighted significant progress by girls in literacy and scholastic achievement.

There are active women's rights groups that have been effective in drafting a family code that would improve the status of women and children under the law. The draft code has yet to be adopted by the National Assembly, although it has been on the legislature's agenda for more than a year and has been considered by parliamentary committees. Many observers believe that consideration of the draft was postponed because of provisions that would threaten male prerogatives, which is a highly volatile political issue. Action on the draft code is not anticipated until a new legislature convenes.

Children.—The Ministry of Labor and Social Affairs is responsible for the protection of children's rights, primarily in the areas of education and health. In particular the Government is trying to boost primary school enrollment, which is only about 66 percent. In some parts of the country, girls receive no formal education.

Some traditional practices inflict hardship and violence on children, including most prominently the custom of "vidomegon," whereby poor, often rural, families place a child, primarily a daughter, in the home of a more wealthy family. In July the Ministry of Justice launched a nationwide publicity campaign to alert parents regarding the risks of placing their children in vidomegon and to inform adults with vidomegon children of their responsibilities and of the children's rights.

There were no reports of any action in the case of the official detained for beating a 12-year-old maid to death in 1996.

Other traditional practices include the killing of deformed babies, breech babies, and one of two newborn twins (all of whom are thought to be sorcerers in some rural areas). There is also a tradition in which a groom abducts and rapes his prospective child (under 14 years of age) bride. Criminal courts mete out stiff sentences to criminals convicted of crimes against children, but many such crimes never reach the courts.

Trafficking in Beninese children for purposes of forced labor or prostitution in other countries remains a problem (see Sections 6.c. and 6.f.).

The Government, in concert with NGO's, made serious efforts to combat child abuse and trafficking in children, including media campaigns, programs to assist street children, and greater border surveillance. Despite such efforts, the abuse of children is a serious human rights problem.

The Government has been less successful in combating female genital mutilation (FGM), which is not illegal. FGM is widely condemned by international health ex-

perts as damaging to both physical and psychological health. FGM, or excision, is practiced on females ranging from infancy through 30 years of age. Studies vary widely and suggest that as few as 5 percent or as many as 50 percent of women are affected by this practice, mostly in the northern provinces. The actual incidence probably falls between these estimates. A prominent NGO, the Benin chapter of the Inter-African Committee, has made progress in raising awareness of the dangers of the practice; the Government has cooperated with its efforts. According to recent research, there is a strong profit motive in the continued practice of FGM by those who perform the procedure, usually older women. The Government, in cooperation with NGO's, held workshops during the year aimed at eradicating the practice. One NGO paid those who perform the procedure to abandon their profession.

People with Disabilities.—Although the Constitution provides that the State look after people with disabilities, the Government does not mandate accessibility for them. It operated a number of social centers for disabled persons to assist their social integration. Nonetheless, many are unable to find employment and must resort to begging to support themselves.

In 1998 a new labor code was promulgated that includes provisions to protect the rights of disabled workers.

National/Racial/Ethnic Minorities.—There is a long history of regional rivalries. Although southerners are preeminent in the Government's senior ranks, many prominent military officers come from the north. The south has enjoyed more advanced economic development, a larger population, and has traditionally held favored status. In the 1996 elections, a northerner was elected President.

Section 6. Worker Rights

a. *The Right of Association*.—The Constitution provides workers with the freedom to organize, join unions, meet, and strike, and the Government usually respects these rights in practice. A new Labor Code went into effect on January 8. The code was approved after long discussions between the Government, labor unions, and the National Assembly. The labor force of about 2 million is primarily engaged in subsistence agriculture and other primary sector activities, with less than 2 percent of the population engaged in the modern (wage) sector.

Although approximately 75 percent of the wage earners belong to labor unions, a much smaller percentage of workers in the private sector are union members. There are several union confederations, and unions are generally independent of government and political parties. The Economic and Social Council, a constitutionally mandated body established in 1994, includes four union representatives.

Although there were no serious strikes in the private sector during the year, public school teachers, principally in primary schools, held a series of strikes because of low wages, unpaid salary arrears, and poor working conditions. Labor unions continue to oppose the Government's merit-based promotion scheme. Unions also oppose a 1969 decree (which is still in effect) permitting the Government to dock the wages of striking public sector employees.

There were no known instances of efforts by the Government to retaliate against union activity. Laws prohibit employer retaliation against strikers, and the Government enforces them effectively.

Unions may form freely or join federations or confederations and affiliate with international bodies.

b. *The Right to Organize and Bargain Collectively*.—The Labor Code provides for collective bargaining, and workers freely exercised these rights. Wages in the private sector are set in negotiations between unions and employers.

The new Labor Code permits unions to become affiliated with international organizations. It also includes a section on the rights of disabled workers. The Government sets wages in the public sector by law and regulation.

The Labor Code prohibits employers from taking union membership or activity into account regarding hiring, work distribution, professional or vocational training, or dismissal. The Government levies substantial penalties against employers who refuse to rehire workers dismissed for lawful union activities. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor*.—The Labor Code prohibits forced or compulsory labor, and specifically prohibits forced and bonded labor by children; however, forced child labor and trafficking in children are problems (see Section 6.f.). Some financially desperate parents indenture their children to "agents" recruiting farm hands or domestic workers, often on the understanding that money paid to the children would be sent to the parents. According to press reports, in some cases unscrupulous individuals take the children to neighboring countries (see Section 6.f.). The Government has taken steps to educate parents and to prevent such kidnapings of children. Also, many rural children are sent to cities to live with rel-

atives or family friends, often on the understanding that in return for performing domestic chores, they would receive an education. Host families do not always honor their part of the bargain, and abuse of child domestic servants occurs. The Government has taken some steps to curb abuses.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The Labor Code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, child labor remains a problem. The Ministry of Labor enforces the Labor Code in only a limited manner (and then only in the modern sector), due to the lack of inspectors. To help support their families, children of both sexes—including those as young as 7 years old—continue to work on rural family farms, in small businesses, on construction sites in urban areas, in public markets, and as domestic servants. Children also commonly work as street vendors.

The Government prohibits forced and bonded labor by children but is unable to enforce these prohibitions except in the modern sector (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work*.—The Government administratively sets minimum wage scales for a number of occupations. In April 1997, the Government increased the minimum wage by 8 percent from $32.74 (CFA francs 20,300) per month to $35.36 (CFA francs 21,924). The decision was made in consultation with trade unions. However, this increase is not sufficient to cover the costs for food and housing even of a single worker. Many workers must supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector, however, earn more than the minimum wage, although many domestics and other laborers in the informal sector actually earn less.

The Labor Code establishes a workweek of from 40 to 46 hours, depending on the type of work, and provides for at least one 24-hour rest period per week. Domestic and agricultural workers frequently work 70 hours or more per week. The authorities generally enforce legal limits on workweeks in the modern sector. The code establishes health and safety standards, but the Ministry of Labor does not enforce them effectively. The code does not provide workers with the right to remove themselves from dangerous work situations without jeopardy to continued employment. The Ministry of Labor has the authority to require employers to remedy dangerous work conditions but does not do so effectively.

f. *Trafficking in Persons*.—Article 15 of the Constitution provides for fundamental civil rights, and long-standing provisions of the criminal code prohibit kidnaping. Laws dating to 1905 but still in force prohibit trafficking in persons in general and in underage females in particular. Trafficking in children, which is always a problem, continued to be the subject of considerable media coverage. Most victims are abducted or leave home with traffickers who promise educational opportunities or other incentives. They are taken to places in foreign countries (according to the press, principally located in Nigeria, Cameroon, Cote d'Ivoire, and Gabon) and sold into servitude in agriculture, as domestics, or as prostitutes (see Section 6.c.).

The media reported during the year that gendarmes and police intercepted a number of traffickers trying to smuggle children into and out of the country and arrested those responsible. The Justice Minister stated in 1998 that in 3 years a total of 1,363 children had been intercepted and returned to their parents. The Government worked with NGO's to combat trafficking in children, including media campaigns and greater border surveillance (see Section 5).

The Minor Protection Brigade, under the jurisdiction of the Interior Ministry, combats crimes against children. The brigade intercepted a number of children during the year who smugglers were attempting to transport to other African countries for domestic or agricultural labor. According to press reports, in June authorities prevented the smuggling of 92 children across the border with Togo. Also in June, the authorities arrested 3 Beninese near Togo's border with Benin for attempting to smuggle 11 children between the ages of 6 and 17. According to press reports, the children were destined for plantation labor in Cote d'Ivoire.

In January 1998, gendarmes in Togo arrested three traffickers who were transporting 22 children from Tchaoudjo prefecture in Togo into Benin, from which they were to be taken to Nigeria. In March 1998, police arrested four traffickers of Beninese minors in Tohoun, Togo. These traffickers were taking 22 Beninese children to Cote d'Ivoire via Togo.

BOTSWANA

Botswana is a longstanding, multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. The House of Chiefs, representing all of the country's major tribes and some smaller

ones, has no legislative power but may offer its views to both the President and National Assembly on legislation. Festus Mogae, who, as Vice President, became President upon former president Sir Katumile Masire's resignation in 1998, continued to lead the Botswana Democratic Party (BDP), which has held a majority of seats in the National Assembly continuously since independence. In October elections generally regarded as largely free and fair, despite initial restrictions on opposition access to radio and press reports of ruling party campaign finance improprieties, the BDP increased its majority in the National Assembly and elected President Mogae to a second term. The Government respects the constitutional provisions for an independent judiciary.

The civilian Government exercises effective control over the security forces. The military, the Botswana Defense Force (BDF), is responsible for external security, but in practice sometimes has performed internal security functions. The Botswana National Police (BNP) are responsible for internal security. Members of the security forces occasionally committed human rights abuses.

The economy is market oriented with strong encouragement for private enterprise, and has achieved rapid sustained real per capita economic growth since independence. Per capita gross domestic product (GDP) rose during the year to just over $2,800 (13,049 Botswana pula), due largely to increased world demand for diamonds. Diamond exportation provided over two-thirds of the country's export income and much of the revenue of the Government, which owned half of a company engaged in the production of diamonds from existing mines. Per capita GDP increased 12 percent from 1998, when diamond prices had been depressed by the Asian financial crisis. Nearly half the population is employed in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remains a serious problem, as does a widely skewed income distribution.

The Government generally respected the human rights of its citizens; however, problems continued in some areas. There were credible reports that the police sometimes beat or otherwise mistreated criminal suspects in order to obtain evidence or coerce confessions. The authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor and there were credible reports of torture and deaths under suspicious circumstances. In many instances, the judicial system did not provide timely fair trials due to a serious backlog of cases. The Government began to relax its monopoly of domestic radio broadcasting but limited opposition access to state-owned radio broadcasts. At times the Government held newly arrived refugees from neighboring countries in local jails or special areas in prisons; however, the Government ceased to detain in prison persons to whom it refused asylum, and instead lodged them in a refugee camp. Women continued to face legal and societal discrimination, and violence against women remained a serious problem. Some citizens, including groups not numbered among the eight "principal tribes" of the Tswana nation, the majority ethnic group, still did not enjoy full access to social services and, in practice, remained marginalized in the political process. Trade unions continued to face some legal restrictions, and the Government did not always ensure that labor laws were observed in practice.

RESPECT FOR HUMAN RIGHTS

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

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

There were instances of suspicious deaths in prison (see Section 1.c.).

In September a high court judge acquitted five officers from the BDF military intelligence unit charged with murder in the 1996 suffocation death of a burglary suspect in police custody.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Constitution explicitly forbids torture, inhuman, and degrading treatment or punishment, and the authorities generally respect this prohibition in practice, although instances of abuse occur. In some cases, the authorities have taken disciplinary or judicial action against persons responsible for abuses. While coerced confessions are inadmissible in court, evidence gathered through coercion or abuse may be used in prosecution. There were credible reports that police sometimes beat persons and used intimidation techniques in order to obtain evidence or elicit confessions. In general, however, beatings and other forms of extreme physical abuse remained rare.

Customary courts continued to impose corporal punishment sentences in the form of lashings on the buttocks. There were periodic press reports of floggings, particularly of young offenders in villages, imposed by customary courts for vandalism,

theft, hooliganism, and other infractions. The Government has refused to adopt a motion submitted by the House of Chiefs to reinstate flogging across the back rather than the buttocks.

Prison conditions were poor, and there were credible reports of torture and deaths under suspicious circumstances. A December 15 report by the Gaborone Prison Visiting Committee (GPVC) cited what it called "appalling" conditions and the suspicious deaths in prison of two inmates. In the women's prison, Boitumelo Nthoiwa complained during a July visit by the GPVC of assault by prison officials, including kicks to her stomach. Prison officials cited pneumonia as the cause for Nthoiwa's death in October. Prison officials said that Andrew Molefe died in the first offender's prison after taking an illegal substance that had been smuggled into the prison by another inmate. With the country's high incidence of HIV/AIDS and tuberculosis, prison overcrowding constitutes a serious health threat. The 21 prisons across the country have a capacity of 3,198 but held 6,777 by year's end, according to press reports. The Commissioner of Prisons has ordered full investigations into the management and conditions of prisons covered in the GPVC report.

The Government generally permits access to prisons for monitoring purposes by international and local nongovernmental organizations (NGO's) after a detailed inquiry procedure; however, the International Committee of the Red Cross (ICRC) did not visit prisons during the year.

d. *Arbitrary Arrest, Detention, or Exile*.—Under the Constitution, "every person in Botswana" is entitled to due process, the presumption of innocence, and freedom from arbitrary arrest; and the authorities respected these provisions in practice. Suspects must be informed of their legal rights upon arrest, including the right to remain silent, to be allowed to contact a person of their choice, and generally to be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Most citizens charged with noncapital offenses are released on their own recognizance; some are released with minimal bail. Detention without bail is highly unusual, except in murder cases, where it is mandated. In August, a High Court judge ruled unconstitutional a 1998 law that denied bail for persons accused of rape.

Detainees have the right to hire attorneys of their choice, but in practice most are unable to afford legal counsel. However, poor police training and poor communications in rural villages make it difficult for detainees to obtain legal assistance, and authorities do not always follow judicial safeguards. The Government does not provide counsel for the indigent, except in capital cases. One NGO, the Botswana Center for Human Rights, provides free legal services, but its capacity is limited. Another NGO, the University of Botswana Legal Assistance Center, provides free legal services in civil, but not criminal, matters. Constitutional protections are not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention has been prolonged in a large number of cases. In Gaborone Central Prison, the average wait in prison before trial was one year.

The Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by the Botswana Council for Refugees (BCR) or the U.N. High Commissioner for Refugees (UNHCR). However, the Government transferred persons granted refugee status to the Dukwe Refugee Camp. Since the Government had no other internment facility for refugees, some refugees, including some who had left Dukwe without permission, were removed to a holding area, separate from criminal prisoners, within the prison at Mahalapye. At year's end, about 60 refugees from Namibia's Caprivi Strip who left the Dukwe Camp or were involved in disturbances there were being held in Mahalapye Prison. The BCR stated that this is a temporary measure, but the Government lacks a minimum security internment facility. Although the Government has planned for several years to build a long-term "illegal immigrant internment center," its construction has been deferred and it now appears unlikely to open soon (see Section 2.d.).

The Government does not use forced exile.

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

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial. However, the civil courts remained unable to provide for timely, fair trials in many cases due to severe staffing shortages and a backlog of pending cases.

Most trials in the regular courts are public, although trials under the National Security Act (NSA) may be held in secret. Those charged with noncapital crimes are tried without legal representation if they cannot afford an attorney. As a result, many defendants may not be informed of their rights in pretrial or trial proceedings.

In October, a High Court judge declared a mistrial in the case of two Basarwa (Bushmen) men who had been convicted in 1995 of a murder that occurred the same year, and were awaiting execution. A human rights group claimed that the two did not understand the language used at the trial and that translations were poor. It also questioned whether the accused understood their rights or the charges against them, and noted that attempts by the men to change their court-appointed lawyers had been disregarded. Ruling that the two had been deprived of their constitutional rights, the judge ordered a new trial. A date had not yet been set for the new trial by year's end (see Section 5).

Most citizens encounter the legal system through the customary courts, under the authority of a traditional leader. These courts handle minor offenses involving land, marital, and property disputes. In customary courts, the defendant does not have legal counsel and there are no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the traditional courts varies considerably. In communities where chiefs and their decisions are respected, plaintiffs tend to take their cases to the customary court; otherwise, people seek justice in the civil courts.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence*.—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and the Press*.—The Constitution provides for freedom of speech and of the press, and the Government generally respects this right in practice; however, the State has monopolized domestic radio broadcasting. During the year, the Government began to relax this monopoly by granting licenses to private radio stations. The Government limited the access of opposition political leaders to state-owned radio, which continued to dominate domestic broadcasting; however, in the latter part of the election campaign all state-owned media provided balanced news coverage of the main political parties and candidates.

The independent press is small but growing, and has a long tradition of vigorous, candid, and unimpeded discourse. It continued frequently to be critical of the Government and of the President. At year's end, four privately-owned weekly newspapers were published in Gaborone and distributed to the country's main cities and towns. One privately owned weekly newspaper was published in Francistown, the country's second-largest city. Nine privately owned magazines were published monthly. These publications reported and editorialized without fear of closure or censorship. For example, the independent press reported on several corruption scandals involving irregular payments to senior government officials from companies holding government contracts and on the case of an assistant minister of finance serving on the board of directors of one of these companies.

However, government officials sometimes complain of bias in the private press. For example, in June the Finance Minister, who was also chairman of the ruling party, publicly accused the private press of having "a hidden political agenda" after private newspapers reported a large anonymous contribution to the ruling party through a Swiss bank and traced it to a subsidiary of a globally dominant international diamond company.

Government officials and other public figures have recourse to the courts if they believe that they have been libeled. However, libel is a civil law matter in the country; there are no criminal libel laws.

Radio remained the most important medium of public communication; the circulation of privately owned print media continued to be limited mostly to the main cities and towns. The Government adopted a new broadcast law in 1998 after consultation with media representatives. The new law provides for issuance of broadcast licenses to private companies for the first time and provides copyright protection of broadcast material. It also created a National Broadcast Board, which would grant broadcast licenses. However, the National Broadcast Board is not yet functioning. The Botswana Telecommunications Authority (BTA) reviewed the initial applications for, and in May granted, the first of two radio licenses to private companies. The second was granted in September.

Yarona FM and GABZ FM, the two new private radio stations, went on the air in June and November, respectively. Both broadcast only to the Gaborone metropolitan area; state-owned radio continued to be the only domestic radio service broadcasting outside the capital area. Both private radio stations have a news component to their programming with no discernible policy of supporting a particular political party.

The only television station in the country is the privately owned Gaborone Broadcasting Company (GBC), which has operated since 1987, broadcasting mostly foreign-made programming. GBC broadcasts reach viewers only in the capital area.

Independent radio and television from neighboring South Africa are received easily.

Internet access is spreading quickly. The Government does not restrict e-mail or Internet usage. By year's end, five Internet service providers were competing for the domestic market, four of them private companies and one the commercial arm of the parastatal Botswana Telecommunications Corporation.

The Government's Botswana Press Agency (BOPA) provides most of the information found in the media that are owned and operated by the Government, the free "Daily News" newspaper and Radio Botswana, which broadcasts to almost all of the country. The news coverage of both these state-owned media focuses on the activities of government officials and supports government policies and actions

During the election campaign, opposition candidates initially had limited access to state-owned media, including state-owned radio, which was the only domestic radio service and the sole domestic source of news for most of the rural population. During the first part of the campaign season, the state-owned media gave opposition candidates less news coverage than ruling party candidates. When opposition politicians complained about this, the Government initially countered that the activities of ministers and other government figures were inherently more newsworthy and therefore deserving of more coverage. However, the Government subsequently changed its policy, and during the latter part of the election campaign season the state-owned media gave balanced news coverage to the main opposition parties and included stories about the smaller political parties as well. Opposition leaders expressed the view that government media practices seriously disadvantaged opposition parties relative to the ruling party during the election campaign.

On occasion the Government has taken steps, under loosely defined provisions of the National Security Act, to limit publication of information that in its view impinged on national security; however, there were no such incidents during the year.

Academic freedom is not restricted.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution provides for the suspension of religious freedom in the interests of national defense, public safety, public order, public morality, or public health. However, any suspension of religious freedom by the Government must be deemed "reasonably justifiable in a democratic society."

All religious organizations must register with the Government. To register a group submits its constitution to the Ministry of Home Affairs. After a generally simple bureaucratic process, the organization is registered. There are no legal benefits for registered organizations. Unregistered groups are potentially liable to penalties including fines up to $220 (1,000 Pula), up to 7 years in jail, or both. Except for the case of the Unification Church, there is no indication that any religious organization has ever been denied registration.

The Unification Church was denied registration (but not suspended) in 1984 by the Ministry of Home Affairs on the public order grounds stipulated in the Constitution. The Government also perceived the Unification Church as anti-Semitic and denied registration because of another constitutional provision, which protects the rights and freedoms of individuals to practice their religion without intervention. In the intervening 15 years, although it has petitioned unsuccessfully the offices of the President and Vice President, the Unification Church has made no move to challenge the Ministry's decision in the courts.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. There are no formal barriers to domestic and international travel or emigration.

Some human rights organizations continued to assert, going back as far as 1995, that the Government has pressured several Basarwa (Bushmen) communities within the Central Kalahari Game Reserve (CKGR) into relocating to partially built settlements outside of the Reserve. Government officials maintained that the "voluntary" resettlement was necessary in order to provide the Basarwa with better public services and to avoid conflicts between wildlife and humans within the CKGR. When the Basarwa arrived at the new settlements, services and facilities were substandard or nonexistent. Although conditions later improved, they remain very basic. The Government permits relocated Basarwa to return to the CKGR, but does not provide services within the reserve.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government has maintained a policy of considering resettlement requests only from refugees from bordering countries. However, the Government has permitted failed asylum seekers to remain in the country, although they must stay at the Dukwe Refugee Camp. Although the Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by BCR or UNHCR officials, it transferred persons granted refugee status to the Dukwe Refugee Camp, pending resettlement or voluntary repatriation. Some problematic refugees were removed to a separate holding area at Mahalapye Prison (see Section 1.d.).

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

More than 2,500 refugees from the Caprivi Strip in neighboring Namibia have fled to the country since late 1998. Many were armed and linked to the armed, ethnically based opposition groups based in the Caprivi Strip of Namibia. Male refugees linked to such groups requested asylum based on their claim that they were being forced into the Namibian army to fight in the Democratic Republic of the Congo. The Government provided first asylum to all these persons. In February the Government granted asylum to Meshake Muyongo, the former leader of the armed United Democratic Party (UDF) Namibian opposition group, and 14 others who entered the country in 1998. In consultation with the UNHCR, the Government began negotiations with the Government of Namibia to facilitate the return of Nambian refugees. To date, 1,375 persons have returned voluntarily to Namibia. The UNHCR resettled 3 of Muyongo's group of 15 DTA leaders and their families, who feared for their safety in Namibia, in other countries. Of the other 12 refugees from this group, 8 remain in the country awaiting adjudication of their resettlement applications, and the Government revoked the refugee status of 4 who left of the country in violation of their status. The four refugees were detained in Wambu, Zambia in mid-June and deported along with two others to Namibia in early August. The Government has stated that refugees who refuse offers of resettlement in other countries would face the loss of their refugee status and imprisonment.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, generally free and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. Members of the BDP have held a majority of seats in the National Assembly, and as a result also the presidency, continuously since independence.

Elections for the National Assembly were held in October and generally were regarded as largely free and fair by domestic and international observers, despite preferential access for BDP candidates during much of the campaign to state-owned media including state-owned radio, the sole domestic source of news for most of the rural population, and despite press reports of large anonymous campaign contributions to the ruling party, purportedly by international diamond interests (see Section 2.a). The BDP increased its majority in the National Assembly from 31 to 37 of 44 seats, thereby ensuring the election of its presidential candidate, incumbent President Mogae. In 1998 Mogae, then Vice President, had succeeded Sir Ketumile Masire as President upon the latter's resignation. Of the 7 seats won by opposition parties in October, the Botswana National Front (BNF) won 6 and the Botswana Congress Party (BCP) won 1 seat.

The National Assembly did not pass legislation, proposed in 1998, that would have required National Assembly members who change parties to stand for reelection in a by-election.

The ruling party and opposition parties selected their candidates in the year's National Assembly and district councilor elections through primary elections. In the case of the ruling party, a representative number of party activists in each ward voted for the candidates of their choice. Both ruling and opposition party primary elections were followed by scattered claims of vote-rigging and court challenges of the results, all of which were upheld.

The House of Chiefs, an advisory body with limited powers, is restricted constitutionally to the eight "principal tribes" of the majority Tswana ethnic group and four elected chiefs representing smaller tribes, including the Bakalanga, Lozi, Humbukush, and Bakgalagadi. Consequently, other groups, for example, the Basarwa, Herero, Baloi, or Bayei are not represented there. Given the limited au-

thority of the House of Chiefs, the impact of excluding other groups of citizens is largely symbolic, but some non-Tswana view it as important in principle (see Section 5). Members of the National Assembly are required to speak English.

The State is highly centralized. There are 406 district governments with elected councilors, but they have no fiscal autonomy and must rely on the central Government for revenue.

In practice women are underrepresented in the political process. However, the 1999 elections doubled the number of women serving in the National Assembly, from 4 to 8 of 44 members. The number of women serving in the cabinet also increased from 3 to 4 of 17 members. Of the 13 High Court justices, 1 was a woman.

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

Domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Ditshwanelo, the Botswana Center for Human Rights, actively promotes human rights and investigated alleged abuses. The Metlhaetsile Women's Information Center, Emang Basadi, and Women Against Rape are active on issues concerning women's rights, particularly rape and domestic violence. Government officials are generally cooperative and responsive to these groups. The Government does not have a human rights office.

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

The Constitution forbids State discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status. These provisions are implemented in practice by government authorities. However, neither the Constitution nor any known law prohibits discrimination by private persons or entities.

Women.—Violence against women remains a serious problem. Domestic abuse is one area of concern. Under customary law and in common rural practice, men have the right to "chastise" their wives. Police rarely are called to intervene in cases of domestic violence. Reports of sexual exploitation, abuse, and criminal sexual assault are increasing, and public awareness of the problem generally is growing. The national police force has begun training officers in handling domestic violence problems to make them more responsive in such cases. Rape is another grave national problem, and the Government acknowledged in April that, given the high incidence of HIV/AIDS, sexual assault has become an even more serious offense. In 1998 Parliament enacted legislation that increased all penalties for rape, incest, and other forms of sexual assault by imposing minimum sentencing requirements where none existed previously. The minimum sentence for rape is now 10 years, with the minimum increasing to 15 years with corporal punishment if the offender is HIV positive and to 20 years with corporal punishment if the offender knew of his or her HIV status. In August a High Court ruled unconstitutional a provision in the new law that allowed the detention of rape suspects without bail.

However, although the Government has become far tougher in dealing with criminal sexual assault, societal attitudes toward other forms of domestic violence remain lax. Half the murders of women were linked to histories of domestic violence. Human rights activists estimate that 6 women in 10 are victims of domestic violence at some time in their lives. In June a judge gave a reduced sentence of 5 years to a woman who was convicted of murdering her husband but who claimed in her defense to be a victim of battered spouse syndrome.

Sexual exploitation and harassment continue to be problems as well, with men in positions of authority, including teachers, supervisors, and older male relatives, pressuring women to provide sexual favors. Greater public awareness and improved legal protection have led more victims of domestic violence and sexual assault to report incidents to the authorities.

Women legally enjoy the same civil rights as men; however, in practice discrimination persists. A number of traditional laws enforced by tribal structures and customary courts restrict women's property rights and economic opportunities. A woman married under traditional law or in "common property" is held to be a legal minor, requiring her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under a law enacted in 1996, women married under an intermediate system, referred to as "in community of property," are permitted to own immovable property in their own names; however, their husbands still retain considerable control over jointly-held assets of the marriage. The law was a step toward equalizing a husband's and a wife's legal control over property held in community of property. Moreover, the 1998 Deeds Registry Act stipulates that

neither spouse can dispose of joint property without the written consent of the other party.

Women have, and increasingly are exercising, the right to marriage "out of common property," in which case they retain their full legal rights as adults. Polygyny is still legal under traditional law with the consent of the first wife, but it rarely is practiced. In September 1998, consultants submitted to the Labor Ministry a report identifying provisions of existing law that potentially discriminate against women.

Well-trained urban women enjoy growing entry level access to the white-collar job market, but the number of opportunities decreases sharply as they rise in seniority. Discrimination against women is most acute in rural areas where women engaged primarily in subsistence agriculture have weak property rights.

The Government and interested NGO's meet regularly to implement the long-term plan of action described in the National Policy on Women adopted in 1996. The plan identifies 6 critical areas of concern, prioritized as follows: (1) women and poverty, (2) women and powersharing and decisionmaking, (3) education and training of women, (4) women and health, (5) the girl child, and (6) violence against women. The Women's Affairs Department of the Ministry of Labor and Home Affairs, in conjunction with the United Nations Development Program, is implementing a "market plan" to ensure that the gender program and overall policy on women are incorporated into policymaking, budgeting, and planning decisions.

A number of women's organizations have emerged to promote the status of women. The Government has entered into a dialog with many of these groups. While some women's rights groups reportedly felt that the Government has been slow to respond concretely to their concerns, women's NGO's state that they are encouraged by the direction of change and by the increasingly collaborative relationship with government authorities. Major women's NGO's include the Emang Basadi Women's Association, which promotes the social, economic and legal status of women; the Metlhaetsile Women's Information Centre, which provides legal assistance to poor women; and the Botswana Council of Women.

Children.—The Government provides 7 years of free primary education for children, although attendance is not compulsory. Recent government estimates of the proportion of children who never attend school have ranged from 10 to 17 percent, and fewer than 20 percent of children complete secondary school; school attendance and completion rates are highest in urban areas, and lowest in remote rural areas, especially those inhabited chiefly by Basarwa (San or Bushmen). The national literacy rate is 69 percent: 70 percent for females and 67 percent for males. However, in some cases, girls are denied schooling because of religious or customary beliefs. The Government continued to allocate the largest portion of its operating expenditures to the Ministry of Education, and the second-largest portion to the Ministry of Local Government, Lands, and Housing, which administered primary education. It also continued to allocate a large part of its investment expenditures to construct primary and secondary schools, so that children have ready access to education.

It was estimated during the year that HIV/AIDS infected about 29 percent of adults between the ages of 15 and 49, and that, largely for this reason, there were 26,000 registered orphans in the country; UNICEF estimated that there were another 40,000 unregistered orphans. Increasing numbers of children, mostly believed to be orphans, were observed begging or engaging in prostitution in urban areas.

The rights of children are addressed in the Constitution and the 1981 Children's Act. Under the act Botswana has a court system and social service apparatus designed solely for juveniles. The Government launched a 10-year program of action for children in 1997, incorporating the seven major global goals identified at the 1990 U.N. World Summit for Children. In 1996 the Ministry of Labor and Home Affairs transferred responsibility for children to the Social Welfare Department in the Ministry of Local Government, Lands and Housing. Laws pertaining to children continued to be under review to align them with the UN Convention on the Rights of the Child. The Adoption Act also continued to be reviewed to ensure that adopted children are provided for and not exploited as cheap labor.

There is no societal pattern of abuse against children, although incest and other forms of child abuse have received increased attention from the media and from local human rights groups.

The problem of sexual harassment of students by teachers is a national concern. Reports of rape and sexual assault of young women, particularly those doing their national service in remote regions of the nation are common, and cases of incest and "defilement" of young girls appear with greater frequency in the news.

People with Disabilities.—The Government does not discriminate on the basis of physical or mental disability, although employment opportunities for the disabled remain limited. The Government does not require accessibility to public buildings

and public conveyances for people with disabilities, and the NGO community only recently has begun to address the needs of the disabled. In 1997 Parliament adopted a national policy that provides for integrating the needs of disabled persons into all aspects of government policymaking. The Government funded NGO's that provide rehabilitation services and supported small-scale work projects by disabled workers.

Indigenous People.—The Basarwa (also known as San), who now inhabit chiefly the Kalihari Desert, are the earliest known inhabitants of the country, and were the only inhabitants until Bantu groups arrived during the 16th century. They are physically, linguistically, and culturally distinct from the rest of the population. They remain economically and politically marginalized; they have lost access to their traditional land in fertile regions of the country and are vulnerable to exploitation by their non-Basarwa neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52–55,000 Basarwa people represent about 3 percent of the country's total population. Although the Baswara traditionally were hunter-gatherers, most Basarwa now are employed as agricultural workers on farms or at cattle posts belonging to other ethnic groups. The formation of the 20,000 square mile Central Kalahari Game Reserve (CKGR) by the colonial government in 1961 on traditional Basarwa lands set the stage for conflict between the Basarwa's pursuit of their traditional way of life and wildlife conservation. The Government in the past followed a policy of prohibiting human habitation in the CKGR with the goal of wildlife preservation, but has made accommodation for the estimated 1–3,000 Basarwa who still pursue hunting and gathering there. The Government has provided very limited social services within the CKGR, and has encouraged those living there to leave the reserve for permanent settlements; there were some reports that the Government sometimes forced Baswara to leave the reserve. However, the Government has made little real progress since international attention in 1996 focused on the intractable problem of resettling Basarwa living in the CKGR. Both the Basarwa and the Government are seeking out concerned NGO's to assist with the resettlement process and to address the larger issue of improving the Basarwa's standard of living without sacrificing what remains of their traditional way of life.

National/Racial/Ethnic Minorities.—Well over half of the country's 1.4 million inhabitants belong to the Tswana ethnic group, of which the Constitution recognizes eight principal tribes, and which has a tradition of peacefully coexisting with non-Tswana groups. Some non-Tswana ethnic groups are more numerous than the Tswana in some rural areas of the country: the Kalanga and Lozi in areas of the north; the Bayei and Herero in the Okavango Delta region; and the Baswara in the arid west. There are also communities of persons of Asian and European descent.

Each of the eight principal Tswana tribes is represented in the advisory House of Chiefs; large non-Tswana ethnic groups are not represented in the House (see Section 3). However, apart from the lack of schooling in their own languages and their lack of representation in the House of Chiefs, Botswana's non-Tswana communities are not subject to discrimination by the State. Societal discrimination also is limited. Intermarriage between Tswana and non-Tswana ethnic groups is common. Urban neighborhoods are not ethnically segregated. There generally is little correlation between income and ethnicity among persons of African descent, although many persons of Asian and European descent are prominent in the commercial sector.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of association. In practice all workers, with the exception of government employees, are free to join or organize unions of their own choosing. Government workers including teachers may form associations that function as quasi-unions but without the right to negotiate wages. The industrial or wage economy is small, and unions are concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors. There is only one major confederation, the Botswana Federation of Trade Unions (BFTU), but there are no obstacles to the formation of other labor federations.

Unions are independent of the Government and are not closely allied with any political party or movement. Unions may employ full-time administrative staff, but the law requires elected union officials to work full time in the industry that the union represents. This rule severely limits union leaders' professionalism and effectiveness, and has been criticized by the International Confederation of Free Trade Unions (ICFTU).

The law also severely restricts the right to strike. Legal strikes are theoretically possible after an exhaustive arbitration process, but in practice none of the country's strikes has been legal. Sympathy strikes are prohibited.

Unions may join international organizations, and the BFTU is affiliated with the ICFTU. The Minister of Labor must approve any affiliation with an outside labor movement, but unions may appeal to the courts if an application for affiliation is refused.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force. In reality only the mineworker unions have the organizational strength to engage in collective bargaining. Elected labor union officials are required by law to work full time in whatever industry they represent; consequently, there are no full-time elected labor leaders in the country. However, unions may employ full-time staff.

Workers may not be fired for union-related activities. Dismissals may be appealed to labor officers or civil courts, but labor offices rarely do more than order 2 months' severance pay. In May the privately owned First National Bank of Botswana fired a clerk whom it accused of leaking to the private press information about a large and possibly illegal contribution to the ruling party by a subsidiary of an international diamond company.

Botswana has only one export processing zone, located in the town of Selebi-Phikwe, and it is subject to the same labor laws as the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The constitutional provision prohibiting forced or bonded labor applies to all citizens, although its application to children is not specified. There were no reports of forced or bonded labor.

d. *Status of Child Labor Practices and Minimum Age for Employment of Children.*—Although education is not compulsory, the Government provides 7 years of free primary education to every child, and most children take advantage of this opportunity. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 15 may be employed in any industry. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining. District and municipal councils have child welfare divisions, which are responsible for enforcing child labor laws. The constitutional provision prohibiting forced or bonded labor applies to all citizens, although its application to children is not specified (see Section 6.c.). Because research on the issue of child labor is limited, it is difficult to state whether child labor laws are enforced effectively. However, there is general agreement among the Labor Commissioner, officials of the Ministry of Local Government, Lands, and Housing, and UNICEF that the child labor problem is limited to young children in remote areas who work as cattle tenders, maids, or babysitters.

e. *Acceptable Conditions of Work.*—The minimum daily wage for most full time labor in the private sector rose to $3.70 (17 pula), which remained less than 50 percent of what the Government calculates is necessary to meet the basic needs of a family of five. The Ministry of Labor is responsible for enforcing the minimum wage, and each of the country's districts has at least one labor inspector. During the year, the Ministry of Labor received over 9,000 labor disputes and referred a small but undisclosed number of them to the Industrial Court for its review.

Formal sector jobs almost always pay well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food are included, frequently pay below the minimum wage. There is no mandatory minimum wage for domestic workers, and the Ministry of Labor no longer recommends a minimum wage for them. Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, are exploited easily, as they would be subject to deportation if they filed grievances against their employers.

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

The law provides that workers who complain about hazardous conditions may not be fired. However, the Government's institutional ability to enforce its workplace safety legislation remains limited by inadequate staffing and unclear jurisdictions between different ministries. Nevertheless, employers generally provide for worker safety, with the occasionally notable exception of the construction industry.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons. There were no reports that persons were trafficked in, to, or from the country.

BURKINA FASO

President Blaise Compaore continued to dominate the Government of the Fourth Republic, assisted by members of his party, the Congress for Democracy and

Progress (CDP), despite increasing challenges from a number of fronts within society. In spite of the existence of dozens of political parties, there is little viable opposition to the President and his Government. The Government includes a strong presidency, a Prime Minister, a Council of Ministers presided over by the President, a two-chamber National Assembly, and the judiciary. In November 1998, President Compaore was reelected to a second 7-year term with 88 percent of the vote; 56 percent of the electorate voted. Both national and international observers described the presidential election as substantially free and fair and an improvement over the 1997 legislative elections, particularly in regard to logistical organization of the balloting and the functioning of the polling stations. However, there were a limited number of voting irregularities. The national observers identified a number of systemic weaknesses in the Electoral Code that precluded the serious assurance of a perfectly regular and transparent vote, and a coalition representing a number of opposition parties boycotted the election. The CDP now controls 102 of 111 seats in Parliament. International observers considered the 1997 legislative elections to be substantially free and fair, although a collective of 14 local nongovernmental organizations (NGO's) cited generalized and systematic corruption and voter list irregularities.

The security apparatus consists of the armed forces, the gendarmerie, controlled by the Ministry of Defense, and the police, controlled by the Ministry of Territorial Administration. Some members of the security forces committed human rights abuses.

Over 80 percent of the population of almost 11 million persons engages in subsistence agriculture. Frequent drought, and limited communication and transportation infrastructures, in addition to a 77 percent illiteracy rate, are longstanding problems. The 50 percent devaluation of the CFA franc in 1994 made imports more expensive for salaried workers and civil servants, but improved the competitiveness of livestock and cotton exports. Since 1991 the Government has adopted a series of structural adjustment programs designed to open the economy to market forces and to reduce government deficits, while shifting resources to the education and health sectors. In recent years, the country has registered strong gains in life expectancy, literacy, and school attendance rates, although it remains a very poor country with annual per capita income of about $220.

There continued to be serious problems in the Government's human rights record. Although the Government continued attempts to improve its respect for human rights, a general climate of impunity for members of the security forces along with a lack of progress in identifying or punishing those responsible for abuses committed continued to tarnish its record. The continued dominance of President Compaore and his ruling party limited citizens' right to change their government, although the 1998 presidential election represented a further step toward democratic government. The security forces were responsible for two extrajudicial killings and continued to mistreat detainees. Prison conditions remained harsh. Arbitrary arrest and detention are problems, and authorities do not ensure detainees due process. Courts are subject to executive influence, and authorities do not ensure fair trials. At times authorities restricted media activity, and the media practices self-censorship. The death of internationally respected journalist Norbert Zongo, his brother, and two other men in a suspicious car fire in December 1998 remained a focus of public concern during the year. The Government's reaction to public demonstrations and general strikes triggered by those deaths was, on balance, moderate and nonconfrontational. The Government succeeded in reducing tensions somewhat during the year by displaying an increased openness to dialog, including with opposition leaders, and by making concessions on occasion to civil society, including to the Collective of Mass Democratic Organizations and Political Parties. (The Collective, which was created in response to the killings is made up of 57 organizations, including labor unions, opposition political parties, human rights groups, and development, student, and women associations.) However, the Government withdrew certain privileges from a leading human rights advocate. Societal discrimination against women persisted. Violence against women and children, particularly female genital mutilation (FGM), remained a problem. The Government took steps to educate citizens about the dangers of this practice. Child labor is a problem. Killings of criminal suspects by vigilante mobs remained a problem.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, there were two reports of extrajudicial killings. On January 22, Auguste Pepin Ouedraogo, an employee of the national electric company SONABEL,

died from injuries he had suffered a couple of weeks earlier in a beating by gendarmes in Bobo-Dioulasso. The gendarmes detained Ouedraogo on January 11, 3 days after he had tried to help resolve an argument involving a traffic dispute between one of his friends and a gendarme commander. In response to news of Ouedraogo's death, unions representing SONABEL workers shut off both power and water throughout much of the country on January 22. Defense Minister Albert de Millogo, called for public calm and announced on the same day that the gendarmes involved had been arrested. On June 22, SONABEL workers again cut power and water to pressure authorities to move the gendarmes implicated in the killing from a gendarme facility to the main civilian prison in Ouagadougou. They were subsequently moved. As of September, Ouedraogo's murder was still under investigation in the military justice system. On December 11, the criminal court handling Ouedraogo's case rendered its decision. One of the gendarmes involved received a 5-year prison sentence one a 3-year sentence, and three 2-year sentences each.

In August gendarmes shot and killed mechanic Mamadou Kone when he was in their custody in Banfora, a village in the province of Comoe. Kone had been arrested as a result of an investigation involving stolen car engines. As he was being booked, Kone struck at two gendarmes in an attempt to escape and was then shot by a third gendarme. The officer who shot Kone was handed over shortly thereafter to judicial authorities in Bobo-Dioulasso. As of year's end, the case was being investigated in the military justice system, and the officer who shot Kone remained under detention.

The January 1998 extrajudicial killing of David Ouedraogo, the chauffeur of President Compaore's brother Francois, remained unresolved. Ouedraogo, along with two other domestic employees of Francois Compaore, had been taken to the Presidential Guard barracks in December 1997 after being accused of stealing money from the home of the President's brother. Francois Compaore's refusal to cooperate with judicial authorities impeded the official investigation, and he was never arrested. In March the civil court handling the case declared itself incompetent to rule on the matter since Ouedraogo had died at the hands of members of the Presidential Guard within their barracks. As a result, the case was sent to a military tribunal. The civil court decision was prompted by arguments put forth by Francois Compaore's lawyer that the charges of murder and concealing a body filed against the President's brother in January should be dropped because of technical errors made in the filing of the case. The civil court agreed that there had been errors.

In June authorities arrested 3 members of the Presidential Guard who were implicated in Ouedraogo's murder in response to a recommendation made by the Council of Wisemen, a 16-member Council made up of former heads of state, religious and traditional leaders, and otherwise respected persons. The three men arrested also had been named as "serious suspects" in the Independent Investigatory Commission's final report on the Zongo killing.

In June the two domestic employees of Francois Compaore who had been accused, along with David Ouedraogo, of stealing money from the home of the President's brother were released provisionally after spending over a year in preventive detention. Their release was prompted by a recommendation made by the Wisemen's Council.

In January in response to pressure from the Collective of Mass Democratic Organizations and Political Parties, the Government agreed to modify the composition of the Independent Investigatory Commission looking into the deaths of journalist Norbert Zongo, his brother, and two other men in a suspicious car fire in December 1998. In May the Commission released its final report. The report, which was based in part upon evidence obtained by a pathologist, a forensic doctor, and French ballistic and fire experts, determined that the four men had died for "purely political motives." The report did not identify the authors of the crime because of a lack of formal proof but named six members of the Presidential Guard who had offered contradictory testimony about their whereabouts on the day of the murders. The Commission stated that this did not render them guilty but did make them "serious suspects." The six included two soldiers, one corporal, two sergeants, and one warrant officer. The Commission noted that the official documents from the Presidential Guard and the army that might have clarified the issue of their whereabouts could not be found and probably had been destroyed intentionally.

After discrediting other hypotheses, the Commission argued that the most probable motive for Zongo's murder was to put an end to the articles that he had been writing on the January 1998 killing of David Ouedraogo, the chauffeur of President Compaore's younger brother Francois, allegedly by members of the Presidential Guard. The Independent Investigatory Commission's final report recommended that the Government pursue the results of the Commission's work in court; that the separation of functions between the police and the military be enforced; that the Presi-

dential Guard limit its duties to the protection of the Chief of State; that unresolved cases of disappearances and killings in the recent past be settled; and that the National Assembly pass a law to eliminate any time limit for resolving the Zongo case. As of year's end, the courts were continuing work on the Zongo case, and the separation of functions between the police and military was being enforced. However, the presidential guard had not officially limited its duties to protecting the President, no unresolved cases of disappearances and killings in the recent past had been settled, and the National Assembly had not passed a law to eliminate any time limit for resolving the Zongo case.

In May the Council of Ministers ruled in extraordinary session to send the Zongo case to the Justice Ministry for further action. It also decided that the six suspects could not be arrested at that time since the Independent Investigatory Commission had not established their guilt firmly. As of year's end, five of the six were in detention but only because they also had been implicated in the killing of David Ouedraogo, the chauffeur of President Compaore's brother Francois, who had died in January 1998 while in the custody of members of the Presidential Guard.

On May 21, in a rare address to the nation, President Compaore announced actions to carry out the recommendations made by the Independent Investigatory Commission. He ordered that the judge handling the Zongo case be given all the necessary material and financial means to pursue it; that the Defense Minister accelerate the military tribunal's investigation of the Presidential Guard members implicated in the death of David Ouedraogo; that the Defense Minister proceed immediately with reorganization of the Presidential Guard; that all demonstrators arrested for acts of vandalism and violence over the preceding weeks be released, except for those involved in suits that already had been filed by individual citizens; and that a Council of Wisemen be set up and given 45 days to review the political crimes that have taken place since Burkina's independence, and to make recommendations for restoring social peace in the wake of the Zongo killings. As of year's end, five of the six presidential guard members implicated in the death of David Ouedraogo were in detention, and all demonstrators arrested for acts of vandalism and violence were released. The Presidential Guard had not been reorganized.

On August 2, the Council of Wisemen issued its final report, which recommended reform of the judicial system; creation of an ad hoc consensual commission to review certain articles of the Constitution, particularly Article 37, which was amended in 1997 to allow a president to run for an unlimited number of terms; formation of a government of national unity; creation of a truth and justice commission to direct the nation's reconciliation process; and dissolution of the National Assembly. On October 8, President Compaore instructed the Prime Minister to reshuffle the Government. The new Government included no officials from civil society and only four members of the opposition. The major opposition group, the Group of 14 February, refused to participate. On October 29, the Council of Ministers passed decrees creating a Commission for Political Party Consultations and a Commission of National Reconciliation. The Commission for Political Party Consultations issued a final report on December 22. The President announced in his traditional New Year's Eve address that he would accept all of the report's recommendations, including designating a formal leader of the opposition in Parliament and reintroducing presidential term limits beginning in 2005. He said that he would call new parliamentary elections "if necessary."

No progress was made in punishing those responsible for abuses reported in previous years. The major problem with law enforcement remains a general climate of impunity for human rights abusers fostered by the failure of the government's investigations to result in guilty findings and appropriate sanctions. Inquiries tend to continue until they are overshadowed by subsequent incidents or quietly shelved. Appeals by human rights organizations generally go unanswered. The failure to prosecute previous abuses remains the most important hindrance to further human rights progress.

The 1996 incident in which members of the police in the town of Reo shot and killed an unarmed villager during an operation to fine owners of unregistered vehicles remained unresolved. An official investigation into the 1995 shooting death of two unarmed high school demonstrators in Garango yielded no results. There were no further developments regarding the 1994 corruption scandal that led to the death in custody of two suspects under suspicious circumstances.

To date, the authorities have provided no explanation of the death of Doin Redan, who was found dead in 1994 a day after being detained by police. The Government continued to make no real effort to investigate the fate of a Ghanaian detainee reportedly killed in 1993 while in police custody. International and local human rights groups pressured the official commission investigating the 1991 killing of Clement

Ouedraogo, a prominent opposition leader, to submit a report of preliminary findings to the Prime Minister. The report has not been made public and the case remains open, as do the cases of the 1989 disappearance of Professor Guillaume Sessouma, detained for allegedly participating in a coup plot, and of medical student Dabo Boukary in 1990, detained following student demonstrations. Credible reports indicated that security forces tortured and killed both men. The Government failed to respond to students' calls for information on Boukary's death, which was included in a list of demands issued during university strikes in 1997.

There were some killings of criminal suspects by vigilante mobs.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits the mistreatment of detainees; however, members of the security forces continued to mistreat persons, often to extract confessions. There are credible reports that officials at Maco prison continued to employ degrading treatment. The Government is not known to have taken any disciplinary action against those responsible, and the climate of impunity created by the Government's failure to prosecute abusers remains the largest obstacle to ending abuses.

Police used tear gas to disperse protesters (see Section 2.b.).

Prison conditions are harsh, overcrowded, and can be life threatening. The federal prison in Bobo-Dioulasso, built in 1947, houses about 1,000 prisoners, although it was designed to hold less than half that number. There are separate facilities for men, women, and children. The prison diet is poor, and inmates often must rely on supplemental food from relatives.

According to human rights monitors, prison visits are granted at the discretion of prison authorities. Permission is granted routinely, and advance permission is not required.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention were problems, and authorities did not ensure due process. The Constitution provides for the right to expeditious arraignment and access to legal counsel. The law limits detention for investigative purposes without charge to a maximum of 72 hours, renewable for a single 48-hour period; however, in practice police rarely observe these provisions. The average time of detention without charge is 1 week, and the law allows judges to impose an unlimited number of 6-month "preventative detention" periods.

On May 17, following violent student demonstrations in Ouagadougou and Bobo-Dioulasso, and the closure of schools in both cities, the Government detained three opposition leaders: Burkinabe Movement for Human Rights (MBDHP) president and head of the Collective of Mass Democratic Organizations and Political Parties Halidou Ouedraogo; head of the Sankara Association Thibault Nana; and Alliance for Democracy and, Federation and Democratic African Assembly (ADF/RDA) president Hermann Yameogo, who as a deputy elected to the National Assembly enjoys parliamentary immunity. Ouedraogo was released after 2 hours of police questioning, and Nana was freed early on May 18. Yameogo, who was accused of having incited students to riot during a series of speeches, was released at the end of the statutory 72-hour period for preventive detention.

In November 1998, eight armed policemen temporarily detained opposition Party for Democracy and Progress (PDP) deputy Gerard Karambiri and a PDP supporter. Police awakened both men in their respective homes in Bobo-Dioulasso in the early hours of the morning, apparently searching for opposition parties' materials calling for a boycott of the presidential election. The officers lacked the required warrants and entered their homes at times other than the 6 a.m. to 9 p.m. "legal hours." Police took them to headquarters, interrogated them for about 2 hours, then released them. Parliamentarians believed that the detention of Deputy Karambiri was a violation of the parliamentary immunity granted to all deputies under the Constitution. Several days later, after demanding that the detentions be investigated fully, PDP deputies walked out of a National Assembly plenary session in protest. In response the governing CDP parliamentary group sent three of its leading deputies to express support for the PDP, and National Assembly President Melegue Traore addressed a letter to the Prime Minister asking that the incident be investigated. The Government has never responded.

Police arrested and detained protesters and detained a journalist in September (see Sections 2.a. and 2.b.).

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is subject to executive influence. The President has extensive appointment and other judicial powers. The Constitution stipulates that the Head of State is also the President of the Superior Council of the Magistrature, which can nominate and remove some high-ranked magistrates and can examine the performance of individual magistrates.

The Zongo killing and its aftermath have focused attention on the severe weaknesses in the justice system, including removability of judges, outdated legal codes, an insufficient number of courts, a lack of financial and human resources, and excessive legal costs.

The Constitution provides that the Supreme Court is the highest court in the country. Beneath it are 2 Courts of Appeal and 10 provincial courts ("de grande instance"). There is also a High Court of Justice, with jurisdiction to try the president and senior government officials for treason and other serious crimes. In 1995 the National Assembly passed legislation reforming the military court system, making military courts less susceptible in principle to executive manipulation; however, their independence has not yet been demonstrated.

In addition to the formal judiciary, customary or traditional courts, presided over by village chiefs, handle many neighborhood and village problems, such as divorce and inheritance disputes. The population generally respects these decisions but citizens also may take a case to a formal court.

The Constitution provides for the right to public trial, access to counsel, and has provisions for bail and appeal. While these rights generally are respected, the ability of citizens to obtain a fair trial remains circumscribed by an ignorance of the law because 77 percent of the population is illiterate and by a continuing shortage of magistrates. Amendments to the Penal Code to make it more relevant to modern requirements, such as the revision making FGM a crime, were adopted by Parliament during its last session in 1996 and entered into effect early in 1997.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for these rights, and in practice the authorities generally do not interfere in the daily lives of ordinary citizens. However, in national security cases a special law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. By law and under normal circumstances, homes may be searched only with the authority of a warrant issued by the Attorney General.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The 1991 Constitution and the 1990 Information Code provide for freedom of speech and of the press; however, in practice these freedoms still remain circumscribed both by government action and by a certain degree of self-censorship. The President and his Government remain sensitive to criticism. Provisions in the Code granting the Government strong legal powers to intimidate the press through a broad interpretation of defamation were removed in 1993. As a result, journalists charged with libel may defend themselves in court by presenting evidence in support of their allegations. The independent press, particularly the written press, continued to exercise greater freedom of expression. However, the suspicious death of internationally respected journalist and newspaper editor Norbert Zongo in December 1998 raised serious questions on the limits to the exercise of this freedom (see Section 1.a.). Zongo was well known for his investigative reports on government scandals.

On December 1, police in Ouagadougou detained two journalists and six leaders of the Collective of Mass Democratic Organizations and Political Parties, including its president Halidou Ouedraogo, to question them about a communique that they addressed to the armed forces, calling upon the military to guarantee demonstrators' safety and right to demonstrate. One of the men detained was Paulin Yameogo, editor of the weekly newspaper San Finna, which had just printed on its cover a photo of the scarred back of one of the men allegedly tortured by the Presidential Guard at the same time as David Ouedraogo, the murdered chauffeur of President Compaore's brother. The eight were arrested 2 days later and charged with "attempts against the army's morale," a charge that carried the penalty of 1 to 5 years in prison. On December 27, the case against them was dropped when the judge ruled that procedural flaws in their arrest and indictment prevented a fair trial.

All media are under the administrative and technical supervision of the Ministry of Communication and Culture. The audiovisual media are further regulated by the Superior Council of Information (CSI).

The official media, including the daily newspaper Sidwaya, and the national radio and television displayed progovernment bias. The independent press includes 6 daily and 12 weekly newspapers. There are 20 independent radio stations and 1 religious television station. The only private commercial television station ceased to broadcast, due to financial difficulties. These media outlets include stations that are critical of the Government.

In 1998 the CSI released new regulations for private and independent radio and television. All new regulations were fully in effect as of February. The new regula-

tions allowed reinstatement of call-in shows, which had previously been suspended in 1997. However, radio stations are held responsible if their call-in programs threaten the public order or the rights of any third party. In May employees from two radio stations were called in for questioning after broadcasting a call-in show on the Zongo killings that featured the secretary general of Reporters Without Borders, Robert Menard. After being threatened with formal expulsion, Menard involuntarily left the country. In September he was denied entry into the country.

National and international observers reported that the CSI effectively fulfilled its responsibilities under the Electoral Code to assure equal media treatment of the candidates during the period prior to the November 1998 presidential election. The collective of independent election observers stated after the election that the press generally had been open to the different candidates and that press reporting on candidates' campaigns, with the exception of the national television and state-owned newspaper, which initially gave the President more attention that the other two candidates, became more balanced after a complaint presented to the CSI early in the campaign by Green Party candidate Ram Ouedraogo.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Political parties and labor unions usually have been allowed to hold meetings and rallies without requesting Government permission since early 1990. In October 1997, the National Assembly passed a law to replace an existing 1992 law regulating public demonstrations. The new law requires that authorities be notified in advance of planned demonstrations and gives the executive the right to use reasons of public order to forbid demonstrations. In addition penalties for violations were increased from 6 months to 5 years to 2 to 5 years. Permits must be obtained from municipal authorities for political marches. Applicants must indicate the date, time, duration, and itinerary of the march or rally, and authorities may alter or deny requests on grounds of public safety. Denials or modifications may be appealed before the courts.

After the January 3 incident, the Government permitted many marches and protests with or without the required prior notice, and its handling of demonstrations was, on balance, moderate and nonconfrontational. In January the Government agreed to the Collective's demand to end the "state of siege," a term referring to the use of strong-arm police tactics to prevent the formation of demonstrations. In February some 400 intellectuals were not permitted to meet with the President but were allowed to present a petition against impunity to the Minister of Territorial Administration. In March a crowd estimated at 1,000 persons marched peacefully to Norbert Zongo's grave during the FESPACO film festival. Also in March, some 3,000 to 5,000 demonstrators marched peacefully to the office of the President without interference. On November 27, between 10,000 and 20,000 persons participated in a peaceful march in Ouagadougou that was organized by the Collective to press for justice in the case of Norbert Zongo's killing. On December 13, to mark the first anniversary of Zongo's death, approximately 25,000 persons walked more than 2 miles from the labor union headquarters in Ouagadougou to the cemetery where the journalist was buried. Security forces did not interfere with either demonstration.

The Constitution provides for freedom of association, and the Government generally respects this in practice. Since early 1990, political parties and labor unions usually have been permitted to organize without seeking government permission.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. The country is a secular state. Islam, Christianity, and traditional religions operate freely without government interference.

The Government requires that religious groups register with the Ministry of Territorial Administration. Registration establishes a group's legal presence in the country but entails no specific controls or benefits. There are no penalties for failure to register.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement, and authorities respect this right in practice. Gendarmes routinely stop travelers for identity and customs checks and the levying of road taxes at police and military checkpoints. There is no restriction on foreign travel. In May the secretary general of Reporters Without Borders was forced to leave the country involuntarily. In September he was denied entry into the country (see Section 2.a.).

The law include provisions for the grant of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Refugees are accepted freely. The Government provides first asylum. The Government cooperated with the office of the U.N. High Commis-

sioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The approximately 25,000 refugees and displaced persons remaining in the country in 1997, mostly Tuaregs from Mali and Niger, were repatriated by the beginning of 1998. A few hundred refugees from the Great Lakes region remain. There were no reports of the forced return of persons to a country where they feared persecution. There were no reports of the forced expulsion of persons with a valid claim to refugee status.

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

Citizens have the constitutional right to change their government through multiparty elections; however, although the November 1998 presidential election represented a further step toward democratic government, in practice citizens are unable to exercise this right fully due to the continued dominance of the President and his ruling party. President Compoare won 88 percent of the vote; 56 percent of the eligible voters went to the polls. The irregularities cited by observers in the actual voting process were limited in number and scope and did not appear to have an impact on the ultimate outcome of the election. However, the national observers identified a number of systematic weaknesses in the electoral code that precluded a perfectly regular and transparent vote, and a coalition representing a number of opposition parties boycotted the election. On November 24, 1998, the Supreme Court confirmed the final vote count released by the independent National Electoral Commission (CENI) 6 days earlier. Neither of the two candidates opposing President Compaore contested the results.

The 1997 legislative elections gave the ruling CDP 101 out of 111 parliamentary seats. (The CDP now controls 102 seats because of a defection to the ruling party by an opposition deputy.) The victory reflected both general support for policies of the governing party and a lack of viable opposition alternatives. While international observers described the elections as substantially free and fair, a collective of 14 local NGO's cited generalized and systematic corruption and voter list irregularities. The Supreme Court annulled the results in four constituencies because of these irregularities.

In May 1998, the National Assembly approved the establishment of an Independent National Electoral Commission (CENI) to replace the National Committee for the Organization of Elections (CNOE) that supervised the 1997 legislative elections. The law creating the CENI gave it responsibility for creating a census bureau, installing voting stations and training poll workers, organizing election observation, ensuring election security, and distributing election material. However, developing electoral lists is still the responsibility of the Ministry of Territorial Administration and Security. The law also called for the CENI to be headed by an elected president and vice president who could not come from the hierarchy of any political party. The president and vice president are elected by CENI members. In July 1998, the CENI was installed with 26 members, of which 6 came from the opposition, 6 from the ruling party, 3 from the religious community, 3 from the traditional tribal community, 6 from the labor movement, and 3 from a human rights organization. A committee of six persons from various government ministries is available to advise the CENI. However, there were concerns regarding CENI's independence since its funding was channeled through the Government, and it was scheduled to cease operations 60 days after the election. During the November 1998 election, the CENI was not able to carry out its functions in some of the country's 45 provinces due to inadequate staffing.

The Compaore Government includes a strong presidency, a Prime Minister, a Council of Ministers presided over by the President, a two-chamber National Assembly, and the judiciary. The legislature is independent, but it remains susceptible to external influence from the executive branch.

In January 1997, the CDP-dominated National Assembly amended the Constitution to allow a president to run for an unlimited number of terms. Previously, the Constitution had restricted the mandate to two 7-year terms.

There are no restrictions in law or practice on the participation of women or minority group members in politics; however, women are underrepresented in positions of responsibility. Only 3 of the 29 ministers and 8 of the 111 National Assembly deputies are women. The President of the Social and Economic Council is a woman. In part because of the important role that women played in reelecting President Compaore in 1998, the Congress for Democracy and Progress voted at its first ordinary Congress held in July to increase the number of women on its National Executive Council from two to six.

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

The Government's attitude toward local human rights organizations was mixed. According to monitors, the Government did not interfere with the activities of any such group during the year. However, on March 21, the Council of Ministers terminated the agreement that had existed between the Government and the InterAfrican Human Rights Union (UIDH) since 1995. The Council stated that UIDH head Halidou Ouedraogo, who also served during the year as president of the Burkinabe Movement for Human Rights (MBDHP) and as president of the Collective of Mass Democratic Organizations and Political Parties, had mixed politics with human rights and thus had acted in ways incompatible with the agreement. The Council also considered illegal the UIDH's participation on a parallel inquiry commission that was set up in January by the Collective to investigate the Zongo killings. Under the 1995 agreement, the UIDH had benefited from tax exemptions, a government subsidy that paid $500 (300,000 CFA) a month to rent temporary offices for the organization, and Ouedraogo, a Burkinabe national, had enjoyed diplomatic immunity as head of an international organization. In addition the Government again has failed to answer inquiries from international human rights organizations concerning past abuses. Amnesty International (AI) still is awaiting the results of the Government inquiry into the 1995 killings in Garango and the 1995 extrajudicial executions of seven men from Kaya Navio, Nahouri Province, but the Government has not responded to AI's request for information.

In 1994 the Government announced the creation of the Office of Ombudsman, called "Mediateur du Faso." Retired General Marc Garango was appointed to the position, which is responsible for mediating disputes between the state and its citizens. In June 1998, the Ombudsman's Office issued its first activity report, which indicated that half the cases brought before it dealt with career problems of civil servants and the other half with a variety of issues, including land questions and bureaucratic inaction.

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

The Constitution prohibits discrimination on the basis of race, religion, or ethnic origin. Minority ethnic groups are, like the majority Mossi, represented in the inner circles of the Government, and government decisions do not favor one group over another.

Women.—Violence against women, especially wife beating, occurs occasionally. Cases of wife beating usually are handled through customary law and practice. There are no statistics on rape, although it is recognized as a crime. Spousal rape is not discussed. There are organizations that counsel rape victims, including Catholic and Protestant missions, the Association of Women Jurists in Burkina, the Burkinabe Movement for Human Rights, the Association of Women, and Promofemmes, a regional network that works to combat violence against women. The Government is attempting to change attitudes toward women, using education through the media. The Penal Code explicitly prohibits sexual harassment but has no special laws protecting women against violence other than general laws dealing with violence.

There are no specific constitutional provisions or laws protecting women, who face extensive discrimination. In general women continue to occupy a subordinate position and experience discrimination in such areas as education, jobs, property, and family rights. Overall, women represent 45 percent of the work force. However, in the modern sector women make up one-fourth of the government work force, although they are usually found in lower paying positions. Women still do much of the subsistence farming work. After the May 1997 parliamentary elections, the Government created a Ministry of Women's Affairs and appointed a woman as minister.

Children.—The Constitution nominally protects children's rights. The Government has demonstrated its commitment to improving the condition of children by adopting a national policy to revitalize primary health care through the privatization of hospitals, which provided greater autonomy in hospital management. The Government has stated its commitment to improve access to primary education and as of 1996 had raised the literacy rate to 22 percent. The Government provides free primary school education to all children. If a child qualifies on the basis of grades and social condition (that is, his/her family is "poor"), free education can continue through junior high and high school. In practice, the family condition requirement is often ignored giving many children a free education through high school.

Females constitute approximately one-third of the total student population in the primary school system and are represented in the secondary and higher educational systems, although the percentage decreases significantly beyond the primary level.

Schools in rural areas have disproportionately fewer female students than schools in urban areas. The Government has set up a scholarship program for female secondary students to encourage them to stay in school.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, still is practiced widely, especially in many rural areas, and usually is performed at an early age. The percentage of females who have undergone this procedure may be as high as 70 percent. The Government has made a strong commitment to eradicate FGM through educational efforts, and a national committee (The National Committee for the Fight against Excision) campaigns against the practice. The Penal Code was revised in 1996 to make FGM a crime, with stricter punishments for those involved in its practice. Perpetrators are subject to 6 months to 3 years imprisonment and a significant fine. The Government continued its sensitization campaign regarding the deleterious effects of this practice. Another form of mutilation, scarification of the faces of both boys and girls of certain ethnic groups, gradually is disappearing.

People with Disabilities.—While there are modest government subsidies for workshops for the disabled, there is no government mandate or legislation concerning accessibility for the disabled. There is no legislation to protect persons with disabilities from discrimination. Programs to aid the disabled are limited, but human rights groups are not aware of any discrimination against the disabled.

Section 6 Worker Rights

a. *The Right of Association.*—The 1962 Labor Code has been amended several times during the past decade, most recently in 1996. Under this legislation, workers, including civil servants, traditionally have enjoyed a legal right of association, which is recognized under the Constitution. There are 4 major labor confederations and 12 autonomous trade unions linked together by a national confederal committee. They represent a wide ideological spectrum; the largest and most vocal member espouses socialist doctrine. Essential workers, such as police, may not join unions.

The Constitution provides for the right to strike, and workers use strike actions to achieve labor goals. Many strikes were called throughout the year both by labor organizations to advance workers' objectives, and by the Collective of Mass Organizations and Political Parties to press for justice in the aftermath of the Zongo killings (see Section 1.a.). For example, from September 7–10, the Union of Workers in Human and Animal Health (SYNTSHA) held a 72-hour strike to press for satisfaction of labor demands. From January 20–22, the Collective held the first of several general strikes ("ville morte") during the year to press for justice in the Zongo killings. In July the army took to the streets to protest the Government's failure to repay housing allowances previously deducted from military salaries. The Government responded by negotiating with what the foreign press called mutineers and acceded to their demands.

Labor unions may affiliate freely with international trade unions. The National Confederation of Burkinabe Workers (CNTB) is affiliated with the Brussels-based World Confederation of Labor (WCL).

b. *The Right to Organize and Bargain Collectively.*—Unions have the right to bargain for wages and other benefits, both directly with employers and with industry associations. These negotiations are governed by minimums on wages and other benefits contained in the Interprofessional Collective Convention and the Commercial Sector Collective Convention, which are established with government participation. If no agreement is reached, employees may exercise their right to strike. Either labor or management may refer an impasse in negotiations to labor tribunals. Appeals may be pursued through the Court of Appeal to the Supreme Court, whose decision is binding on both parties. Collective bargaining is extensive in the modern wage sector, but it encompasses only a small percentage of workers.

The Labor Code prohibits antiunion discrimination. The Labor Ministry handles complaints about such discrimination, which the plaintiff may appeal to a labor tribunal. If the tribunal sustains the appeal, the employer must reinstate the worker. Union officials believe that this system functions adequately.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, and it is not practiced.

The Government prohibits forced and bonded child labor, and there were no reports of its use.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code sets the minimum age for employment at 14 years, the average age for completion of basic primary school. However, the Ministry of Employment, Labor, and Social Security, which oversees labor standards, lacks the means to enforce this provision adequately, even in the small wage sector. Children commonly work with

their parents in rural areas or in family-owned small businesses in villages and cities. Most children actually begin work at an earlier age on small, family subsistence farms, in the traditional apprenticeship system, and in the informal sector. There are no reports of children under the age of 14 employed in either state or large private companies. The Government prohibits forced or bonded child labor, and there were no reports of its use (see Section 6.c.).

e. *Acceptable Conditions of Work*.—The Labor Code mandates a minimum monthly wage, a standard workweek of 40 hours with at least one 24-hour rest period for nondomestic workers and a 60 hour workweek for household workers, and establishes safety and health provisions. The minimum monthly wage in the formal sector, about $45 (27,089 CFA), does not apply to subsistence agriculture, which employs about 85 percent of the population. The Government last set a minimum wage in 1996. It is not adequate for an urban worker to support a family. Wage earners usually supplement their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector.

A system of government inspections under the Ministry of Employment, Labor, and Social Security and the labor tribunals is responsible for overseeing health and safety standards in the small industrial and commercial sectors, but these standards do not apply in the subsistence agricultural sector. However, the Government's Labor Inspector Corps does not have sufficient resources to fulfill its duties adequately. Every company is required to have a work safety committee. If a workplace has been declared unsafe by the government Labor Inspection Office for any reason, workers have the right to remove themselves from dangerous work without jeopardy to continued employment. In practice there are indications that this right is respected, but such declarations are relatively rare.

f. *Trafficking in Persons*.—The law prohibits trafficking in persons. There were occasional reports of trafficking in women and children for the purposes of forced prostitution or domestic service.

BURUNDI

Burundi is ruled by an authoritarian military regime led by self-proclaimed interim President Pierre Buyoya, who was brought to power in a bloodless coup by the largely ethnic Tutsi armed forces in 1996 and who abrogated the Constitution. In 1998 the Buyoya regime reached a political agreement with the opposition-dominated National Assembly, which adopted a Transitional Constitutional Act and a transitional political platform. The agreement brought the predominantly ethnic Hutu opposition party FRODEBU into the Cabinet. Buyoya holds power in conjunction with a political power structure dominated by members of the Tutsi ethnic group. Political parties operate under significant restraints. Since 1993 the country has suffered from a civil war with thousands of civilian deaths and mass internal displacement. The judiciary is controlled by the ethnic Tutsi minority and is not impartial.

The security forces are controlled by the Tutsi minority and consist of the army and the gendarmerie under the Ministry of Defense, the judicial police under the Ministry of Justice, and the intelligence service under the presidency. Security forces committed numerous serious human rights abuses.

The country is poor and densely populated, with 92 percent of the population dependent on subsistence agriculture. Many internally displaced citizens have been unable to grow food and depend largely on international humanitarian assistance. Per capita income is less than $200 per year. The civil war has caused severe economic disruption, especially to the small modern sector of the economy, which is based mainly on the export of coffee, tea, and cotton. The Government has announced that it plans to privatize publicly owned enterprises, but efforts to carry out such a transformation are lagging. Other governments in the region that had imposed economic sanctions on the country lifted them in January.

The Government's human rights record remained poor. Citizens do not have the right to change their government. Security forces continued to commit numerous extrajudicial killings. The armed forces killed armed rebels and unarmed civilians, including women, children, and the elderly. Rebel attacks on the military often were followed by army reprisals against civilians suspected of cooperating with the insurgents. Despite Buyoya's stated commitment to end abuses by the military, his Government was unable or unwilling to do so, and perpetrators were not punished. Impunity for those who commit serious human rights violations, and the continuing lack of accountability for those who committed past abuses, remained key factors in the country's continuing instability. There were credible reports of disappear-

ances and the security forces continued to torture and otherwise mistreat persons. Prison conditions were life threatening. Arbitrary arrest and detention, and lengthy pretrial detention, are problems, and there were reports of incommunicado detention. The court system suffers from a lengthy case backlog. The dysfunctional justice system was unable to resolve pressing issues of detention and impunity because of its lack of independence, its inefficiency and administrative disruption, and the partiality of Tutsi officials. Authorities infringe on citizens' privacy rights. The Government controls the media and restricts freedom of speech and of the press. It restricts freedom of assembly and does not permit political demonstrations. The Government restricts freedom of association and movement. At the end of the year, the army forcibly relocated an estimated 330,000 Hutus in an effort to stop rebel attacks on the nearby capital, Bujumbura. The armed forces sometimes limited access to certain areas by human rights observers, citing dangerous security conditions. Violence and discrimination against women continued to be problems. The Government is unable to protect the rights of children or prevent discrimination against the disabled. The indigenous Twa (Pygmy) people remain marginalized economically, socially, and politically. Incidents of ethnically motivated destruction and killing occurred throughout the country. State discrimination against Hutus is widespread. Soldiers required internally displaced persons to perform forced labor. Child labor is a problem.

Rebel Hutu militias also continued to commit many serious abuses, including repeated killings of unarmed civilians, and requiring civilians to perform forced labor.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Security forces committed numerous extrajudicial killings. On January 4, soldiers killed more than 55 civilians in Mubone, Kabezi commune, Bujumbura Rural province, according to international human rights observers. The Government promised to investigate; however, any findings were not made public. It is not known if those responsible were punished.

On May 26, soldiers killed 11 Hutu civilians, including women and children, most of whom lived in the household of a man suspected of participating in the 1993 killing of Tutsis, according to an international human rights observer.

On July 19, soldiers killed 30 civilians in Kanyosha commune, Bujumbura Rural province, according to international observers.

On August 11, the army shot and killed an estimated 50 civilians in Kanyosha commune, Bujumbura Rural province, according to international human rights observers. On August 12, the army used grenades and machine guns to kill an unknown number of civilians in Ruziba, Bujumbura Rural province, observers reported. The army suspected the civilians of collaborating with rebels. International observers were prevented from investigating because of security forces' claims that the areas were unsafe. The Government promised to investigate; however, its findings were not made public.

On October 9, a soldier shot and killed six persons, including three children and two women, at the Ruyaga regroupment site in Bujumbura Rural province where they had been moved forcibly, according to the authorities. Seven others were injured. The soldier was detained immediately although his name was not released publicly, authorities said.

There were reports that soldiers shot and killed some persons who tried to leave "regroupment sites" to which Hutus were forcibly relocated starting in September (see Sections 1.f. and 2.d.).

Deaths in prisons continued due to disease and malnutrition (see Section 1.c.).

Amnesty International (AI) estimates that 200,000 persons were killed in ethnic violence between October 1993 and the end of 1998. No credible countrywide casualty figures were available for 1999. Throughout the year, the Government and security forces frequently prevented journalists and human rights observers from going to areas where casualties occurred, making it difficult to gather information about the perpetrators and the victims. AI reported that the army and rebel groups killed 600 civilians between November 1998 and March 1999 in Bujumbura Rural province alone. Based on media and other reports, much of the extrajudicial killing and destruction during the year was concentrated in the province around the capital and in the southern and eastern provinces.

Accurate information about landmines is hard to obtain. However, the armed forces apparently use mines to prevent rebels from accessing territory, and rebel groups use landmines as tools of terror. Landmine-related civilian injuries and deaths were reported, particularly in provinces along the southern border with Tanzania.

A domestic human rights organization reported that 51 persons were sentenced to death in the regular criminal courts during the first 10 months of the year. A death sentence handed down by a military court was carried out in July, and legal irregularities in the case prompted protests by AI. On July 28, Corporal Bonaventure Ndikumana was sentenced to death for deliberately killing an officer. Ndikumana was executed the next day without being allowed to file an appeal of his conviction as required by law, according to the authorities and AI. No executions were carried out in 1998. In 1997, after a 15-year period with no executions, the State executed 6 of 38 civilians sentenced to death for the first time since 1982.

In May the media reported the surprise announcement of a judgment in the trial of the 1993 assassination of President Melchior Ndadaye. The Supreme Court sentenced five members of the army to death and 23 others to prison. Another 38 persons were acquitted, 10 cases were sent back for further review, and 5 cases were dropped because the suspects had died. No high-ranking army officers were convicted, although charges were brought originally against many past and present senior army members. The new Attorney General, who is a Hutu, announced that the case would be reopened.

In January rebels killed 178 civilians in Makamba province, according to the media. The civilians were killed either by rebels or were caught in a crossfire between the rebels and the army, according to reports.

On August 28, Hutu rebels killed 39 persons in Bujumbura, most of them Tutsi civilians according to the authorities. Victims were shot or burned. The authorities permitted rapid access to the scenes of the attacks.

On October 12, unknown attackers killed two U.N. foreign staff members and seven others during a U.N. humanitarian assessment mission to Rutana province. Officials said that rebels carried out the attack, possibly to halt humanitarian aid. The Government called on Tanzania to arrest the perpetrators, who it said fled to Tanzania after the attack. Rebels accused the armed forces of committing these killings. In response to this attack, the U.N. halted most of its field operations indefinitely.

A grenade attack in Bujumbura's central market in November killed 5 persons and injured 14 others.

There are no definitive statistics available on how many civilians were killed by Hutu rebels; the Government stated that killings by rebels represent the majority of civilian casualties. Rebels reportedly often kill civilians for suspected collaboration with the regime and for their refusal to pay "taxes" to rebels. Hutu rebels ambushed minibuses carrying civilians on national highways, robbing and killing the occupants.

Three persons accused of the 1995 killings of Italian religious workers were not tried. The Government did not identify or bring to justice the persons responsible for the June 1996 killing in Cibitoke province of three foreign employees of the International Committee of the Red Cross.

b. *Disappearance.*—Human rights groups reported that abductions and disappearances occurred during the year, but no credible overall figures were available. AI reported on October 5 that it had credible reports of the disappearance of three persons believed to have been arrested by soldiers in September. According to AI, at least one of the men was believed to have been executed and secretly buried. The media carried brief reports of kidnapings of civilians by Hutu rebels.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transitional Constitution Act prohibits these abuses; however, members of the security forces continued to torture and otherwise abuse persons. In one such case, AI reported that members of the security forces were believed to have withheld food from detainees and beaten one of them severely. There were no know prosecutions of members of the security forces for these abuses.

At the end of the year, signs emerged of renewed government support for policing of the capital and countryside by armed civilians, which raised fears of the return of militias created in 1995 to destabilize the then Hutu-led government.

Conditions in state-run prisons were life threatening and are characterized by severe overcrowding and inadequate hygiene, clothing, medical care, food, and water. A total of about 10,000 inmates are housed in facilities built to accommodate a maximum of 3,600 persons. Prisoners rely on family members to provide an adequate diet, and officials say that prisoners suffer from digestive illness, dysentery, and malaria. Poor prison conditions contributed to deaths of prisoners from disease and malnutrition. In April AI reported that a 12-year-old boy, improperly charged in connection with 1993 killings, had been abused sexually by male inmates at Bujumbura's central prison.

U.N. human rights monitors were permitted to visit prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention, and exile; however, security forces arbitrarily arrested and detained persons. Limits on the length of pretrial detention were not respected. Presiding magistrates are authorized to issue arrest warrants. Police and gendarmes can make arrests without a warrant, but are required to submit a written report to a magistrate within 48 hours. A magistrate can order the release of suspects or confirm charges and continue detention, initially for 15 days, then subsequently for periods of 30 days, as necessary to prepare the case for trial.

The law requires arrest warrants. The police are required to follow the same procedures as magistrates; however, the police have detained suspects for extended periods without announcing charges, certifying the cases, or forwarding them to the Ministry of Justice as required. There were numerous instances of arbitrary arrest. Bail was permitted in some cases. Human rights organizations reported that incommunicado detention exists, although it is prohibited by law.

The disruption of the political process and the general insecurity severely impeded the judicial process. In mid 1999, an estimated 7,500 pretrial detainees constituted 78 percent of the total prison population. About 750 of an estimated 9,500 detainees reportedly were released in 1999, but these reports could not be confirmed.

The Government has not used forced exile as a means of political control. However, many persons remained in voluntary exile in Belgium, Kenya, Tanzania, Zaire, and elsewhere. Some senior authorities maintain their families outside the country. A number of officials of the government of deposed president Sylvestre Ntibantunganya, who fled the country in 1996, have not yet returned.

e. *Denial of Fair Public Trial.*—The Transitional Constitutional Act provides for an independent judiciary; however, in practice the judiciary is not independent and is dominated by ethnic Tutsis. An international human rights organization estimated in 1998 that ethnic Hutus accounted for only 5 percent of the country's judges and lawyers, although they constitute an estimated 85 percent of the population. Most citizens assume that the courts promote the interests of the dominant Tutsi minority; members of the Hutu majority believe that the judicial system is biased against them.

The judicial system is divided into civil and criminal courts with the Supreme Court at the apex. The armed forces have a separate judicial system, and there is a labor court.

Citizens generally did not have regular access to civilian and military court proceedings. Defendants in theory are presumed innocent and have the right to appeal; however, in practice some lawyers say that the structure of the court system inappropriately limits the possibility of appeals for those accused of the most serious crimes. While defendants have a right to counsel and to defend themselves, in practice few have legal representation. The civil court system functions, but the lack of a well-trained and adequately funded judiciary constrains expeditious proceedings. Many citizens have lost confidence in the system's ability to provide even basic protection. The majority of persons arrested on criminal charges since October 1993 remain in pretrial custody.

In July the National Assembly passed a new criminal code, which was scheduled to take effect in January 2000, and in theory provides protections for suspects' rights to a lawyer before official charges are filed and during pretrial investigations.

There are some clearly identifiable political prisoners. Charges against defendants convicted for nonpolitical crimes sometimes are politically motivated.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Transitional Constitutional Act provides for the right to privacy, but the authorities reportedly do not respect the law requiring search warrants. Security forces are widely believed to monitor telephones regularly.

Beginning in September, following rebel attacks on the mainly Tutsi-inhabited capital (see Section 1.a.), the Government forcibly relocated an estimated 330,000 mainly Hutu inhabitants of Bujumbura Rural province to "regroupment sites" where security forces could more readily monitor and control their movements. Inhabitants were moved to sites with inadequate sanitation and insufficient access to water, food, shelter, and medicine. The Government's stated rationale for these forced relocations was to protect the relocated persons from rebel attacks.

Section 2. Respect for Civil Liberties: Including:

a. *Freedom of Speech and Press.*—The Transitional Constitutional Act does not impose restrictions on the media; however, the Government restricts freedom of speech and of the press. A press law requires that newspaper articles undergo review by a government censor 4 days before publication, and the Government controls the media and harasses and detains journalists.

The regime controls much of the news, since it owns the only regularly published newspaper and the major radio and television stations. The government-owned Le Renouveau is published 3 times a week. Other newspapers, including at least one opposition newspaper, appear irregularly. Political tracts circulate, and two private faxed newsheets are published almost daily. These represent a variety of political viewpoints. In June the National Communications Council suspended the activities of the FRODEBU opposition political party's newspaper, L'Aube de la Democratie. In October the Council temporarily suspended the newspaper, La Verite.

Security forces and the regime harass journalists, questioning or detaining them or having their property searched and seized. In June the editors of two private faxed newsheets were detained for brief periods for failing to send advance copies of their dispatches to government agencies, even though the advance review law applies only to daily newspapers. In September the Defense Minister publicly compared some journalists to rebels and indicated that they should be treated as such. When journalists protested what they described as a death threat, the Minister explained that he meant only to criticize unprofessional journalists.

The government-owned radio broadcasts in the Kirundi language, French, and Swahili and offers limited English programming. The private radio station, Umwizero, is financed by international donors and broadcasts in French and Kirundi. Listeners also can receive transmissions of the British Broadcasting Corporation, the Voice of America, and Radio France Internationale. A clandestine radio station operated by Hutu rebels once broadcast briefly from the Democratic Republic of Congo.

No laws or regulations limit academic freedom, and no persons at the University of Burundi were persecuted for what they published or said. However, the state university remains primarily ethnic Tutsi. Tensions occasionally flare between Hutu and Tutsi students on campus, where politically and ethnically motivated killings occurred in 1995 and 1996.

b. *Freedom of Peaceful Assembly and Association.*—The Government restricts freedom of assembly. The Transitional Constitutional Act permits political demonstrations, but in practice none have been allowed by the Government.

The Government restricts freedom of association and has arrested members of organizations and political parties.

The Transitional Constitutional Act permits political parties to operate; however, the regime places restrictions on groups critical of its policies.

c. *Freedom of Religion.*—The transitional Constitutional Act provides for freedom of religion, and the Government respects this right in practice. There is no state religion, and the Government does not restrict freedom of worship.

d. *Freedom of Movement Within the Country, Foreign Travel, Immigration, and Repatriation.*—The Transitional Constitutional Act provides for these rights; however, the Government restricts this right in practice.

Beginning in September the regime forcibly relocated an estimated 330,000 Hutus from Bujumbura Rural province. Residents of parts of Bujumbura Rural more heavily populated by Tutsis were not subject to relocation. The relocated population, at "regroupment sites," some of which were remote, at times lacked access to food, safe drinking water, shelter, basic sanitation, and health care. Authorities said that they were relocating the population to protect it from rebels, but there were credible reports that the displacements also were used to remove rebels from the relocated population and to impede civilian assistance to rebels. Persons who tried to leave the sites, allegedly to search for food and water, reportedly were shot, sometimes fatally, by soldiers.

At year's end, about 550,000 other citizens remained in internally displaced persons (IDP's) camps created in 1993–94 throughout the country. With the recently relocated persons, a total of 13 percent of the population live in 360 sites, according to an international relief organization. Inhabitants of these sites raised some of their own food with the permission of the armed forces. Soldiers guarding these camps provide a measure of protection to camp inhabitants; however, they sometimes commit human rights abuses against them.

Camp inhabitants often are required to perform labor for the soldiers without compensation (see Section 6.c.).

Civilians who remain outside the sites reportedly have been killed by Hutu rebels for allegedly collaborating with authorities and by the armed forces on suspicion of collaborating with the rebels.

The authorities occasionally restricted foreign travel for political reasons in the past; there was one such case in 1999. In August an official from the FRODEBU wing of the party, which is critical of the regime, was prevented temporarily from leaving the country for consultations related to the peace talks in Arusha. Authorities cited legal, not political, reasons.

The majority of citizens could travel legally in and out of the country.

Travel within the country is possible but could be hazardous in areas of rebel activity, particularly in parts of Bujumbura Rural, Bururi, Rutana, and Makamba provinces.

The armed forces sometimes denied access to certain areas to human rights observers, citing dangerous security conditions (see Section 4).

The U.N. High Commissioner for Refugees (UNHCR) reported that as of the end of September, about 11,000 Burundian refugees were repatriated in the course of the year from Rwanda, Tanzania, the Democratic Republic of Congo, and other countries. During the same period, an estimated 25,000 Burundians fled Burundi to Tanzania, according to the UNHCR. Approximately 296,000 Burundian refugees, most of them Hutu, remain in Angola, Cameroon, the Republic of the Congo, the Democratic Republic of Congo, Kenya, Malawi, Rwanda, Tanzania, and Zambia. Some of these persons fled as early as 1972, and many fled following the assassination of former president Ndadaye in October 1993.

The Government has granted first asylum in recent years.

Approximately 325 citizens of the Democratic Republic of Congo live in Burundi, many of whom claim asylum. Rwandan refugees who fled the 1994 ethnic massacres in Rwanda departed the country by 1997. Another 200,000 Rwandans who came in earlier waves of refugees, some as early as 1959, are not registered officially with the UNHCR and are integrated into Burundian society.

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

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

Citizens do not have the right to change their government. The Transitional Constitutional Act makes no provision for elections. The 1992 Constitution and 1994 Convention of Government were suspended by the Buyoya military regime that assumed power on July 25, 1996, in a bloodless coup. On that date, the regime dissolved the National Assembly and banned political parties. About 3 weeks later, Buyoya announced the restoration of the National Assembly and political parties with certain restrictions. The National Assembly is dominated by the opposition party, FRODEBU, which draws the majority of its membership from the Hutu ethnic group.

In April 1998, multiparty peace talks began in Arusha, Tanzania, and Burundi's regime subsequently launched an internal peace process. On June 4, 1998, the National Assembly and the Government entered into a partnership agreement. The National Assembly adopted a Transitional Constitutional Act and a Transitional Political Platform. The act changed the structure of government by eliminating the post of prime minister, creating two vice presidents, removing the National Assembly Speaker from the line of presidential succession, and enlarging the National Assembly. The act placed no time limits on the President's or the National Assembly's term of office. By year's end, no such limits had been enacted, and no future presidential or national assembly elections had been scheduled.

The Transitional Political Platform endorses in general terms the restoration of democracy and correction of the ethnic imbalance within the army and the judicial system. It calls for the creation of an international tribunal to try crimes of genocide. No such tribunal had been created by year's end.

On June 12, 1998, a new Government was announced in which the First Vice President and 10 of the 22 cabinet ministers are members of FRODEBU. The Cabinet includes 12 Hutus, including the Minister of External Relations. Progovernment ethnic Tutsi members hold the key Ministries of Defense, Interior, Justice, and Finance.

Under the 1992 Constitution, deposed President Ntibantunganya would have remained in office until 1998. The last elections to fill the Assembly took place in June 1993. The Transitional Constitutional Act stipulates that the National Assembly shall consist of 121 parliamentarians: those elected in 1993 who sat in the previous National Assembly, plus 40 new members—28 members of civil society appointed by the President and one representative each (selected by their respective parties) from all 12 officially recognized political parties not previously represented. Not all of those elected in 1993 are alive or in the country, and the vacant seats were filled by substitutes from the same political party as the original parliamentarian. Tutsi supporters of the Government filled many of the 40 new seats.

Political parties operate under significant constraints.

The National Assembly has nominal budgetary oversight, but the Council of Ministers legally can enact a budget if the National Assembly fails to do so. The Transitional Constitutional Act gives the President the authority to declare a state of

emergency by decree after consulting with the National Assembly Speaker, the National Security Council, and the Constitutional Court. No legal restrictions hinder the participation of women or indigenous people in elections or politics; however women and the ethnic Twa (Pygmies) are underrepresented in government and politics. Of the 22 cabinet seats, 1 is filled by a woman, who serves as the Minister of Women, Welfare, and Social Affairs. (In the previous government women held 2 of the 24 cabinet seats.) In 1993 women were elected to 9 of 81 seats in the National Assembly. One of these nine women was killed in Cibitoke province in 1995. The expansion of the National Assembly and the filling of vacant seats has brought the total of female parliamentarians to 16. One of the nine members of the Supreme Court is a woman as are three of the seven Constitutional Court members, including its president. About 1 percent of the population is Twa, but there are no Twa in the Cabinet. One Twa is an appointed member of the National Assembly (also see Section 5).

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

Domestic human rights groups received varying degrees of cooperation from government ministries. The local human rights group, Iteka, continued to operate and publish a newsletter. Amnesty International representatives and the U.N. Special Rapporteur for Human Rights visited the country during the year. The U.N. High Commissioner for Human Rights maintains an office in the country, but reduced its observer staff in October due to poor security conditions (see Section 1.a.).

Real and claimed insecurity in rural areas was cited by the regime in denying access to some areas of the country to journalists, international relief workers, and human rights observers. Army elements in the field frequently denied access to human rights observers when the army was accused of human rights violations. For example, human rights observers were denied full access to areas in Bujumbura Rural province, where the army is believed to have killed more than 50 civilians on August 10, 11, and 12 (see Section 1.a.).

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

The Transitional Constitutional Act provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, religion, or opinion. However, the Government failed to implement effectively the act's provisions. Hutus continue to perceive, correctly, that the Tutsi-dominated government and army discriminate against them. The question of exclusion was a central question at the peace talks in Arusha.

Women.—Violence against women occurred, but its extent is undocumented. Wives have the right to charge their husbands with physical abuse, but they rarely do so. Police normally do not intervene in domestic disputes, and the media rarely report incidents of violence against women. No known court cases dealt with the abuse of women.

Women face legal and societal discrimination. Explicitly discriminatory inheritance laws and discriminatory credit practices continued. By law, women must receive the same pay as men for the same work, but in practice they do not. Women are far less likely to hold mid-level or high-level positions. In rural areas, women traditionally perform hard farm work, marry and have children at an early age, and have fewer opportunities for education than men.

Children.—The law provides for children's health and welfare, but the Government cannot adequately satisfy the needs of children and, in particular, of the large population of orphans resulting from the violence since 1993. Many of the victims in the civil war are children. The Government provides elementary education at nominal cost through grade six. About 44 percent of children are enrolled in primary school. The Government provides subsidized health care.

People with Disabilities.—The Government has not enacted legislation or otherwise mandated access to buildings or government services for persons with disabilities. There are few job opportunities for the physically disabled in Burundi, where most jobs involve significant manual labor.

Indigenous People.—The Twa (Pygmies), who are believed to be the country's earliest human inhabitants, now make up only about 1 percent of the population, and generally remain economically, socially, and politically marginalized. Most Twa live in isolation, uneducated, and without access to government services, including health care. One Twa was appointed to the National Assembly, but the Twa are underrepresented in the political process.

National/Racial/Ethnic Minorities.—The principal national problem continued to be ethnic conflict between the majority Hutus and the minority Tutsis. Burundi's

civil conflict stems from more than three decades of violence and systematic discrimination, which compounds the fears by both sides of genocide and exclusion. Tutsis claim to have been the targets of a genocide carried out in 1993 by Hutus angered over the assassination of democratically elected Hutu president Ndadaye. The Tutsis historically have held power, and they dominate educated society and control the security forces. In 1996 a coup deposed president Ntibantunganya, a Hutu, and replaced him with Major Pierre Buyoya, a Tutsi.

The Transitional Constitutional Act provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, religion, or opinion. However, the Government failed to implement effectively the act's provisions. The Tutsi-dominated government and army discriminate against Hutus. State discrimination against Hutus, who constitute an estimated 85 percent of the population, affects every facet of society, but most strikingly higher education and certain branches of the Government such as the armed services and the judicial system. The President and the Tutsi-dominated army retain their dominance in decision making and have not initiated genuine power sharing.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Code protects the rights of workers to form unions, although the army, gendarmerie, and foreigners working in the public sector are prohibited from union participation. Most union workers are urban civil servants.

According to the Confederation of Free Unions of Burundi (CSB), an umbrella trade union, 60 percent of the 80,000 formal private sector employees are unionized. All employees in the public sector, except those prohibited by law, are unionized.

Since gaining independence from the Government in 1992, the CSB has been dependent financially on a system of checkoffs, as are local unions. In 1995 a rival umbrella trade union, the Confederation of Burundi Unions (COSEBU) was founded. Both COSEBU and the CSB represented labor in collective bargaining negotiations in cooperation with individual labor unions during the year.

Tutsis dominate the formal sector of the economy and the unions.

The Labor Code permits the formation of additional unions or confederations outside the CSB. When settling disputes in which more than one labor union is represented, the law stipulates that the Minister of Labor must choose the union representing the greatest number of workers to participate in the negotiations.

The Labor Code provides workers with a restricted right to strike. The restrictions on the right to strike and to lock out include: All other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the Government; and 6 days' notice must be given. The law prohibits retribution against workers participating in a legal strike, and this provision is respected. Strikes by telecommunications and social security workers took place without government intervention.

Unions are able to affiliate with international organizations.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code recognizes the right to collective bargaining, formerly acknowledged only by ordinance. Since most workers are civil servants, government entities are involved in almost every phase of labor negotiations.

Public sector wages are set in fixed scales in individual contracts and are not affected by collective bargaining. In the private sector, wage scales also exist, but individual contract negotiation is possible.

The Labor Code gives the Labor Court jurisdiction over all labor dispute cases, including those involving public employees. Negotiations are conducted largely under the supervision of the tripartite National Labor Council, the Government's highest consultative authority on labor issues. The Council represents government, labor, and management and is presided over and regulated by the Minister of Labor.

The Labor Code prohibits employers from firing or otherwise discriminating against a worker because of union affiliation or activity. This right is upheld in practice.

There are no functioning export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits the performance of forced or compulsory labor by adults or children; however, soldiers guarding internally displaced persons sites often require inhabitants to cook, fetch water, chop wood, and perform other chores without compensation. The rebels also require peasants to perform uncompensated labor, including the transport of supplies and weapons. Apart from these situations, forced labor is not known to occur. There were no reports of forced child labor.

d. *Status of Child labor Practices and Minimum Age for Employment.*—The Labor Code states that children under the age of 16 cannot be employed by "an enterprise"

even as apprentices, although it also states that they may undertake occasional work that does not damage their health or interfere with their schooling. In practice, children under age 16 in rural areas do heavy manual labor during the daytime in the school year.

The minimum age for military service is 18, but there are believed to be some children below that age in the army.

Children are prohibited legally from working at night, although many do so in the informal sector. Most of the population lives by subsistence agriculture, and children are obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector. The law prohibits forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The formal minimum wage for unskilled workers is $0.27 (160 francs) per day in the cities of Bujumbura and Gitega, and $0.23 (140 francs) in the rest of the country, with a graduated scale for greater skill levels. This amount does not allow a worker and family to maintain a decent standard of living, and most families rely on second incomes and subsistence agriculture to supplement their earnings. A 1997 survey of day labor wage rates in nine provinces by an international organization revealed that actual wages ranged upward from the equivalent of $0.30 per day.

Unionized employees, particularly in urban areas, generally earn significantly more than the minimum wage. Public sector wages are set by agreement between the government and either the CSB or COSEBU.

The Labor Code stipulates an 8-hour workday and a 40-hour workweek, except in cases where workers are involved in activities related to national security. Supplements must be paid for overtime. Foreign workers are protected by law and are not subject to discrimination.

The Labor Code establishes health and safety standards that require an employer to provide a safe workplace and assigns enforcement responsibility to the Minister of Labor. However, the Ministry does not enforce the code effectively. Health and safety articles in the Labor Code do not address directly workers' rights to remove themselves from dangerous tasks.

f. *Trafficking in Persons.*—No law was known specifically to prohibit trafficking in persons, although abduction and imposition of involuntary servitude have been serious crimes since the colonial era. There were no reports of trafficking in persons during the year.

CAMEROON

Cameroon is a republic dominated by a strong presidency. Since independence, a single party, now called the Cameroon People's Democratic Movement (CPDM), has remained in power and limited political choice. In October 1997, CPDM leader Paul Biya won reelection as President in an election boycotted by the three main opposition parties, marred by a wide range of procedural flaws, and generally considered by observers not to be free and fair. Although the Government legalized opposition parties in 1990 after widespread protests, most subsequent elections, including the May 1997 legislative elections, which were dominated by the CPDM, were flawed by numerous irregularities. International and local observers generally consider the election process, which is controlled by the Government's Ministry of Territorial Administration, as not free and fair. No President has ever left office in consequence of an election. The President retains the power to control legislation or to rule by decree. In the National Assembly, government bills take precedence over other bills, and no bills other than government bills have been enacted since 1991, although legislation proposed by the Government sometimes has not been enacted by the Assembly. The President repeatedly has used his control of the legislature to change the Constitution. The 1996 Constitution lengthened the President's term of office to 7 years, while continuing to allow Biya to run for a fourth consecutive term in 1997 and making him eligible to run for one more 7-year term in 2004. The Government has taken no formal action to implement other 1996 constitutional changes that provide for new legislative institutions, including a partially elected senate and elected regional councils, and a more independent judiciary, even though the President had announced in 1997 that most of these reforms would be implemented in 1998. Although the country's first local government elections were held in 1996, President Biya limited their scope by expanding the number of municipal governments headed by presidentially appointed "delegates" rather than permitting the election of mayors, especially in pro-opposition regions. The Government remained highly central-

ized. The judiciary is subject to political influence and suffers from corruption and inefficiency.

Internal security responsibilities are shared by the national police (DGSN), the National Intelligence Service (DGRE), the gendarmerie, the Ministry of Territorial Administration, military intelligence, the army, and to a lesser extent, the Presidential Guard. The police and the gendarmerie have dominant roles in enforcing internal security laws. The security forces, including the military forces, remain under the effective control of the President, the civilian Minister of Defense, and the civilian head of police. The security forces continued to commit numerous serious human rights abuses.

The country's population of about 15 million had a recorded mean per capita Gross National Product (GNP) of about $590. Following nearly a decade of economic decline, economic growth resumed in 1994 and subsequently has continued, due chiefly to large public sector salary cuts, a 50 percent currency devaluation, stabilization of terms of trade, and increased external preferential financing and debt relief. In recent years, recorded mean per capita GNP growth has averaged about 2 percent a year in real terms. However, economic recovery continues to be inhibited by a large inefficient parastatal sector, excessive public sector employment, growing defense and internal security expenditures, and by the Government's inability to collect internal revenues effectively, especially in economically important pro-opposition regions. Widespread corruption in government and business also impedes growth. The civil service and the management of state-owned businesses have been dominated by members of the Beti and Bulu ethnic groups. The majority of the population is rural, and agriculture accounts for 25 percent of GNP. Principal exports include timber, coffee, cocoa, cotton, bananas, and rubber. The Government also continued to receive substantial assistance from international financial institutions.

The Government's human rights record continued to be generally poor, and government officials continued to commit numerous serious abuses. Citizens' ability to change their government remained limited. Security forces committed numerous extrajudicial killings; reportedly were responsible for disappearances, some of which may have been politically motivated; and tortured and often beat and otherwise abused detainees and prisoners, generally with impunity. However, the Government prosecuted some of the most egregious offenders; policemen were convicted and sentenced to prison terms for several extrajudicial killings, although the sentence in at least one case was reduced greatly on appeal. Conditions remained harsh and life threatening in almost all prisons, although the Government granted international humanitarian organizations increased access to prisoners. Security forces continued to arrest and detain arbitrarily various opposition politicians, local human rights monitors, and other citizens, often holding them for prolonged periods, often without charges or chance for trial and, at times, incommunicado. Security forces conducted illegal searches and harassed citizens. The judiciary remained corrupt, inefficient, and subject to political influence. A military tribunal exercised criminal jurisdiction over civilians and denied them fair trials. The Government infringed on privacy and monitored and harassed some opposition activists. The Government continued to impose some limits on press freedom. Although private newspapers enjoyed considerable latitude to publish their views, journalists continued to be subject to serious official harassment. Unlike previous years, there were no reports that the Government seized newspaper editions; however, the Government continued its prosecutions of pro-opposition journalists under criminal libel laws. The Government continued to obtain convictions against several journalists under these laws. A 1996 law revoked formal press censorship and moved supervision of the press from the administrative authorities to the courts, but the Government has not yet implemented a 1990 law designed to end its virtual monopoly of domestic broadcast media. The Government sometimes restricted freedom of assembly and association. At times the Government used its security forces to inhibit political parties from holding public meetings. Government security forces limited freedom of movement and at times impeded the activities of nongovernmental organizations (NGO's). Violence and discrimination against women remained serious problems. Female genital mutilation (FGM) persisted in some areas. Discrimination against indigenous Pygmies continued. Societal discrimination based on religion persisted in some areas. Discrimination against ethnic minorities remained widespread. The Government continued to infringe on workers' rights, and restricted the activities of independent labor organizations. Child labor remained a problem. Slavery reportedly persisted in parts of northern Cameroon. Forced labor and child labor, including forced child labor, were problems. There were reports of trafficking in persons. Mob violence continued to result in some deaths.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of political killings; however, the security forces continued to use excessive, lethal force against private citizens and committed numerous extrajudicial killings.

On the night of January 18–19, in the Yaounde neighborhood of Cite Verte, a gendarmerie captain named Angoula shot and killed Yves Atiback following a dispute. Captain Angoula was arrested and charged with murder. At year's end, he was detained in the Yaounde Central Prison, where he was awaiting trial.

On February 4, villagers in Bali in the Northwest Province seized three young Fulani shepherds, Issa Adamaou, Salihou Sinbo, and Idrissou Kari, and killed them by burning them alive without trial. The villagers allegedly acted on the orders of the Fon of Bali, the local traditional ruler, who reportedly accused the shepherds of having stolen two of the Fon's cows. Police arrested seven individuals in connection with these killings, but by year's end their trial had not begun. The Fon of Bali was not arrested or detained.

In March, Denis Nzidchem, a detainee in Douala's New Bell Prison, died of injuries inflicted by Douala police and prison guards after they apprehended Nzidchem following his escape the previous day.

In a September bar fight over a woman, three members of the Presidential Guard beat to death Theophole Mbasi Ombe. Ombe died on September 24 in Obala Hospital.

There was a media report that in October, Frederic Djomeli died of internal bleeding in the hospital in Bafang in Haut-Nkam Division of the West Province, shortly after he was released from police custody and found bleeding and unconscious on a street. According to the media report, his family filed suit against Police Superintendent Simon Menzoui, alleging that police officers tortured Djomeli on Menzoui's orders after arresting him on suspicion of having stolen windshields from parked motor vehicles.

Credible reports by the press and the Maroua-based Movement for the Defense of Human Rights and Liberties (MDHRL), one of the few operating human rights organizations in the Far North province, describe a large but undetermined number of extrajudicial killings perpetrated by a special antigang gendarmerie unit tasked with combating highwaymen. This unit was created under the direct authority of the Minister of Defense and operates outside the normal chain of command for law-and-order units. While some armed suspects were killed in firefights with law-and-order forces, there were credible reports that others caught in dragnet operations were executed summarily. Families of the deceased and human rights NGO's have accused the head of this unit, Colonel Pom, of extrajudicial killings of innocent locals. The MDHRL estimated that between 300 and 800 persons have been killed since the beginning of 1998. The Government's National Commission on Human Rights and Freedoms (NCHRF) confirmed this estimate of the number of killings, although it has been unable to determine the exact number of persons killed, since many of the victims' families are too frightened to speak with human rights groups. At least one private newspaper, the Douala-based biweekly Mutations, also reported in 1998 that security forces summarily executed hundreds of alleged highway robbers in northern Cameroon during recent years.

Numerous prisoners died in custody due to abuse inflicted by members of the security forces or harsh prison conditions and inadequate medical treatment (see Section 1.c.). Samuel Muko, one of several Anglophones arrested in the Northwest Province in September 1998 on suspicion of manufacturing guns and subsequently detained in Bafoussam Central Prison in the West Province, died in the Gendarmerie Hospital in Bafoussam in October reportedly as a result of mistreatment allegedly including torture and starvation in prison. Muko allegedly weighed only 100 pounds when he died. According to reliable reports, at least eight detainees held after March 1997 attacks on government installations in Northwest Province died from abuse or illness and inadequate care since their imprisonment (see Section 1.c.). According to a human rights group in Bamenda, Patrick Jimbou died in Yaounde's Jamot Hospital on June 28 after a lengthy illness due to poor treatment in prison, and Laurence Fai died on August 31, 1998.

In May U.N. Commission on Human Rights Special Rapporteur Nigel Rodley investigated torture and extrajudicial killings in the Far North Province (see Sections 1.c. and 4), but the conclusions of his trip and final report were not made public during the year.

On June 10, at the conclusion of a judicial process that began in January, the Douala Higher Instance Court upheld the conviction of policeman Noe Nguene and sentenced him to 20 years in prison for having shot and killed Alain Tuno Fossi,

a 28-year-old Douala-based businessman, at a roadblock in July 1998. Fossi's funeral procession had been joined by a group of Douala residents protesting police brutality.

On September 29, 1998, Thomas Ngoh, an Anglophone barkeeper, died while in detention by gendarmes in the town of Wum in the Northwest Province. According to a post mortem report by a doctor of Wum Main Hospital, Ngoh died of a fracture of the sternum, and his corpse also had several other broken bones, was missing toenails that had been pulled out, and had large injuries on the back and buttocks as well as candle wax drippings on parts of the body. Ngoh had been detained on September 27 by gendarmes, one of whom, Martin Nzeffe, had left his service pistol overnight at Ngoh's bar, from which it allegedly was stolen. In October manslaughter charges were filed against Nzeffe and another gendarme, Singa Docta, who were detained in Baffoussan Prison awaiting trial as of year's end.

On December 28, 1998, Police Inspector Gaston Ndjere shot and killed 20-year-old Guy Herv Diesse at the gate of Diesse's family house in Bafoussam. The shooting followed a fight between Diesse and four other men, including Ndjere and policeman Yves Marie Ngongang. Ndjere and Ngongang were arrested. The Bafoussam Higher Instance Court convicted Njere of murder and on August 2 sentenced him to life imprisonment and ordered the Government to pay damages equivalent to about $36,000 to Diesse's family. Ngongang, too, was tried but was acquitted and released.

On February 9, the Yaounde Court of Appeals ruled on the cases of former Police Commissioner Joseph Nsom Bekoungou and Police Inspector Jacques Bama, both of whom a lower court had convicted in 1998 in connection with the November 1997 death of a robbery suspect in their custody, Emile Maah Njock, after interrogating officers beat him and applied an electric iron to his genitals and other parts of his body during a 3-day effort to extract a confession. From "complicity in torture," the charges against Bekoungou were lowered to "omission to provide assistance." This resulted in his 6-year jail term being reduced to a 1-year jail term and a fine. The same appeals court reduced Bama's prison term from 10 to 8 years, declared the DGSN responsible for the death, and ordered the Government to pay damages to Njock's family.

There were no known developments in three apparently unclosed 1998 cases: The reported January 1998 police killing of Serge Francois Massoma; the June 1998 police killing of a 17-year-old male during racial violence against whites in Yaounde; the June 1998 police shooting of truck driver Jean-Marie Penga at a roadblock in Douala.

There continued to be no developments in the 1997 security force killing of Faustin Fetsogo and of five persons killed in 1997 during opposition politician Koulagne Nana's election campaign following a skirmish with the forces of a traditional ruler loyal to the ruling party.

Ethnic conflicts in rural areas continued to generate occasional mass violence in at least one instance (see Sections 1.c. and 5), but there were no reports of deaths due to such violence during the year.

Mob violence and summary justice directed against suspected thieves and those suspected of practicing witchcraft and other crimes reportedly continued to result in a number of deaths and serious injuries. Although the number of reported cases of mob killings appeared to diminish in major cities during the year, such incidents reportedly have continued in rural areas in recent years. In one case during the year, a mob lynched an alleged chicken thief. The burning to death of three Fulani shephers in Bali in connection with an alleged cattle theft also appeared to involve elements of mob violence.

b. *Disappearance.*—There were reports of disappearances of persons in the custody of security forces; there had been no such reports in previous recent years. Some of these reported disappearances may have been politically motivated.

A spokesman for a Chadian political party stated in a radio interview that in July, Chadian political refugees Jim Temba and El Hadj Bakeye, who had been living in the northern part of the country, were summoned by Cameroonian security forces and were never seen again. Local human rights monitors have judged this report credible.

A number of Chadian herders were reported as disappeared and presumed killed.

The family of truck driver Mahamat Oumar was unable to find him between September 25, when elements of the special gendarmerie antigang unit based in the Far North Province arrested him, and year's end.

The Government had not initiated any public investigation of any of these disappearances by year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code proscribes torture, renders inadmissible in court evidence obtained

thereby, and prohibits public servants from using undue force against any person; however, although President Biya also promulgated a new law in 1997 that bans torture by government officials, there were credible reports that security forces continued to torture, beat and otherwise abuse prisoners and detainees. In New Bell and other nonmaximum-security penal detention centers, beatings are common and prisoners reportedly are chained or flogged at times in their cells. However, the authorities often administer beatings not in prison facilities but in temporary detention areas in a police or gendarme facility. Two forms of physical abuse commonly reported to be inflicted on detainees include the "bastinade," in which the victim is beaten on the soles of the feet, and the "balancoire," in which the victim, with his hands tied behind his back, is hung from a rod and beaten, often on the genitals. Nonviolent political activists often have been subjected to such punitive physical abuse during brief detentions following roundups of participants in antigovernment demonstrations or opposition party political rallies.

Security forces subject prisoners and detainees to degrading treatment that includes stripping, confinement in severely overcrowded cells, and denial of access to toilets or other sanitation facilities. Police and gendarmes often beat detainees to extract confessions and the names and whereabouts of alleged criminals. Pretrial detainees sometimes are required, under threat of abuse, to pay so-called "cell fees" (essentially a bribe to the prison guards to prevent further abuse).

Government officials at the Nkondengui and Mfou production prisons near Yaounde continued to inflict severe physcial abuse on the incarcerated survivors of the Anglophones who were arrested in a security force dragnet following armed attacks in March 1997 on government facilities in the Northwest Province (see Section 1.e.). Two individuals acquitted of the same charges by a military tribunal in 1997 and released in 1998, alleged that they had been tortured repeatedly, often by flogging, at the garrison of the Lakeside gendarmerie company in Yaounde. The Anglophone detainees have argued consistently that their original confessions were extracted through torture. Such torture ranged from severe beating to being forced to walk on sharp objects while barefoot. One of these detainees had to have all of his toes removed due to the extent of his injuries from bastinade torture. Although the military court that tried these detainees allowed them to state these charges, it did not rule the testimony extracted through torture as inadmissible.

On January 17, in the Yaounde neighborhood of Melen, a group of armed men, one of whom had identified himself as working for a "colonel," shot at Hilaire Tshudjo Kamga, secretary general of Conscience Africaine, a human rights NGO, and ran his car off the road in a car chase, inflicting injuries that required hospitalization. The attack came shortly after Kamga received several telephone calls threatening his life in connection with his human rights work (see Section 4).

On May 11 in Buea, the capital of the Anglophone South West Province, four gendarmes in plain clothes dragged Martin Zacharia Njeuma, a university professor of history, out of his vehicle, and beat him severely. Although authorities subsequently indicated that this was a case of mistaken identity, police authorities took no disciplinary action. Mr. Njeuma reportedly attempted to pursue a court case against the gendarmes.

In October in Bafoussam in the West Province, gendarmes using batons publicly beat four employees of the Bafoussan urban council 50 times each on the soles of their feet. The public beating reportedly was ordered without any judicial process by provincial governor Admadou Tidjani, also known as "Pinochet" among inhabitants of the West Province. The four urban council employees reportedly had fought with a taxi driver in the course of manning a road checkpoint that the locally elected but revenue-poor opposition-dominated urban council continued to maintain in order to enforce revenue-generating local traffic ordinances after the governor, a central government appointee, had ordered it dismantled (see Section 3).

It was learned during the year that on September 29, 1998, an Anglophone barkeeper died while in detention, reportedly as a result of torture by gendarmes in the town of Wum in the Northwest Province; two gendarmes reportedly were facing manslaughter charges in connection with this killing (see Section 1.a.).

In October an Anglophone man detained in Bafoussam since September 1998 on suspicion of manufacturing guns died of mistreatment reportedly including starvation and torture, and allegedly weighing only 100 pounds at his death (see Section 1.a).

There was a media report that in October in Bafang in the West Province, a man detained by police on suspicion of having stolen windshields from parked motor vehicles died from massive internal bleeding shortly after being released from police custody (see Section 1.a.). However, initial investigation could not confirm this report.

Seke Columban, the police commissioner in Guider, in North Province, beat Madi Baddai both while arresting him in a nightclub on September 14, and during a subsequent 4-day detention, causing serious injuries. The Commissioner reportedly became enraged with Madi Baddai after Madi Baddai inadvertently touched the commissioner at the night club; refusing to accept Madi Baddai's apologies, the commissioner reportedly dragged him to the police station while continuing to beat him. Although Madi Baddai filed charges against the commissioner, no action against him had been taken by year's end (see Section 1.d.).

In November police in Yaounde beat on the soles of their feet several persons whom they were detaining without charge at a district police station (see Section 1.d.).

Security forces harassed and threatened journalists (see Section 2.a.).

Security forces frequently used roadblocks to exact bribes or thwart opposition political activities (see Section 2.d.).

On February 22, the Douala Military Tribunal convicted of breach of orders causing bodily harm and destruction an undisclosed number of personnel of the 21st Navy Battalion who in January 1998 broke into a church in Douala, beat and stabbed the priest and several youths, raped young women, and stole funds. The tribunal sentenced them to 1 years' imprisonment with no possibility of remission. At year's end, the Buea military tribunal was preparing to try the commander of the 11th Navy Battalion and two noncomissioned officers in conncection with looting and alleged beatings and rapes of civilians by naval cadets in the Anglophone Southwest Province port of Limbe in November 1998. There were no developments in other 1998 cases of nonlethal violence by security forces.

On June 22, there was an incident of tribal violence in the Northwest Province, where there was a land dispute involving the Awings and the Balighams. Several people were injured in the conflict, before the dispute was finally settled by the Northwest Fons Conference (NOWEFCO) (see Section 5).

Prison conditions remained harsh. Prisons are seriously overcrowded, unsanitary, inadequate, especially outside major urban areas. Serious deficiencies in food, health care, and sanitation due to a lack of funds are common in almost all prisons, including in "private prisons" in the north operated by traditional rulers. Prisoners are kept in dilapidated colonial-era prisons, where the number of detainees is four to five times the original capacity. Health and medical care are almost nonexistent, and prisoners' families are expected to provide food for their relatives in prison. Prison officials torture, beat, and otherwise abuse prisoners (see Section 1.c.). Prisoners routinely die due to harsh prison conditions and inadequate medical treatment. In Douala's New Bell Prison, there were only seven water taps for a reported 2,300 prisoners; this contributed to poor hygiene, illness, and deaths. In New Bell and other nonmaximum-security penal detention centers, families are permitted to provide food and medicine to inmates. However, beatings are common. Prisoners reportedly are chained or flogged at times in their cells and often are denied adequate medical care.

Credible press reports indicate that Douala's New Bell prison, originally built for 600 inmates, held more than 2,300 during the year. A 1997 report on prison conditions indicated that Bertoua Prison, which was built to hold 50 detainees, housed over 700 persons. The Kondengui Central Prison in Yaounde, constructed in 1967 to hold 1,500 inmates, reportedly held more than twice that number during the year. The government official in charge of prisons, Antar Gassagay, reportedly said in June that the Central Prison of Bafoussam, built for 320 inmates, held 3,140 persons. Overcrowding is exacerbated by the large number of long pretrial detentions and the practice of "Friday arrests" (see Section 1.d.). According to credible press reports, more than 1,400 of the inmates of the Douala prison were pretrial detainees, whereas only 900 were convicted prisoners.

Juveniles and nonviolent prisoners often are incarcerated with violent adults, although not usually in the same cells. There are credible reports of sexual abuse of juvenile prisoners by adult inmates. Corruption among prison personnel is widespread. Persons awaiting trial often are held in cells with hardened criminals. There are few detention centers for women; women routinely are held in prison complexes with men, occasionally in the same cells. Some high-profile prisoners are able to avoid some of the abuse that security forces routinely inflict on many common criminals. They are held in elite wings of certain prisons, where they enjoy relatively lenient treatment.

Numerous NGO's, diplomatic missions, and the NCHRF all have criticized publicly the conditions of the group of Anglophone detainees arrested in 1997. One reliable report described 28 detainees sharing a cell measuring 14 square meters (about 140 square feet). At least eight of the original detainees reportedly have died from

abuse or lack of medical care: Emmanuel Konseh, Samuel Tita, Mathias Gwei, Neba Ambe, Mado Nde, Richard Fomusoh Ngwa, Patrick Jimbou, and Lawrence Fai.

In the north, the Government permits traditional Lamibe (chiefs) to detain persons outside the government penitentiary system, in effect in "private prisons." The places of detention in the palaces of the traditional chiefs of Rey Bouba, Gashiga, Bibemi, and Tcheboa have the reputation of seriously mistreating their inmates. Members of the National Union for Democracy and Progress (UNDP) party, which was in opposition until late 1997, have alleged that other UNDP members have been detained in these private jails and that some have died from mistreatment.

Both the Cameroonian Red Cross and the NCHRF visited prisons only infrequently during the year. However, the International Committee of the Red Cross (ICRC) began to visit prisons on March 1, pursuant to a December 1998 agreement with the Government under which the ICRC was to have free access to all detention centers and prisons, have private discussions with the inmates, and make repeated or unscheduled visits (see Section 4). Although the ICRC does not release its findings publicly, the Government generally complied with its agreement with the ICRC, which had not conducted prison visits in the country during the previous 7 years due to dissatisfaction with the limited access allowed by the Government. However, despite government assurances that he would have free access to such sites, officials denied U.N. Special Rapporteur for Human Rights Nigel Rodley access in May to holding cells operated by the Government's special antigang unit (see Sections 1.a. and 1.b.).

d. *Arbitrary Arrest, Detention, or Exile*.—The Penal Code requires that an arrest warrant be required for any arrest, except when the criminal is caught in the act; however, security forces continued to arrest and detain citizens arbitrarily. The Penal Code also stipulates that detainees be brought promptly before a magistrate; however, arbitrary, prolonged detention remained a serious problem, as security forces often failed to bring detainees promptly before a magistrate and sometimes held them incommunicado for months or even years.

Police legally may detain a person in custody in connection with a common crime for up to 24 hours, renewable three times, before bringing charges. However, the law provides for the right to a judicial review of the legality of detention only in the two Anglophone provinces. Elsewhere, the French legal tradition applies, precluding judicial authorities from acting on a case until the administrative authority that ordered the detention turns the case over to the prosecutor. After a magistrate has issued a warrant to bring the case to trial, he may hold the detainee in administrative or "pretrial detention" indefinitely, pending court action. Such detention often is prolonged, due to the understaffed and mismanaged court system. Furthermore, a 1990 law permits detention without charge by administrative authorities for renewable periods of 15 days, ostensibly in order to combat banditry and maintain public order. Persons taken into detention frequently are denied access to both legal counsel and family members. The law permits release on bail only in the Anglophone provinces, where the legal system includes features of British common law. Even there bail is granted infrequently.

Government officials and security forces continued to use arbitrary arrest to harass and intimidate members of opposition parties and other critics of the Government. On April 14, gendarmes in the Mbam and Inoubou Division of the Center Province arrested Gilbert Ndengue Ndengue, the divisional leader of the Social Democratic Front (SDF), the country's leading opposition party, when Ndengue refused to comply with an order from the deputy mayor of Deuk, a member of the ruling CPDM party, to remove portraits of SDF National Chairman John Fru Ndi that were hanging in Ndengue's house. Ndengue was charged with "aggression" and detained until December 12, when he was released on bail.

On April 20, gendarmes arrested Francois Fofie, legal advisor to the Littoral Province executive committee of the SDF opposition party, at his hotel in Yaounde during a national convention of the SDF, for allegedly possessing an illegal weapon, even though Fofie reportedly has legal authorization to carrry a weapon. Gendarmes reportedly asserted that a company that Fofie manages is supplying the SDF with weapons to wage an armed insurrection. Fofie was detained for about 2 months, then released.

Starting on July 17, on orders of the Douala urban council, security forces arrested 70 homeless and mentally disabled persons who habitually lived in the streets of the city, in order to prevent French President Jacque Chirac from seeing them during his visit to the country the following week. The 70 persons were kept in custody in a special ward of the La Quintinie Public Hospital until released on July 30. Some persons who were mistaken for homeless or mentally disabled persons also were arrested because they appeared to be part of the targeted group. Mu-

nicipal officials in Yaounde also implemented a similar roundup in connection with the Chirac visit.

On the night of September 14, in Guider, in North Province, Police Commissioner Seke Colomban, arrested Madi Baddai and detained him for 4 days. The Commissioner reportedly became enraged with Madi Baddai after Madi Baddai inadvertently touched him, and the Commissioner beat him both in the night club and while in custody (see Section 1.c.).

In November police in Yaounde arrested and briefly detained several persons, including journalist Norbert Ouendji, at a telephone kiosk, following an argument between the kiosk owner and the wife of the Minister of Territorial Administration. Several of those detained were beaten on the soles of their feet while they were held in a district police station (see Section 1.d.). No charges were filed against any police officers.

Security forces harassed and occasionally detained journalists and beat demonstrators and members of human rights NGO's (see Sections 2.a. and 2.b.).

Four Anglophones, Abel Achah Apong, Crispus Kennebie, John Kudi, and Zacque Njenta, have been in the Yaounde Central Prison since 1995, and a fifth, Etchu Wilson Arrey, since 1997. Each was incarcerated after signing or displaying a petition for a referendum on independence for the Anglophone provinces. At year's end, none of these detainees had been brought before a judge or charged with a crime.

Nana Koulagne, a former member of the National Assembly and UNDP activist, has remained in prison in Garoua since May 1997, when members of the security forces attacked and arrested him and other activists of the then-opposition UNDP while he was campaigning for election in the North Province.

Twelve refugees from Equatorial Guinea remained in offical detention at a military base at year's end, although in fact the Government allowed them substantial freedom of movement both on and off the base (see Section 2.d.).

Police and gendarmes often arrest persons on spurious charges on Fridays at midday or in the afternoon. While the law provides for a judicial review of an arrest within 24 hours, the courts do not convene sessions on the weekend, so the detainee remains in prison at least until Monday. Police and gendarmes commonly accept bribes to make such "Friday arrests" from persons who have private grievances against the person arrested. There are no known cases of any policemen or gendarmes being sanctioned or punished for this practice.

Government intimidation extends beyond the police stations and holding cells. In his efforts to combat highwaymen ("coupeurs de route"), Colonel Pom and his special antigang gendarmerie unit (see Section 1.a.) use informants to identify and accuse persons of taking part in highway robbery. Standards of proof for such accusations are nonexistent. Accusations occasionally have been used to pursue private grievances, and informants repeatedly have extorted money from innocent persons by threatening to accuse them of being bandits.

The Government does not use forced exile. However, some human rights monitors or political opponents who considered themselves threatened by the Government have left the country voluntarily and declared themselves to be in political exile.

e. *Denial of Fair Public Trial*.—The Constitution provides for an independent judiciary; however, the judiciary remains highly subject to political influence and corruption. The court system remains technically part of the executive branch, subordinate to the Ministry of Justice. The Constitution specifies that the President is the guarantor of the legal system's independence. He also appoints judges with the advice of the Supreme Council of the Magistrature. However, during the 1990's, elements of the judiciary began to show some modest signs of growing independence. For example in 1992 the Supreme Court publicly itemized numerous flaws in President Biya's reelection. In 1996 courts voided 18 municipal elections that the Ministry of Territorial Administration had declared won by ruling party candidates and ordered the Ministry to hold them again (see Section 3). Since 1997 the courts repeatedly have used powers given them under the 1996 press law to order the Ministry of Territorial Administration to desist from seizing print runs of newspapers critical of the Government. However, an appeals court overturned a criminal libel conviction of journalists on the grounds that it violated 1990 legislation providing for freedom of the press (see Section 2.a.). However, some politically sensitive cases never are heard.

The court system includes the Supreme Court, a court of appeals in each of the 10 provinces, and courts of first instance in each of the country's 58 divisions.

Military tribunals may exercise jurisdiction over civilians not only when the President declares martial law, but also in cases involving civil unrest or organized armed violence. A law on the organization of the judiciary promulgated in 1998 also transferred to military tribunals jurisdiction over gang crimes, grand banditry, and highway robbery.

The legal system includes both national law and customary law, and many cases can be tried using either. Customary law is based upon the traditions of the ethnic group predominant in the region and is adjudicated by traditional authorities of that group. Accordingly, particular points of customary law differ depending upon the region and the ethnic group where a case is being tried. In some areas, traditional courts reportedly continue to try persons accused of some offenses, such as practicing witchcraft, by subjecting them to an ordeal, such as drinking poison (see Section 2.c.). Customary courts may exercise jurisdiction only with the consent of both parties to a case; either party has the right to have any case heard by a national rather than a customary court, and customary law is supposed to be valid only when it is not "repugnant to natural justice, equity, and good conscience." However, many citizens in rural areas remain unaware of their rights under civil law and have been taught since birth that customary laws form the rules by which they must abide. Consequently, traditional courts remain important in rural areas and serve as an alternative for settling disputes. Their authority varies by region and ethnic group, but they are often the arbiters of property and domestic disputes and may serve a probate function as well. Most traditional courts permit appeal of their decisions to traditional authorities of higher rank.

Corruption and inefficiency in the courts remain serious problems. Justice frequently is delayed or denied before reaching the trial stage (see Section 1.d.). At trial political bias often brings trials to a halt or results in an extremely long process, punctuated by extended court recesses. Powerful political or business interests appear to enjoy virtual immunity from prosecution; some politically sensitive cases are settled with a payoff and thus never are heard. Private journalists, political opponents, and critics of the Government often are charged or held and sometimes jailed under libel statutes considered by observers as unduly restrictive of press freedom (see Section 2.a.). Prisoners may be detained indefinitely during pretrial proceedings.

The legal structure is strongly influenced by the French legal system, although in the Anglophone provinces certain aspects of the Anglo-Saxon tradition apply. The Constitution provides for a fair public hearing in which the defendant is presumed innocent. Because appointed attorneys receive little compensation, the quality of legal representation for indigent persons is often poor. The Bar Association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offer free assistance in some cases. Trials are normally public, except in cases with political overtones judged disruptive of social peace.

On March 1, police in Guider, in North Province, arrested and detained Mohamdou Tigele on robbery charges that allegedly were fabricated by Guider Police Commissioner Seke Colomban, who reportedly was his accomplice in a scheme to sell stolen motor bikes in Douala. Police beat him severely on March 15 (see Section 1.c.). Tigele subsequently was tried, convicted, and sentenced to two prison terms of 5 and 8 years.

During the year, the Minister of Culture sued Moise Moubitang for contempt. In 1998 Moubitang, a civil servant at the Ministry of Communications, was assaulted by the bodyguard of the Minister of Culture, arrested, and detained because he did not stop working when the visiting minister entered his work area. In July at the conclusion of a trial in which, according to Moubitang, he was not allowed to call any witnesses to testify on his behalf, a court gave Moubitang a suspended sentence of 3 years' imprisonment and ordered him to pay a fine equivalent to approximately $80.

The Government holds a number of political prisoners; however, As in previous years, there were no reliable estimates of the number of political prisoners held at the end of the year.

In April 1999, the Government began the trial of the 65 surviving Anglophones who had been detained, some for more than 2 years, on suspicion of participating in armed attacks against government installations in the Northwest Province in March 1997. This judicial process did not follow either international or national legal norms. The defendants were not told the specific charges levied against them until the opening of the trial. The Government transferred jurisdiction from a civil court to a military court on the grounds that the attacks were carried out with rifles, classified as "weapons of war." In addition, the trial location was moved from the Northwest Province where the attacks occurred and where judicial proceedings must be conducted in English, to Yaounde, in the Center Province, where judicial proceedings are conducted in French, even though there was an acceptable court in the Northwest Province. Before and during the trial, the accused were incarcerated in detention centers far from their homes and families. Relatives who attempted to make the journey to Yaounde to visit the detainees were denied prison visits. The presiding judge allowed the written testimony of key government witnesses to stand

without giving the defense the opportunity to cross-examine them. Senior government officials did not refrain from making public comments on the merits of the case while it was being adjudicated; for example, on June 17, the Minister of Defense commented before the National Assembly that "these people are nothing but grand bandits," and CRTV radio and television broadcast this remark nationwide. The tribunal admitted into evidence confessions credibly alleged in court to have been exacted under torture (see Section 1.c.). The prosecution generally did not produce eyewitnesses able to link each of the accused to the crimes, while other eyewitnesses offered contradictory testimony. In October the military tribunal convicted 37 of the accused, sentencing 3 to life imprisonment and 34 to terms ranging from 1 to 20 years in prison. The tribunal acquitted the 28 defendents, some of whom had been detained for 30 months, during which at least 8 of the persons originally arrested in this case died in custody, some of them as a result of torture inflicted on many of these detainees (see Section 1.c.). The tribunal declared itself incompetent to rule on two accused illegal Ghanaian immigrants. International human rights NGO's including Amnesty International issued public statements criticizing the trial as unfair.

Titus Edzoa, former Minister of Health and longtime presidential aide, who had declared himself a candidate to oppose incumbent President Biya in the 1997 election, remains incarcerated, together with Michel Atangana, his campaign manager. They were sentenced in 1997 to 15 years' imprisonment on embezzlement and corruption charges, for which Edzoa was arrested shortly after declaring his presidential candidacy (see Section 3). On April 27, the Yaounde Court of Appeals confirmed their convictions and their 15-year prison terms. At year's end, Edzoa reportedly still was held in confinement at the maximum security gendarmerie headquarters, in cramped quarters with very limited access to visitors.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence*.—The preamble of the Constitution provides for the inviolability of the home, for the protection against search except by virtue of law, and for the privacy of all correspondence; however, these rights are subject to the "higher interests of the State," and there were a number of credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail. The Government continued to keep some opposition activists and dissidents under surveillance.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing an inquiry and has reason to suspect that a crime has been committed. The officer must have a warrant to make such a search after dark. However, a police officer may enter a private home at any time in pursuit of a criminal observed committing a crime.

An administrative authority may authorize police to conduct neighborhood sweeps in search of suspected criminals or stolen or illegal goods without individual warrants. Such roundups are conducted frequently. During the year, as in 1998, sweeps involving forced entry into homes occurred in Yaounde, Douala, Ekondo Titi, Maroua, and Kousser. In cases where the police have a search warrant for a house or neighborhood, they have the authority to arrest persons without personal arrest warrant if they believe those persons are accomplices to a crime. Typically, security forces seal off a neighborhood, search homes one after another, arrest persons arbitrarily, and seize suspicious or illegal articles. A February 19 breakout by prisoners in the Douala Central Prison was followed by a broad house-to-house search operation through several Douala neighborhoods. During the search, citizens without identification papers were arrested or required to pay a bribe; many were forced to bribe officers to prevent destructive searches of their homes and seizure of any household item for which they did not possess a receipt.

Central government administrative officials in pro-oposition regions reportedly continued to use units of the armed forces to conduct raids on civilian communities involving massive warrantless search and seizure operations, ostensibly intended to force the population to pay taxes, but characterized by some observers as extralegal punishment for failure to pay taxes. Throughout the 1990's, and most recently in October, government officials publicly have blamed opposition parties for the Government's inability to collect internal revenues effectively in the country's large and economically important pro-opposition regions.

In November hundreds of persons lost their homes in the Kobba-Bonaberi neighborhood of Douala when the Douala municipal government cleared the land, saying that the residents were illegal squatters, although some residents claimed to have permits signed by municipal officials.

Security personnel at airports sometimes prevented persons carrying copies of domestically published private newspapers from traveling abroad (see Section 2.d). During the year the Government discontinued and reversed its 1998 intensification

of restrictions on the reception of international and satellite broadcasts (see Section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press; however, the Government continued to impose limits on these rights. The Penal Code's libel laws specify that defamation, abuse, contempt and dissemination of false news are offenses punishable by prison terms and heavy fines. These statutes sometimes are invoked by the Government to silence criticism of the Government and government officials.

While approximately 60 private newspapers were published, only about 18 were published on a regular basis. Most continued to be highly critical of President Biya, his Government, its corruption, its human rights abuses, and its economic policies. However, private journalists continued to practice greater self-censorship than they did before the Government's 1994–95 crackdown on the private press.

In 1996 the Government repealed the law that had authorized the Government both to censor private publications and extrajudicially to seize publications "dangerous to public order" or suspend newspapers' publication licenses. Previously, the Government often had taken these extrajudicial actions to inflict economic damage on newspapers critical of the Government and had done so especially often during election years.

Since 1997 formal censorship has ceased. In addition seizures of print runs of private newspapers and other interference with private newspaper distribution appear to have become less frequent; the Government did not seize print runs of private newspapers or interfered with private newspaper distribution during the year. The Government also did not suspend or revoke the publication licenses of any newspapers during the year.

However, security forces continued frequently to restrict press freedom by harassing or abusing private print media journalists .

On April 12, gendarmes based at state-owned Yaounde General Hospital arbitrarily detained Marie-Noelle Guichi, a Yaounde correspondent of Le Messager, a Douala-based French-language triweekly newspaper, for 24 hours, after the head of the hospital accused the journalist, who was preparing an investigative report on artificial insemination, of being a spy. The following day gendarmes detained Guichi's colleague, Norbert Ouendji, after he came to the hospital to look for her.

On May 31, security forces in Douala, acting on instructions from the Douala prosecutor, arrested Peter William Mandio, the publisher of the Douala-based Le Front Independent newspaper. Police detained Mandio for 24 hours on contempt charges related to an article on the Port Authority that his newspaper published; the article allegedly contained military information for which Mandio did not receive military clearance. The charges later were dropped.

On July 22, gendarmes arrested Christophe Bobiokono, a journalist with Mutations, a Yaounde-based biweekly newspaper, without a warrant at the newspaper's Yaounde office, and held him for 24 hours, in connection with an article he had written about corruption allegedly involving the son of the Minister of Finance.

The police commissioner, military officials, and gendarmes in the Ndian Division of the Southwest Province continued to harass Philip Njaru, correspondent for a Yaounde-based English-language triweekly newspaper, The Herald (see Section 1.c.), who has written articles about corruption involving government officials in the Northwest Province.

Security forces repeatedly questioned the family of Aime Mathurin Moussy, head of the sporadically-published Douala-based newspaper La Plume du Jour, while Moussy was in France in May and June, in connection with Moussy's ongoing public criticism of government restriction of press freedom.

In May Christian Ngah Mbipgo, the Fon (traditional ruler) of Kumbo, a small town in the Northwest Province, acting under traditional law at the request of the mayor of Kumbo, expelled the local correspondent of The Herald newspaper, Christian Ngah Mbipgo, who had written reports critical of the mayor.

In May, after producing an audio cassette tape entitled "Popol va-t-en" that poked fun at President Biya, Emmanuel Nyoungwa Kemta received multiple anonymous threatening phone calls and fled Yaounde to an undisclosed location.

In June police acting under the instructions of a central government subprefect broke up a press conference in Douala organized by a human rights NGO, Solidarity for the Promotion of Human Rights (PRODHOP). The authorities subsequently banned the press conference, although PRODHOP had notified the competent administrative authority in advance. The police detained Dr. Samuel Mack-kit, the secretary general of the NGO, for 3 hours.

Since 1996 the Government frequently has prosecuted its critics in the print media under the criminal libel laws. These laws authorized the Government, at its discretion and at the request of the plaintiff, to criminalize a civil libel suit, or to initiate a criminal libel suit in cases of alleged libel against the President and other high government officials. There continued to be allegations that government ministers and other high officials offered to drop criminal libel suits in exchange for cash payments from newspapers or journalists. During the year, the Government arrested, prosecuted, or convicted a number of members of the press on criminal libel charges. However, this practice declined in frequency and severity from previous years, apparently due in part to greater caution on the part of journalists.

On February 18 the Yaounde Court of First Instance convicted opposition SDF party chairman John Fru Ndi and journalists Severin Tchounkeu and Henriette Ekwe of the prominent Douala-based triweekly newspaper, La Nouvelle Expression, on criminal libel charges. In late 1998, former SDF official Basile Kandoum filed a libel suit against these three persons in connection with an interview published in La Nouvelle Expression in which Fru Ndi reportedly stated that Kandoum had embezzled party funds, and the state counsel initiated a criminal libel prosecution. The court sentenced the defendants to a suspended fine equivalent to about $80, and ordered them to pay symbolic damages of less than one cent to Kandoum.

On June 8, the Bafia Court of First Instance sentenced Severin of Tchounkeu, publisher of La Nouvelle Expression, and Souley Onohiolo, a freelance journalist who published an article in that newspaper, to pay a fine equivalent to about $80 (50,000 CFA Francs) pursuant to a criminal conviction for libel and dissemination of false news. The court also order the two journalists to pay damages equivalent to about $133,000 (83 million CFA Francs). Tchounkeu and Onohiolo reportedly appealed the decision. Some observers indicated that if Tchounkeu loses his appeal, he may have to serve a prison sentence that was suspended in connection with a 1997 criminal libel conviction.

On June 15, the Yaounde Court of First Instance sentenced Anselme Mballa, publisher of Le Serment, a sporadically-published, Yaounde-based newspaper, to 6 months in prison, pursuant to a conviction for criminal libel of Denis Oumarou, Secretary of State for Posts and Telecommunications. Mballa's lawyer appealed the ruling. Mballa was detained on June 15 and remained in the military barracks of the Yaounde Central Prison.

However, an appellate court judge provisionally released Michel Michaut Moussala, publisher of Aurore Plus, a Douala-based, French-language biweekly, on the grounds that the court of first instance that had convicted him of criminal libel in 1998 had disregarded the applicability of the 1990 Law on Freedom of Mass Communication.

There were no developments in several other outstanding criminal libel cases against private journalists.

No new developments were reported in the following criminal libel cases, which were believed to be in appellate litigation during 1998: The 1996 conviction of Patrice Ndedi Penda, publisher of Galaxie; the 1996 conviction of Samuel Eleme and Gaston Ekwalla, publisher and correspondent of La Detente; the 1996 convictions of Tietcheu Kameni, Paul Nyemb, and Eyoum Ngangue of Le Messager; and the conviction of Vianney Ombey Ndzana, publisher of Generations; however, all these newspapers were published during the year, and their licenses were no longer suspended at year's end.

The Government publishes an official newspaper, The Cameroon Tribune. This paper only occasionally implies criticism of the Government; its reporters do not report extensively on activities or political parties critical of the Government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

The Government continued to operate almost all domestic broadcast media and to determine the content of radio and television broadcasts, which reach far more citizens than the domestic print media. Because of their relatively high cost, as well as distribution problems, newspapers are not read widely outside the major cities. In 1990 and again in 1995, laws were enacted that provided for the licensing of private radio and television stations, but the Government has not approved implementing regulations, despite repeated public promises to do so. In June the Minister of Communications stated that the implementing decrees were ready and were awaiting presidential approval; however, the President did not approve them by year's end. Since 1997 the Government for the first time has allowed limited exceptions to its monopoly of broadcast media: It has licensed five low-power rural community radio stations with extremely limited range, which are mostly funded by foreign countries, broadcast education-oriented programs to small audiences, and are not allowed to discuss politics. In addition three private radio stations broadcast in Yaounde without licenses; one, Radio Reine, broadcasts Catholic religious programs.

Radio Lumiere, broadcasts music out of a secondary school, Ndi Samba Superier, and also serves as a training center for journalism students. The third station, Radio Soleil, began operating in September. In March the Minister of Communications stated, on a CRTV radio broadcast, that such unlicensed stations operate "at their own risk," although the Government took no action to close them. During the year, the Government discontinued and reversed its 1998 intensification of restrictions on the reception of international cable and satellite television broadcasts (see Section 1.f.). Local authorities abandoned their insistence that private cable and satellite companies cease operations pending implementation of the 1990 law to liberalize the broadcast media.

Like The Cameroon Tribune, the government-controlled radio and television monopoly, CRTV, provided broad reporting of CPDM functions, while giving relatively little attention to the political opposition. CRTV management, which repeatedly has instructed CRTV staff to ensure that government views prevail at all times in CRTV broadcasts, continued during the year to punish CRTV journalists who criticized government policy. In March management suspended Lazare Etoundi and Saint Lazare Amougou, two CRTV journalists, for broadcasting a Congolese artist's interview that sharply criticized the CRTV general manager's policies toward Congolese music. On May 27, the CRTV general manager suspended journalist Guy Roger Eba for failing to read all the congratulatory messages sent to President Biya by other heads of state around the world on the occasion of the country's national day. In June CRTV management suspended two CRTV journalists, Kenneth Asobo Khan and Daniel Anicet Noah, for reading a communique that was not approved by management concerning a meeting of the employees of the Ministry of Communication who wished to discuss difficulties that journalists face in dealing with the Government.

Television and radio programming include a weekly program, Expression Directe, which ostensibly fulfills the Government's legal obligation to provide an opportunity for all political parties represented in the National Assembly to present their views. However, CRTV continued to restrict the opposition SDF party's freedom of expression through that program, routinely censoring and significantly shortening proposed SDF programming. For example, on June 17, and again on August 12 and 13, CRTV management refused to broadcast an SDF expose of corruption charges against President Biya involving a French oil company, and on September 9 and 10, CRTV censors deleted parts of SDF programming about a taxi drivers' strike.

High-tech communications, including the Internet, e-mail, and satellite phones, are not widely available or utilized; however, a few cybercafes provide occasional Internet or e-mail access in some urban areas. There are at least six domestic Internet service providers, one of which has been in operation for 3 years. Some are privately owned. The Government has not attempted to restrict or monitor these forms of communications.

Although there are no legal restrictions on academic freedom, state security informants operate on university campuses. Many professors believe that adherence to opposition political parties can affect adversely their professional opportunities and advancement. Free political discussion at the University of Yaounde is dampened by the presence of armed government security forces. Security forces have subjected Dr. Charley Mejame Ejede, a professor of philosophy at the University of Douala who is also national secretary of the Liberal Democratic Alliance political party, to prolonged harassment, presumably due to his political activism.

b. *Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly; however, the Government sometimes restricts this right in practice. The Penal Code requires organizers of public meetings, demonstrations, or processions to notify government officials in advance; it does not require prior government approval of public assemblies, and does not authorize the Government to suppress public assemblies that it has not approved in advance. However, for many years government officials routinely have asserted that this provision of the Penal Code implicitly authorizes the Government to grant or deny permission to public assemblies, often have not granted permits to assemblies organized by persons or groups critical of the Government, and repeatedly have used force to suppress public assemblies whose organizers submitted advance notice as required by law but for which government authorities did not issue permits. The UNDP party in the Faro and Deo region of Adamaoua Province complained that local authorities repeatedly blocked their political activities by denying them permission to meet, even in private residences. The Government continued its pattern throughout the 1990's of allowing opposition political parties greater freedom of assembly during nonelection years than during election years.

However, in February security forces prevented one of two groups of opposition SDF party officials from attending a meeting in Zoetele, a small town of the South

Province, by erecting a roadblock. The other group of SDF officials attended the meeting, although government authorities cut off electricity to the meeting hall.

On June 9, gendarmes and police charged university students who were demonstrating on the Yaounde-Soa road and beat many students with rifle butts and batons. The students were demonstrating for measures to make that dangerous stretch of road safer.

On June 11 in Douala, police and gendarmes broke up a march to a state-owned radio station by retired workers protesting alleged nonpayment of benefits by the National Social Insurance Company; members of the security forces reportedly seized and destroyed demonstrators' signs and placards.

In June in Doula security forces acting on orders from government authorities disrupted a public press conference by a human rights NGO (see Sections 2.a and 4).

The law provides for freedom of association, and the Government generally respected this right in practice during the year, although there were some exceptions. The conditions for government recognition of a political party, a prerequisite for many political activities, were not onerous. Over 150 political parties operated legally, together with a large and growing number of civic associations. However, the Government was widely suspected of fomenting splits in the main opposition party, the SDF, as a pretext to withdraw official recognition from the main body of the party led by John Fru Ndi. In 1993, following a split in another opposition party, the Government withdrew official recognition from the main faction and conferred it on a smaller but more accommodating faction.

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

Relations between the State and religious groups are governed chiefly by the Law on Religious Congregations. Religious groups must be approved and registered with the Ministry of Territorial Administration in order to function legally; there were no reports that the Government refused to register any group. It is illegal for a religious group to operate without official recognition, but the law prescribes no specific penalties for doing so. Although official recognition confers no general tax benefits, it allows religious groups to receive real estate as gifts and legacies for the conduct of their activities. In order to register, a religious denomination must fulfill the legal requirement to qualify as a religious congregation. This definition includes "any group of natural persons or corporate bodies whose vocation is divine worship" or "any group of persons living in community in accordance with a religious doctrine." The denomination then submits a file to the Minister of Territorial Administration. The file must include a request for authorization, a copy of the charter of the group that describes planned activities, and the names and respective functions of the officials of the group. The Minister studies the file and sends it to the presidency with a recommendation for a positive or negative decision. The President generally follows the recommendation of the Minister, and authorization is granted by a presidential decree. The approval process usually takes several years, due primarily to administrative slowness. The only religious groups known to be registered are Christian and Muslim groups and the Baha'i Faith, but other groups may be registered. The Ministry has not disclosed the number of registered denominations, but the number of registered religious groups is estimated to be in the dozens. The Government does not register traditional religious groups, on the grounds that the practice of traditional religions is not public but rather private to members of a particular ethnic or kinship group, or to the residents of a particular locality.

Religious missionaries are present throughout the country and operate without impediment. Several religious denominations also operate diverse private schools. The Catholic Church, the largest religious denomination in the country, also operates the country's only private institution of general post-secondary education, as well as the country's oldest private radio station, one of the country's very few modern private printing presses, and a bimonthly newspaper, which until the 1990's was one of the only private newspapers in the country (see Section 2.a.).

Although post-secondary education continues to be dominated by state institutions, private schools affiliated with religious denominations, including Catholic, Protestant, and Koranic schools, have long been among the country's best schools at the primary and secondary levels. The Ministry of Education is charged by law with ensuring that private schools run by religious groups meet the same standards as state-operated schools in terms of curriculum, building quality, and teacher training. For schools affiliated with religious groups, this oversight function is performed by the Sub-Department of Confessional Education of the Ministry's Department of Private Education.

Disputes within registered religious groups about control of places of worship, schools, real estate, or financial assets are resolved in the first instance by the executive branch rather than by the judiciary. In November 1997, 81 of 87 churches of

the Cameroon Baptist Conference (CBC) in the Belo Field District, in Boyo Division of Northwest Province, reportedly withdrew from the CBC and formed a new denomination, the Cameroon National Baptist Convention (CNBC). In March 1998, the Ministry of Territorial Administration reportedly ordered CNBC clergy to cease using CBC facilities and to cease operating CBC schools. According to one media report, a 1997 Ministry of Education decision about the control and supervision of CBC-affiliated schools precipitated the withdrawal of the dissenting congregations.

Government officials criticized and questioned criticisms of the Government by religious institutions and leaders, but there were no reports that Government officials used force to suppress such criticism. During the 1997 presidential election campaign, government representatives verbally attacked the Catholic Church for being overly supportive of the political opposition through its forthright criticism of corruption and mismanagement in government. The practice of witchcraft is a criminal offense under the national penal code; however, persons are generally prosecuted for this offense only in conjunction with some other offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of which the causes were unknown.

There was a media report that in September traditional authorities in Lobe, in Ndian Division of the Southwest Province, banished from the locality six persons, including one blind man, accused of having killed a woman by practicing witchcraft. According to the report, a traditional court tried the accused by requiring them to drink poison that traditionally is believed to kill only those who lie to the court, convicted the accused when they refused to drink, ordered them to pay in-kind, blood-price damages, and expelled them from the locality when they refused to pay. The accused reportedly filed a protest with the divisional officer of the central Government. However, initial investigations could not confirm this report.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law does not restrict freedom of movement within the country; however, in practice government security forces routinely impede domestic travel. Police frequently stop travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. Police commonly demand bribes from citizens whom they stop at roadblocks or at other points.

Roadblocks and checkpoints manned by security forces have proliferated in cities and most highways and make road travel both time-consuming and costly, since extortion of small bribes is commonplace at these checkpoints. In past years, violent and sometimes fatal confrontations have occurred repeatedly at such checkpoints when travelers would not or could not pay the bribes demanded by the security forces.

During the year, unlike previous years, there were no reports that the Government used its passport control powers to prevent entry or exit from the country of critics and political opponents. However, security force personnel at airports sometimes prevented persons from traveling abroad if they had with them copies of private domestic newspapers (see Section 1.f.).

Cameroon has long been a safe haven for displaced persons and refugees from nearby countries.

The law contains provisions for granting refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum to persons who arrive at the border without documentation but who can show a valid claim to refugee status. The UNHCR estimated that there were about 47,000 refugees in the country for whom Cameroon was a country of first asylum. However, some NGO's claim that the number is as high as 60,000. The majority of these persons are Chadians, whose total number was estimated to be more than 41,000. The remainder were principally from Rwanda, Burundi, and the Democratic Republic of the Congo, with small numbers from Liberia, Sudan, and Ethiopia. The Government accepts for resettlement refugees who are granted refugee status by the UNHCR.

Since 1997 government security forces have detained 12 former senior military officers of Equatorial Guinea who had been granted refugee status by the UNHCR and had lived in the country for 4 years. In 1998 these 12 officers, who were affiliated with an Equato-Guinean opposition party and included Alfonso Mba Nsogo, former head of the Equato-Guinean military, contested the Government's assertion that it had arrested them for their own protection. At year's end, the 12 remained in Cameroon under official detention at a security base near Yaounde. However, they are allowed to leave the base on condition that they inform the base commander.

There were no confirmed reports of the forced return of persons to a country where they feared persecution. Although the Government occasionally returns illegal immigrants, there were no reports of forced repatriation of recognized refugees. However, in July two Chadian political refugees disappeared after being summoned to the Cameroon Security Office (see Section 1.b.). Some illegal immigrants have been subjected to harsh treatment and imprisonment. Communities of Nigerians and Chadians have often been the targets of police and gendarme harassment. During raids, members of the security forces often extort money from those who do not have regular residence permits or those who do not have valid receipts for store merchandise (see Section 5).

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

Citizens have the constitutional right to change their government, but dominance of the political process by the President and his party limits the ability of citizens to exercise this right. President Paul Biya has controlled the Government since 1982 and the ruling party since 1984. The 1992 and 1997 presidential elections and the 1997 legislative contests were widely criticized and viewed as fraudulent by international and domestic observers. In these elections, administered by the Ministry of Territorial Administration, members of largely pro-opposition ethnic groups and inhabitants of largely pro-opposition localities effectively were prevented from registering or voting, registration and vote counting procedures were not transparent, a public announcement of results was delayed, and the number of votes cast in some progovernment areas exceeded the adult population.

Elections are held by balloting that officially is described as secret but may permit voters to leave the polling place with evidence of how they voted. At polling places on election day, registered citizens receive a package containing one card for each candidate. Citizens vote by depositing into a sealed ballot box, while alone inside a closed booth, an envelope containing one of these cards. Voters are supposed to be given an opportunity to dispose of the unused ballots privately before leaving the polling place, but polling officials rarely act to ensure that this is done.

Following the flawed 1997 legislative elections, international observers endorsed a series of reform measures, including the creation of a permanent and autonomous electoral commission to replace the present system of elections run by the Ministry of Territorial Administration. The Government's control of the electoral process leads to a variety of abuses including preelection manipulation of voter registration lists.

President Biya's October 1997 reelection was marred by serious procedural flaws as well as by a boycott by the three major opposition parties. While the boycott made the outcome a foregone conclusion, most observers nonetheless considered the contest to be neither free nor fair. Election irregularities were especially egregious in opposition strongholds, where boycotting opposition activists chose not to be present to monitor the voting count.

The Biya administration has proven particularly intolerant of opposition from within its Beti/Bulu ethnic-regional base in southern Cameroon. Following the unexpectedly strong showing of opposition parties in the region in the 1996 municipal elections, Titus Edzoa, a ruling CPDM member from southern Cameroon, a former Minister of Health, and a longtime presidential aide, declared himself a candidate to oppose incumbent President Biya in the October 1997 election. Edzoa and his campaign manager were arrested shortly after he declared his candidacy and before the election was held. They were sentenced to 15 years' imprisonment on embezzlement and corruption charges and remained incarcerated at year's end (see Section 1.e.). Generations, a Yaounde-based newspaper, which was one of last newspapers to have its publication license suspended, was also one of very few newspapers that was both critical of the Government and run by a Beti, Vianney Ombe Ndzana.

In December 1997, after the Supreme Court announced the official result, declaring President Biya the winner with 92.57 percent of the vote, much of the UNDP, which previously had been in opposition, joined the CPDM in a coalition government. The new ruling coalition also included a faction of the UPC party that had participated in previous CPDM-dominated coalition governments under President Biya.

No significant positive reforms have been undertaken to correct the flaws in the electoral process. In 1998 talks between the ruling CPDM party and the leading opposition party, the SDF, broke down over the issue of creating an independent electoral commission, as recommended by most international observers of the 1992 and 1997 Presidential elections. The SDF demanded such a commission but the CPDM refused to grant this demand. Rather, the CPDM-dominated National Assembly passed a few minor reforms to the 1991 electoral code, including increased discre-

tionary power for the Minister of Territorial Administration to rule on the admissibility of candidacies.

The President's control over the country's administrative apparatus is broad and deep. The President appoints all Ministers, including the Prime Minister, who serve at the President's pleasure. The President also directly appoints the governors of each of the 10 provinces. The governors wield considerable power in the electoral process, interpreting the laws and determining how these should be implemented. The President also has the power to appoint important lower level members of the 58 provincial administrative structures, including the senior divisional officers, the divisional officers, and the district chiefs. The governors and senior divisional officers wield considerable authority within the areas under their jurisdiction, including, significantly, the authority to ban political meetings that they deem likely to threaten public order. They also may detain persons for renewable periods of 15 days to combat banditry and other security threats.

The 1996 amendments to the 1972 Constitution retained a strongly centralized system of power, based on presidential authority. However, the amendments imposed a limit of two 7-year (in place of unlimited 5-year) terms on the President. They provided for the creation of a partially elected (70 percent) and partially appointed (30 percent) senate, along with the creation of a similarly constituted set of provincial assemblies with limited power over local affairs. Although promulgated by the President in January 1996, the senate and regional council amendments have not yet been implemented.

Citizens' right to choose their local governments remained circumscribed. In 1996 the Government held local government elections that were unprecedented in the Francophone region and the first such elections since the 1960's in the Anglophone region. These elections were for mayors or deputy mayors and council members in Douala, Yaounde, provincial capitals, and some division capitals. President Biya first promised such elections in 1992, but postponed them twice. In the meantime, the Government greatly increased the number of municipalities run by presidentially-appointed delegates instead of elected mayors. Delegate-run cities, of which there were only four in 1992, by 1996 included all the provincial capitals and some division capitals in pro-opposition provinces, but not in the southern provinces that had tended to support the CPDM. In 1998 a 60-member Committee on Good Governance, created by the Government, publicly recommended that the Government eliminate the position of delegate in order to allow elected local officials to manage municipal governments more freely. Even in municipalities with elected mayors, local autonomy is limited, since elected local governments must rely on the central Government for most of their revenues and their administrative personnel.

Like the 1992 National Assembly elections, the 1996 municipal elections were less flawed than other elections held since 1990. Foreign observers considered the elections largely free and fair, having detected few instances of malfeasance during or after the voting, although opposition parties credibly alleged systematic preelection government manipulation of the registration lists and arbitrary government disqualification of their candidates, especially in the south. Government election authorities acknowledged that opposition candidates won 104 of the 336 offices at stake. Ninety-six contests in which the Government declared the ruling party candidate the winner were appealed to the Supreme Court, which declared itself unqualified to adjudicate many of these complaints, but nullified the results of 18 elections, which it ordered the Government to hold again. As of year's end, the Government had not complied with any of these Supreme Court orders.

During the year the Biya Government continued to use against its preeminent political opponent the criminal libel prosecution tactic that it developed in recent years against its critics in the private press. In 1998 the Government criminalized a civil libel suit filed against SDF party chairman John Fru Ndi by a disgruntled former SDF official whom Fru Ndi reportedly had accused publicly of embezzling party funds (see Section 2.a.). In February the Government obtained a felony conviction of Fru Ndi in a nonjury trial. The court did not sentence Fru Ndi to prison. Conviction and imprisonment on a felony charge, including a criminal libel charge, renders a citizen legally ineligible to hold public office. Although legal opinion appeared divided about whether a felony conviction without a prison sentence may also render a citizen legally ineligible to hold public office, some observers believed that Fru Ndi's conviction might enable the Government to disqualify him for any public office for which he may seek to run in the future. In April Fru Ndi—who in the country's only seriously contested presidential election in 1992 finished a close second to Biya despite serious flaws in the electoral process that favored the incumbent—was reelected overwhelmingly as the national leader of the country's largest opposition party, the SDF, in a freely contested, transparent, and apparently fair election at a national party convention.

There are no laws that specifically prohibit women or members of minorities from participating in government, in the political process, or in other areas of public life. However, women are underrepresented in government and politics. Women hold 3 of 50 cabinet posts, 10 of 180 seats in the National Assembly, and few of the higher offices of major political parties, including the CPDM.

Many of the key members of the Government are drawn from the President's own Bulu/Beti ethnic group, as are disproportionately large numbers of military officers and CPDM officials. Members of some of the other 200 ethnic groups hold 34 cabinet seats, compared with 16 cabinet positions held by members of the President's ethnic group.

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

Domestic and international human rights monitoring groups generally have considerable latitude to operate. A large number of independent human rights monitoring groups exist, although the activities of virtually all are limited by a shortage of funds and trained personnel. The Government did not formally prevent human rights monitors from operating. In the past, the Government used its authority to approve or withhold official recognition of NGO's, but there have been no recent cases in which such recognition was withheld. However, Government officials repeatedly impeded the effectiveness of human rights NGO's by limiting access to prisoners, by refusing to share information, and increasingly by threatening and using violence against personnel of human rights NGO's (see Sections 1.c. and 1.d.).

Domestic human rights NGO's include the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women Against Violence, the Cameroonian Association of Female Jurists, the Cameroonian Association for Children's Rights, Conscience Africaine, the Movement for the Defense of Human Rights and Liberties (MDHRL), the Human Rights Defense Group, the National Association of Nontribalists and Nonracists, the Committee of Action for Women's and Children's Rights (CADEF), the Human Rights Clinic and Education Center, the Association of Women against Violence, the Cameroonian Association for Children's Rights, the Cameroon National Association for Family Welfare (CAMNAFAW), Tribes Without Frontiers (TSF), the Association for the Promotion of Communal Initiatives, and the League for Rights and Freedoms (LDL). A number of these groups issued press releases or reports detailing specific human rights violations. Many held seminars and workshops on various aspects of human rights.

However, during the year there were regular reports that government officials, including members of the security forces as well as anonymous persons, interfered with the operations of human rights NGO's by threatening and using violence against their personnel. On January 17, in Yaounde a group of unidentified armed men shot at Dr. Hilaire Kambga, the secretary general of the national chapter of Conscience Africaine, and ran his car off the road in a car chase, inflicting injuries that required hospitalization. Kamga indicated that one of his attackers, just before the attack, had stated that "my colonel" wanted to see Kamga, that his car had been followed the previous day and that he recently had received anonymous threatening phone calls in connection with his human rights work (see Section 1.c.). Elements of Colonel Pom's special antigang gendarmerie unit repeatedly threatened Abdoulaye Math, a human rights monitor and chairman of the Maroua-based MDHRL, and Semdi Soulaye, the MDHRL's secretary general, causing them to flee from the Far North Province to Yaounde for a week in early June. In June in Douala police acting on orders from government authorities broke up a press conference by a human rights NGO and detained the NGO's secretary general (see Section 2.a.). As of year's end, the Government had not prosecuted any of the persons who reportedly committed these abuses.

The Government generally cooperated with the U.N. Special Rapporteur for Human Rights on a visit to the Far North Province, but Colonel Pom's special antigang gendarmerie unit denied him access to its holding cells (see Section 1.c.). The Government allowed the ICRC, for the first time in 7 years, to have generally unrestricted access to all prisons and detention places and to hold private discussions with inmates.

The governmental National Commission on Human Rights and Freedoms (NCHRF), although hampered by a shortage of funds, conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials, security personnel, and other government officers. Although the Commission infrequently condemned publicly the Government's human rights abuses, its staff intervened with government officials in specific cases of human rights harassment by security forces, attempted to stop Friday arrests (see Section 1.d.) in at least one Yaounde police station, and attempted to

obtain medical attention jailed suspects in specific cases. The NCHRF is prohibited by law from publishing information on specific human rights cases. However, it may and does submit reports on specific alleged abuses to the government authorities directly involved, along with recommendations for improving conditions or punishing violators.

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

The Constitution does not explicitly forbid discrimination based on race, language, or social status. The Constitution prohibits discrimination based on sex and mandates that "everyone has equal rights and obligations," but the Government does not enforce these constitutional provisions effectively.

Women.—Violence against women remains at high levels. Women's rights advocates report that the law does not impose effective penalties against men who commit acts of domestic violence. There are no gender-specific assault laws, despite the fact that women are the predominant victims of domestic violence. Spousal abuse is not a legal ground for divorce. In cases of sexual assault, a victim's family or village often imposes direct, summary punishment on the suspected perpetrator through extralegal means ranging from destruction of property to beating. While there are no reliable statistics on violence against women, the large number of newspaper reports—a fraction of actual incidents—indicates that it is widespread.

Despite constitutional provisions recognizing women's rights, women do not, in fact, enjoy the same rights and privileges as men. The civil law theoretically provides equal status and rights for men and women. However, no legal definition of discrimination exists, and some points of civil law are prejudicial to women. The 1981 Civil Code allows a husband to oppose his wife's right to work in a separate profession if the protest is made in the interest of the household and the family. While the law gives a woman the freedom to organize her own business, the Commercial Code allows a husband to end his wife's commercial activity by notifying the clerk of the commerce tribunal of his opposition based upon the family's interest. Partly for this reason, some employers require a husband's permission before they hire a woman. Polygyny is permitted by law and tradition, but polyandry is not. In cases of divorce, the husband's wishes determine the custody of children over the age of 6. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted without respect to venue.

Civil law offers a more equal standard than customary law, which is far more discriminatory against women, since in many regions a woman customarily is regarded as the property of her husband. Because of the importance attached to customs and traditions, laws protecting women often are not respected. Despite the law that fixes a minimum age of 15 years for a bride, many girls are married off by their families by the age of 12. In the customary law of some ethnic groups, husbands not only maintain complete control over family property, but also can divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. The extent to which a woman may inherit from her husband normally is governed by traditional law in the absence of a will, and customs vary from group to group. In many traditional societies, custom grants greater authority and benefits to male than to female heirs. Another problem facing women is forced marriage; in some regions, girls' parent can and do give them away in marriage without their consent. Often, a bride's parents are paid a "bride price" by the husband, who is sometimes many years older than the girl. Since a price has been paid, the girl is considered the property of the husband. When a married man dies, his widow is often unable to collect any inheritance, since she herself is considered part of the man's property. The widow often is forced to marry one of the deceased's brothers. Refusal means that she must repay the bride price in full (she usually has no source of funds) and leave the family property. In the northern provinces, some Lamibe (traditional rulers) reportedly prevent their wives and concubines from ever leaving their palaces. The lack of a national legal code covering the family leaves women defenseless against male-oriented customs.

In practice, although not in law, women also suffer from discrimination in access to education. The gap in school attendance rates between boys and girls is 9 percent nationally and 14 percent in the three northern provinces. This problem, which is especially accute in rural areas, results in higher levels of illiteracy among women than among men. According to a 1995 study by a U.N. agency, the adult literacy rate was 75 percent for men but only 52 percent for women. In addition, fewer girls are found at higher levels of education; according to a 1992 study by the Ministry of Women's Affairs, women made up only 23 percent of postsecondary students.

Children.—The Constitution provides for a child's right to education, and schooling is mandatory through the age of 14. Nevertheless, in the wake of public sector

expenditure cuts and a currency devaluation in 1993–94, increases in formal and informal school fees relative to disposable income have forced many families to forego sending their children to school. The Government has chosen to make public education bear a disproportionate amount of its fiscal retrenchment since 1993. Government spending on education shrank from 4.3 percent of recorded GDP in 1992–93 to an estimated 1.8 percent of recorded GDP in 1998–99.

In 1998 the Government ordered the closure of about 180 unlicensed private primary and secondary schools, mostly in Douala and other pro-opposition areas, in which enrollment had grown to perhaps 50,000 pupils. During the year the Government closed down dozens more such schools, mainly in Douala. While the government vowed to combat clandestine schools, these institutions have sprung up mainly in response to the deterioration of public schools.

Female genital mutilation (FGM), which has been condemned by international health experts as damaging to both physical and psychological health, is not practiced widely, but it is traditional and continues to be practiced in some areas of Far North and Southwest Provinces. It includes the most severe form of the abuse, infibulation, and usually is practiced on preadolescent girls. The Government has criticized the practice; however, no law prohibiting FGM is known to exist.

The degree of familial child abuse is not known but is one of several targeted problems of children's rights organizations.

People with Disabilities.—A 1983 law and subsequent implementing legislation provide certain rights for persons with disabilities. These include access to public institutions, medical treatment, and education. The Government is obliged to bear part of a disabled person's educational expenses, to employ disabled persons where possible, and, as necessary, to provide them with public assistance. However, these rights in fact rarely are respected. There are few facilities for disabled persons and little public assistance of any kind. Lack of facilities and care for the mentally disabled is particularly acute. In recent years, the Government reportedly has reduced the share of its expenditures that benefit disabled persons and has terminated subsidies to NGO's that help disabled persons. On one occasion during the year, the municipal governments of Yaounde and Douala each detained a large number of people who appeared to be mentally disabled or homeless to prevent their being seen by a visiting foreign dignitary (see Section 1.d.). Society tends to treat the disabled as tainted, leaving churches or foreign NGO's responsible for providing assistance. However, there is no widespread societal discrimination against the disabled. The law does not mandate special access provisions to buildings and facilities for the disabled.

Indigenous People.—A population of perhaps 50,000 to 100,000 Baka (Pygmies), a term that encompasses several different ethnic groups, primarily reside in the forested areas of the South and East provinces, of which Pygmies were the earliest known inhabitants. While no legal discrimination exists, other groups often treat Pygmies as inferior and sometimes subject them to unfair and exploitative labor practices. There have been credible reports of Pygmies being forced out of their homes by logging companies and security forces. There continued to be reports that Pygmies complain that the forests they inhabit are being logged without fair recompense for the negative consequences suffered by the Pygmies of the region.

Religious Minorities.—Approximately 40 percent of the population are at least nominally Christian, about 20 percent are at least nominally Islamic, and about 40 percent practice traditional indigenous religions or no religion. Christians are concentrated chiefly in the southern and western provinces. Muslims are concentrated chiefly in the northern provinces. Traditional indigenous religions are practiced in rural areas throughout the country.

Some religious groups face societal pressures within their regions. In the northern provinces, especially in rural areas, societal discrimination by Muslims against persons who practice traditional indigenous religions is strong and widespread, and some Christians in rural areas of the north complain of discrimination by Muslims.

There were occasional reports of isolated conflict between Christians and practitioners of traditional indigenous religions. In December 1998, members of a local traditional secret society, the Nwerong, accused Emmanuel Ngah, the pastor of the Cameroon Baptist Church in Ndu, a village in Northwest Province, of having killed by witchcraft Emmanuel Siben, an employee of the state-owned electrical power company. The Nwerong reportedly attempted to expel Ngah from the village, along with eight other persons whom the Nwerong also accused of practicing witchcraft. Some of the nine persons reportedly left Ndu for the neighboring village of Ntumbaw, from which they reportedly were expelled by the Nwerong of Ntumbaw.

There was one incident of religiously motivated violence by practitioners of a traditional indigenous religion against persons who did not practice that religion. In April near Buea in Southwest Province, villagers said to be acting on the orders of

local traditional rulers beat three Germans working with a nongovernmental environmental organization for taking pictures of Mount Cameroon during an eruption of that volcano. Local traditional rulers reportedly had banned all travel to the mountain pending traditional indigenous religious rites to appease local deities in the hope of controlling the eruption.

National/Racial/Ethnic Minorities.—The population is divided into more than 200 ethnic groups, among which there are frequent and credible allegations of discrimination. Members of virtually all ethnic groups commonly provide preferential treatment to fellow members when they are able to do so. Ethnic-regional differences continue to pose obstacles to political and economic liberalization.

Members of President Biya's Bulu ethnic group and of closely related Beti groups of southern Cameroon are represented disproportionately and hold key positions in government, the civil service, state-owned businesses, the security forces, the military, and the ruling CPDM party. The large size and centralized character of the public sector has long been widely perceived to favor these groups. Prospective economic and political liberalization is widely perceived as being likely to harm these groups, and to favor other groups, such as the large Bamileke and Anglophone ethnic-cultural groups of the west, whose members tend to be more active in private commerce and industry and have tended to support the SDF since the legalization of opposition parties. Since 1990 natives of the two Anglophone provinces, the Northwest and Southwest Provinces, have suffered disproportionately from human rights violations committed by the Government and its security forces, have been underrepresented in the public sector, and generally have believed that they have not received their fair share of public sector goods and services. Since the flawed 1992 presidential election, which SDF Chairman John Fru Ndi, a native of the Northwest Province, accused Biya of having stolen from him, many residents of the Anglophone region have sought to achieve greater freedom, greater equality of opportunity, and better government, at least partly by regaining regional autonomy rather than through nationwide political reform, forming several quasipolitical organizations to pursue that goal (see Sections 1.c., 1.d., and 1.e.).

During the year, following an international press report that Anglophone separatists had begun smuggling in arms from Nigeria the Government increased deployments of units of the armed forces in the Anglophone provinces and arrested increasing numbers of Anglophones and SDF members on charges of illegally owning or making arms (see Sections 1.a., 1.c. and 1.d.), although the leadership of the SDF repeatedly reaffirmed publicly the party's longstanding commitment to nonviolent forms of political struggle and to federalist decentralization rather than Anglophone secession. On December 30, a group of armed Anglophones seized the state radio station in Buea, occupied it for 3 hours, and broadcast a message proclaiming the independence of the two Anglophone provinces; no violence or arrests were reported in connection with their occupation of the station. In June the Mayor of Bafoussam, the capital of the West Province officials, reportedly voiced suspicions that ruling CPDM party activists set fires that destroyed a market in Bafoussam on June 10, and SDF national party chairman Fru Ndi reportedly speculated publicly that agents of the central Government might have started market fires in Bafoussam and other towns targeting the commercially active Anglophone and Bamileke communities; however, no evidence materialized to confirm such suspicions. Also during the year, the Vatican's appointment of a Bamileke to serve as the Roman Catholic Church's Archbishop of Yaounde led to criticism and some public demonstrations by members of the Beti ethnic group.

Northern Cameroon suffers from ethnic tensions between the Fulani (or Peuhl), a Muslim group that conquered most of the region 200 years ago, and the "Kirdi," the descendents of diverse groups who then practiced traditional indigenous religions and whom the Fulani conquered or displaced, justifying their conquest on religious grounds. Although some Kirdi subsequently have adopted Islam, the Kirdi remain socially, educationally, and economically disadvantaged relative to the Fulani in the three northern provinces. Traditional Fulani rulers (lamibe) continue to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. The slavery still practiced in parts of northern Cameroon is reported to be largely enslavement of Kirdi by Fulani. Although the UNDP party is based largely in the Fulani community, the ruling CPDM party has long been widely perceived to represent Fulani as well as Beti-Bulu interests.

During the 1990's, local-language broadcasts by government-controlled regional radio stations in the south Cameroon, as well as private French-language newspapers with close ties to leading government and CPDM figures, repeatedly have incited ethnic animosity against Bamilekes and Anglophones. During the year, anti-Bamileke and anti-Anglophone commentaries continued unabated in the radio

broadcasts, but were less conspicuous in the pro-CPDM print media than they were earlier in some prior years.

Members of the country's large community of Nigerian immigrants often complain of illegal discrimination and even persecution by elements of the Government. Crackdowns on undocumented Nigerian immigrants repeatedly have been announced by government officials. For example, in March and April, security forces in Fako Division in the Southwest Province reportedly conducted mass arrests of foreigners without residence permits, most of whom were Nigerians.

On June 22, a land dispute between the Awing and Baligham tribes in the Northwest Province led to mass violence, in which several persons were injured; the dispute subsequently was adjudicated by NOWEFCO, a voluntary association of traditional rulers (see Section 1.c.).

Section 6. Worker Rights

a. *The Right of Association.*—The 1992 Labor Code allows workers to form and join trade unions of their choosing. The Labor Code permits groups of at least 20 workers to organize a union but also requires registration with the Ministry of Labor. However, in practice independent unions have found it extremely difficult to obtain registration. Registered unions are subject to government domination and interference. Some sections of the Labor Code have never taken effect because not all of the implementing decrees have been issued.

There are two trade union confederations. Until 1995 the sole labor confederation was the Confederation of Cameroonian Trade Unions (CCTU), formerly affiliated with the ruling CPDM party under another name (the Organization of Cameroonian Trade Unions.) In 1995 the Government encouraged the creation of a new labor confederation, the Union of Free Trade Unions of Cameroon (USLC), with which it maintains close ties. This move was seen as an effort by the Government to create a rival trade union confederation more firmly under its control. In 1998 the CCTU, government control of which had been eroding since large public sector salary cuts in 1993, split into two rival factions, and the Government banned a conference by the CCTU's reformist faction, led by Benoit Essiga. A CCTU congress held in April, which was attended by international observers and held under the auspices of the International Labor Organization (ILO), elected the reform faction slate of candidates to CCTU leadership positions. However, the Government has been unwilling to recognize the new leadership, and refuses to meet, speak or bargain with the union.

The Labor Code explicitly recognizes workers' right to strike, but only after mandatory arbitration. Arbitration proceedings are not enforceable legally and can be overturned by the Government. The Labor Code provides for the protection of workers engaged in legal strikes and prohibits retribution against them. However, these provisions of the Labor Code do not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants are required to negotiate grievances directly with the minister of the concerned department and with the Minister of Labor.

During the year, actual and threatened labor strikes were much more numerous than in recent prior years. There were strikes by taxi drivers' and railroad workers' unions. The university teachers and high school teachers, who are generally state employees, won concessions from the Government after issuing credible strike threats (see Section 5).

The CCTU is a member of the Organization of African Trade Unions and the International Confederation of Free Trade Unions. The USLC filed applications for membership with these organizations in 1995.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code provides for collective bargaining between workers and management in workplaces, as well as between labor federations and business associations in each sector of the economy. No sectoral collective bargaining negotiations have occured in recent years. When labor disputes arise, the Government chooses which labor union to invite into the negotiations, selectively excluding some labor representatives. The Labor Code prohibits antiunion discrimination, and employers guilty of such discrimination are subject to fines of up to an amount equivalent to about $1,600 (1 million CFA Francs). However, employers found guilty are not required to reinstate the workers against whom they discriminated. The Ministry of Labor has reported no complaints of such discrimination during recent years.

There is an industrial free zone regime, but the Government did not grant approval to any firms to operate under it during the year. Free zone employers are exempt from some provisions of the Labor Code but must respect all internationally recognized worker rights.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution and the Labor Code prohibit forced or compulsory labor; however, it occurs in practice. Forced or bonded labor by children is not prohibited specifically. The authorities continued to allow prison inmates to be contracted out to private employers or used as communal labor for municipal public works.

There were credible reports that slavery continued to be practiced in parts of northern Cameroon, including in the Lamidat of Rey Bouba, a traditional kingdom in the North Province (see Section 5). In the South and East Provinces, Baka (Pygmies), including children, continued to be subjected to unfair and exploitative labor practices (see Section 5). There were reports of trafficking in girls (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—A 1969 Ministry of Labor order and the 1992 Labor Code provide the legal framework for the protection of children in the field of labor and education. Article 86 of the Labor Code and the Ministerial Order both set the minimum age for the employment of children at 14. The Ministerial Order also enumerates tasks that cannot be performed legally by children between the ages of 14 and 18. These tasks include moving heavy weights, dangerous and unhealthy tasks, working in confined areas, or tasks that could hurt a child's morality. The order also states that a child's workday cannot exceed 8 hours. In order to allow children between the ages of 14 and 18 to improve their knowledge and education, employers are required to train them. To this end, work contracts must contain a training provision for these minors.

However, Ministry of Labor inspectors responsible for enforcing the law lack resources for an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances are beyond a child's capacity to do. In the north of the country, there are credible reports that children from needy homes are placed with other families to do such work for money. The Constitution does not prohibit specifically forced or bonded labor by children, and there were reports of its practice (see Section 6.c.).

In rural areas, many children begin work at an early age on family farms. Often, rural youth, especially girls, are employed by relatives as domestic helpers, while many urban street vendors are under 14 years of age. There are no special provisions limiting working hours for children. Primary education is compulsory through the age of 14.

e. *Acceptable Conditions of Work.*—Under the Labor Code, the Ministry of Labor is responsible for setting a single minimum wage applicable nationwide in all sectors. The minimum wage is approximately $40 (23,514 CFA Francs) per month. It does not provide a decent standard of living for an average worker and family.

The Labor Code establishes a standard workweek of 40 hours in public and private nonagricultural firms, and 48 hours in agricultural and related activities. The code makes compulsory at least 24 consecutive hours of weekly rest.

The Government sets health and safety standards, and Ministry of Labor inspectors and occupational health doctors are responsible for monitoring these standards. However, they lack the resources for a comprehensive inspection program. There is no specific legislation permitting workers to remove themselves from dangerous work situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—The Penal Code provides that any person who engages in any traffic in persons shall be punished with imprisonment of from 10 to 20 years and that the court may also impose a forfeiture penalty.

According to the NCHRF, there have been reports of farm-to-city trafficking of girls who were promise jobs in cities, but were forced into prostitution or other labor. Early in the year, there was a media report that young girls in Douala were being seized as they left school and subsequently sold. In late March, according to that report, local youths in Douala's Bapenda neighborhood reportedly caught a woman in the act of trying to kidnap a young girl from the Bepanda nursery school. The same report indicated that police rescued the woman from a lynching by fire at the hand of neighorhood residents and detained her in Doula's New Bell Prison, where she assisted investigators who sought to break this trafficking network. Initial efforts to investigate these reports could not corroborate them, but inquiries were continuing at year's end. No NGO's were known to be working to reduce trafficking in persons.

CAPE VERDE

Cape Verde is a multiparty parliamentary democracy in which constitutional powers are shared between the elected Head of State, President Antonio Mascarenhas Monteiro, an independent; the Head of Government, Prime Minister Carlos Wahnon

Veiga; and his party, the Movement for Democracy (MPD). The MPD has an absolute majority in the National Assembly. The principal opposition party, the African Party for the Independence of Cape Verde (PAICV), held power in a one-party state from independence in 1975 until 1991. The judiciary is independent, but there were accusations that courts manipulate trial schedules for political reasons.

The Government controls the police, which has primary responsibility for maintenance of law and order. Some members of the police and prison guards committed human rights abuses.

Cape Verde has a market-based economy but little industry and few exploitable natural resources. Based on 1998 data, the per capita income is $1,312 (11,312 escudos). The country has a long history of economically driven emigration, primarily to Western Europe and the United States, and receipts from Cape Verdeans abroad remain an important source of income. Even in years of optimum rainfall, the country can produce food for only 25 percent of the population of approximately 400,000 persons, resulting in heavy reliance on international food aid.

The Government generally respected the human rights of its citizens; however, problems remain in several areas. There were a few credible reports of police abuse, including beatings, of citizens detained on suspicion of criminal activity. While in principle the law and the judiciary provide means to deal with isolated instances of abuse, in practice the Government has not held accountable police officers who were credibly accused of human rights abuses. Prisons do not meet minimum international standards. The judicial system is overburdened, and lengthy delays in trials are common. There were allegations of media self-censorship. Violence and discrimination against women and mistreatment of children continued to be serious problems. Although the Government supported legislation to ameliorate these problems, it failed to adopt, implement, and enforce policies designed to address the most critical challenges. The revision of the Constitution in July included the creation of an independent ombudsman.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, but there were a number of credible reports that police and prison guards mistreated prisoners. While mechanisms for investigating citizen complaints of police brutality exist in theory, in practice these mechanisms neither ensure the punishment of all those responsible, nor effectively prevent future violations. In addition in some instances of violence against women, the police did not protect the victims effectively.

Prisons do not meet minimum international standards and they are severely overcrowded. In August the Minister of Justice took disciplinary action against prison guards accused of abusing detainees.

The Government permits both formal visits by human rights monitors to prisons and routine visits to individual prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—The laws provide for protection from arbitrary arrest and detention, and the authorities generally observe these laws in practice. The law stipulates that a suspect must be charged before a judge within 48 hours of arrest. Police may not make arrests without a court order unless a person is caught in the act of committing a felony. A provision that allowed authorities to detain a person for up to 5 days in exceptional cases was revoked.

The courts have jurisdiction over state security cases. There is a functioning system of bail.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for a judiciary independent of the executive branch, and the Government respects this provision in practice. However, there continued to be accusations of politicized and biased judicial decisions. In July a prosecutor dismissed a case against four citizens associated with the main opposition party who had been arrested for church desecration in 1996. In 1998 a judge ordered their release from detention because of lack of evidence. The prosecutor's decision in July should have ended the State's efforts to prosecute the case permanently; however, the Attorney General did not confirm the prosecutor's decision and declared that the case should await better proof. Another case also involving church desecration appeared to indicate an attempt by a state official to manipulate the judicial process, but in July everyone involved was found innocent (see Section 5). Soon afterwards the Director-General of the judiciary police

publicly questioned the judge's impartiality on the grounds that a relative of the judge's appeared as a defense witness. The Director-General's behavior was criticized by the High Court of Magistrates. Many observers recognize that the law requires a judge to recuse himself when the plaintiff or defendant is a relative. This exchange led some persons to question whether the Director-General's motive was to elicit a complaint against him by the judge. If so the judge would be required to recuse herself from a criminal trial scheduled for October, in which the Director-General was to testify as the prime investigator for the prosecution and the judge was scheduled to preside.

The judicial system is composed of the Supreme Court and the regional courts. Of the five Supreme Court judges, one is appointed by the President, one by the National Assembly, and three by the Superior Judiciary Council. This council, created by the last revision of the Constitution in July, consists of the President of the Supreme Court, the Attorney General, eight private citizens, two judges, two prosecutors, the senior legal inspector of the Attorney General's office, and a representative of the Ministry of Justice. Judges are independent and may not belong to a political party.

The Constitution provides for the right to a fair trial. Defendants are presumed to be innocent; they have the right to a public, nonjury trial; to counsel; to present witnesses; and to appeal verdicts. Free counsel is provided for the indigent. Regional courts adjudicate minor disputes on the local level in rural areas. The Ministry of Justice does not have judicial powers; such powers lie with the courts. Defendants may appeal regional court decisions to the Supreme Court.

The judiciary generally provides due process rights. However, the right to an expeditious trial is constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely leads to trial delays of 6 months.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for the freedom to express ideas by words, images, or any other means, and for freedom of the press without censorship, and the Government generally respected these rights in practice. There is a substantial and growing independent press. Two new private newspapers have emerged. Nevertheless, there was continued criticism by independent political figures of the performance of the state-controlled television, radio, and print media for their failure to exercise vigorously their monitoring role in a multiparty system. In several instances persons whose views did not coincide with those of the Government and the ruling party were transferred, fired, or subjected to other disciplinary actions, the Government does not acknowledge that the divergence of views was the reason for such actions.

During the revision of the Constitution in July, the provision on freedom of expression was amended so that this freedom cannot be used as a defense in cases involving defamation or offense to personal honor. This wording was criticized strongly by the opposition and some journalists on the grounds that it may limit freedom of expression significantly.

Journalists are independent of government control and are not required to reveal their sources. However, there are credible reports that journalists within the government-controlled media still practice self-censorship.

Government authorization is not needed to publish newspapers or other printed material. Despite the broadly interpreted criminal libel laws, no independent media outlets reported having experienced direct pressure in their daily operations or business activities. The national radio station provides live broadcasts of National Assembly sessions.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast.

The Constitution provides for academic freedom, and this right is respected in practice.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association without authorization and without harassment by the authorities. Throughout the year, labor organizations, opposition political parties, civic action groups, and numerous others exercised this right without government interference or objection.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion and the separation of church and state. It also prohibits the State from imposing religious beliefs and practices. The Government respected these rights in practice.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides citizens with the right to travel and establish residence without government restrictions.

The Constitution provides for repatriation, and the Government respected this in practice.

The Constitution provides for the right of asylum by refugees, and no violations were reported. The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. According to the Human Rights Commission, credible media reports, and government officials, Nigerian citizens have been subject to harassment and prejudice by immigration authorities.

The Government has not formulated specific policies regarding refugees or first asylum, and the issue of first asylum has never arisen.

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

Citizens have the right to change their government. Power was transferred peacefully by the PAICV to the MPD following free and fair elections in 1991; a second general election in 1995 and municipal and presidential elections in 1996 also were judged free and fair by international observers.

The Constitution provides for the separation of powers. Cabinet ministers are not required to be members of the National Assembly, but they are individually subject to confirmation by the President. Collectively, they must retain the support of a parliamentary majority. The President may dismiss the Government with the approval of the political parties represented in the National Assembly and the Council of the Republic. This council consists of the President of the National Assembly, the Prime Minister, the President of the Constitutional Court, the Attorney General, the Ombudsman, the President of the Economic and Social Council, the former presidents, and five private citizens appointed by the President.

There are no restrictions in law or practice regarding the rights of women or members of minorities to vote or to participate in the political process; however, women are underrepresented in government. Women constitute 11 percent of the deputies elected to the National Assembly. There are two female cabinet ministers and three secretaries of state (junior ministers).

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

There are two private human rights groups, the National Commission of the Rights of Man and the Ze Moniz Association. The Ze Moniz Association carried out a study on conditions in prisons.

The post of an independent ombudsman, to be elected by the National Assembly, was created by the revision of the Constitution in July. To date the ombudsman's powers remain undefined.

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

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status. However, despite the Government's increasing efforts to enforce all relevant constitutional provisions, it still does not do so effectively, and not all elements of society, particularly women and children, enjoy full protection against discrimination.

Women.—Domestic violence against women, including wife beating, remains common. Both the Government and civil society encourage women to report abuses such as rape and spousal abuse to the police; however, longstanding social and cultural values inhibit victims from doing so, and such reports remain rare, according to the media. Nevertheless, reporting of such crimes to police has increased somewhat, and the media increasingly report their occurrence. Women's organizations are seeking legislation to establish a special family court to address crimes of domestic violence and abuse.

Violence against women has been the subject of extensive public service media coverage in both government- and opposition-controlled media. In December 1998, the Parliament revised the Penal Code, widening the scope of the concept of sexual abuse and strengthening penalties.

Despite constitutional prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continues. Although they often are paid less than men for comparable work, women are making modest inroads in the professions. However, some employers claim that they prefer to hire men.

The Constitution prohibits discrimination against women in inheritance, family, and custody matters. However, largely because of illiteracy, most women are unaware of their rights. Women often are reluctant to seek redress of domestic disputes in the courts. The Organization of Cape Verdean Women alleges disparate treatment in inheritance matters, despite laws calling for equal rights.

Children.—The Government prepared studies of social policy priorities and legal rights for children and adolescents, and the Cape Verdean Institute for Children was restructured in accordance with norms established in the Convention on the Rights of the Child to implement its obligations under the Convention. The Government has extended free mandatory education to 6 years of primary school for all children. Normally, it covers children age 6 to 12. According to the latest UNICEF figures, attendance is approximately 97 percent for children. Attendance by boys is less than one percent more than attendance by girls. The Government also seeks to reduce infant mortality and disease, combat drug and alcohol abuse, and discourage teenage pregnancy; however, progress has been slow.

Child abuse and mistreatment, sexual violence against children, and juvenile prostitution are continuing problems, exacerbated by chronic poverty, large unplanned families, and traditional high levels of emigration of adult men. The media reports cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system make it difficult for the mass media and government institutions to address the problem.

People with Disabilities.—Although the Constitution mandates "special protection" for the aged and disabled, the Government does not require access to public buildings or services for the disabled. There are no official schools or trained teachers for the disabled, although several nongovernmental groups, including an association for the blind, are active.

Religious Minorities.—In July three Seventh-Day Adventists, who were tried for the desecration of Catholic churches on Boavista Island, were freed. In August the Attorney General rejected a local prosecutor's dismissal of the case against the four individuals of the "S. Domingos Group," who were accused of desecrating a Catholic church in 1996 (see Section 1.e.). While the MPD has accused supporters of the PAICV of involvement in the crimes and made it an election issue, the perpetrators remained unknown.

More than 20 cases involving the desecration of Catholic churches have been reported to the police over the years. While some cases date from 1975, after 1990 and especially from 1994–95, the incidence has increased. The persons responsible for the desecrations have never been identified, and the topic has remained a controversial electoral issue since the MPD has accused supporters of the main opposition party PAICV of involvement in the crimes. However, to date, the courts have dismissed every formal accusation that has been brought, usually for lack of evidence.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides that workers are legally free to form and to join unions without government authorization or restriction. There are two umbrella union associations: The Council of Free Labor Unions, composed of 11 unions with about 14,000 members; and the National Union of Cape Verde Workers, formed by the former ruling party but operating independently, composed of 14 unions with about 16,000 members. The Government does not interfere with the activities of these organizations, but the National Union of Cape Verde Workers claims that it received less than its share of funds for unions. Both unions suffer from a shortage of funds.

The Constitution provides union members with the right to strike, and the Government respects this right. However, in July and August, the workers of the shipping company Arca Verde made two attempts to strike. The Government invoked a "civil request," under which it has the power, in an emergency or if a strike threatens coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. Because of the Government's "civil request," the crew and workers of four of the five ships in the fleet were required to continue working. According to the National Union of Cape Verde Workers, the Government's decision violated the law, since there was no emergency. The union claimed that, under such circumstances, the "minimum services list" that it presented to the Government would have ensured the continuation of essential services of public interest. The union presented the case to the International Confederation of Free Trade Unions, which in August filed a complaint against the Government with the International Labor Organization (ILO). The law requires an employer to either reinstate a worker fired unjustly or to provide financial compensation. This law is enforced in practice.

There were three legal strikes. In June telecommunications workers went on a 2-day strike, demanding a salary increase. In July National Institute of Rural Engineering and Forests workers went on strike for 2 days demanding that their contractual situation be solved. Radio and television workers went on a 2-day strike (October 14–15) over the revision of their working conditions.

The Government was invited by the ILO to contest the case presented by the labor union UNTAC–CS regarding the arrest of two of its activists during a demonstration 1 year ago. The Government contested the case in July. At year's end, the outcome was not known.

Unions are free to affiliate internationally and have ties with African and international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize, to operate without hindrance, and to sign collective work contracts. Workers and management in the small private sector, as well as in the public sector, reach agreement through collective bargaining. However, as the country's largest employer, the Government continues to play the dominant role in setting wages. It does not fix wages for the private sector, but salary levels for civil servants provide the basis for wage negotiations in the private sector. There are no collective bargaining agreements.

A 1991 legislative decree bans antiunion discrimination by employers with fines for offenders. No cases were brought to court during the year.

Praia has a new, 30-acre export processing zone, which houses two Portuguese companies and a Cape Verdean-Sengalese joint venture. There are no special laws or exemptions from regular labor laws for such zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is forbidden by law and is not practiced.

The Government prohibits forced and bonded labor by children, and such practices are not known to occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment is 14 years. The law prohibits children under the age of 16 from working at night, more than 7 hours per day, or in establishments where toxic products are produced; but the Government rarely enforces the law. In practice the Ministry of Justice and Labor enforces minimum age laws with limited success, and then only in the urban, formal sectors of the economy.

The Government prohibits forced and bonded child labor and such practices are not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—There are no established minimum wage rates in the private sector. Large urban private employers link their minimum wages to those paid to civil servants. For an entry-level worker, this wage is approximately $120 (11,193 escudos) per month. The majority of jobs pay wages insufficient to provide a worker and family a decent standard of living; therefore, most workers also rely on second jobs, extended family help, and subsistence agriculture.

The maximum legal workweek for adults is 44 hours. While large employers generally respect these regulations, many domestic servants and agricultural laborers work longer hours.

The Director General of Labor conducts periodic inspections to enforce proper labor practices and imposes fines on private enterprises that are not in conformity with the law. However, the Government does not systematically enforce labor laws, and much of the labor force does not enjoy their protection. Few industries employ heavy or dangerous equipment, and work-related accidents are rare.

There is no legal provision for workers to remove themselves from unsafe working conditions without jeopardy to continued employment.

f. *Trafficking in Persons.*—Illegal trafficking in emigrants to various points in Europe is believed to be a thriving business, and it has become a concern for local authorities. Several notices in the press report that the police have arrested some persons, traffickers as well as victims.

CENTRAL AFRICAN REPUBLIC

The Central African Republic is a constitutional democracy with a multiparty legislature. Ange Felix Patasse, leader of the Movement for the Liberation of the Central African People (MLPC), who first was elected President in 1993, was reelected with a narrow majority in September. The presidential election, like National Assembly elections held in late 1998, was generally free but was controlled by the Government and was marred by irregularities that tended to favor the ruling party candidate. The December 1998 defection of a National Assembly member elected on an

opposition ticket gave the MLPC and its political allies a one-seat majority in the unicameral legislature, a development strongly protested by opposition parties. In January opposition parties strongly protested this defection and boycotted the inauguration of the new National Assembly; mediation both by the United Nations peacekeeping force, MINURCA, and by other elements of the international community helped end the boycott. Although the Constitution provides for separation of powers, the legislature is vulnerable to manipulation by the President, who dominates the Government. The President can veto legislation, although two-thirds of the unicameral legislature can override his veto, and he can rule by decree under special conditions. The Constitution provides for an independent judiciary; however, it is subject to executive interference.

The National Police under the direction of the Ministry of Interior and Public Security, the military forces and the national gendarmerie under the Ministry of Defense, and the Special Forces for the Defense of the Democratic Institutions (FORSDIR), which are responsible for presidential security, share responsibility for internal security. The FORSDIR presidential guard included members of the Chadian armed forces assigned on a rotating basis. Although all security forces are nominally under the control of the President and the Ministry of Defense, the military, much of which mutinied in 1996–97, is widely perceived to be of doubtful loyalty to the Patasse Government, and implementation of government plans to reduce its size have been delayed by lack of funds for severance pay and pensions. A 1,350-person peacekeeping force known as MINURCA was deployed by the United Nations Security Council in 1998, with a mandate to assist national security forces in maintaining law and order, to strengthen the national reconciliation process, to maintain a climate of security and stability during the legislative and presidential elections, and to facilitate the disarmament process. In December MINURCA began to withdraw its forces over a 3-month period. The domestic security forces, and the FORSDIR in particular, continued to commit serious human rights abuses.

The country is landlocked and sparsely populated. The majority of the population is engaged in subsistence agriculture. Annual per capita gross domestic product is estimated at $330. Principal exports are coffee, cotton, timber, tobacco, and diamonds. Salary arrears continued during the year at an average of 12 months' pay for civilians and 9 months' pay for the military. The arrears continued to impair the functioning of the Government and the authority of the State to enforce the rule of law. The misappropriation of public funds and corruption in the Government have diminished but remained widespread.

The Government's overall human rights record remained poor, with serious problems in many areas and deterioration in others. Citizens generally were able to choose their national government; however, government control of the electoral process and an instance of government manipulation of the National Assembly called this right into question. Security forces continued to commit extrajudicial killings, including government-approved executions of suspected bandits and killings reportedly committed for political reasons by members of the presidential guard. There also were credible reports of deaths of prisoners due to police abuse. Police continued to torture, beat and otherwise abuse suspects and prisoners. Other human rights abuses included harsh prison conditions; arbitrary arrest and detention; prolonged detention without trial; limits on judicial independence; infringements on citizens' right to privacy; restraints on press freedom to criticize the government; restriction of freedom of assembly and association; some limits on freedom of religion; and some limits on freedom of movement. Violence and discrimination against women; female genital mutilation (FGM); child prostitution; discrimination against indigenous people (Pygmies); tensions and occasional violence, especially within the security forces, between some largely progovernment northern ethnic groups and some largely pro-opposition southern ethnic groups; and child labor, including instances of forced child labor, continued to be problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—On the night of November 18–19, armed men, identified by press reports and by the president of the Central African Human Rights League (HRL) as members of the FORSDIR presidential guard, killed former army lieutenant Antoine Bodo in his home in Kembe, in the country's southern region. Bodo, a member of former President Kolingba's Yakoma tribe, was rumored to be working with the former President's son, Captain Serge Kolingba, to create a Yakoma militia. Bodo's killers then abducted several other persons who may have witnessed Bodo's killing and killed four of them, dropping their bodies along the road as they returned to Bangui, the capital; these four persons were gen-

darme Apollinaire Hondet, a pastor named Grembete of the Apostolic Church, Al Ahzdi Khalill, a local leader of the Central African Democratic Rally (RCD) party headed by former president Kolingba, and a man named Delphan from a merchant family. On December 4 the Government dispatched a team of gendarmes to Kembe to investigate the incident. A group of National Assembly members from the largely pro-opposition region accompanied the gendarmes; however, the government's Office of Human Rights was not permitted to send a representative. By year's end, neither the gendarmes nor the legislators had released their reports on the Kemba killings. However, on December 6, the president of the HRL alleged in a press statement that the killings were planned in Bangui and committed with the use of government vehicles, and that that the killers had been identified but had rejoined their units. The LCDH president accused the Patasse Government of preventive repression of its political opponents, particularly Yakoma supporters of former president Kolingba.

Police executed several suspected armed bandits and robbers with prior arrest records. A special Squad for the Repression of Banditry (OCRB), formed in response to the spread of armed robbery throughout Bangui following the military mutinies of 1996 and 1997, continued to operate. The police commissioner continued repeatedly to publicize on radio and television the crimes of criminals apprehended by this squad; they were executed the following day. For example, in late April three young members of an armed gang were shown on television with goods they allegedly had stolen, including guns, ammunition, and computers, and the head of the police explained their alleged crimes. They were executed without a trial. The prosecutor indicated that he has no record regarding the activities or detainees of this police squad. Medical staff confirmed that the OCRB often takes the bodies of persons it has executed to the hospital and leaves them for the family to pick up. Some detainees died after torture (see Section 1.c.). The Government tacitly approved the actions taken by the police squad to reduce armed robbery; it has never prosecuted members of the security forces for these extrajudicial killings. Many citizens also supported the practice of killing alleged armed robbers extrajudicially.

On June 19 FORSDIR presidential guards shot and killed six Chadian herdsmen outside Bangui, in a fight precipitated by trampling of a farmer's field by a Chadian cow. Members of the guard also wounded eight Chadian herdsmen, and herdsmen stabbed and killed one FORSDIR guardsman. The gendarmerie investigated the incident, and the Government financially compensated the families of the victims.

The Government did not prosecute any members of the security forces for extrajudicial killings.

There were deaths due to mob violence, including mob killings of persons suspected of practicing witchcraft. Although religious tolerance among members of different religious groups is the norm, rural radio stations have reported several killings of persons suspected of practicing witchcraft. In October 1998, in the eastern prefecture of Obo, villagers buried alive an old man suspected of having caused by witchcraft the deaths by drowning of two young boys. In February authorities in the village of Sibut detained three men alleged to have caused the death of young persons by witchcraft. The detained men were brought before a court on charges of murder. After the court released the three men for lack of evidence, they were killed by a mob on their way home. Government gendarmes arrested some suspects and the accused are awaiting trial.

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

c. *Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment.*—Although the Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse, police continued to beat and otherwise abuse criminal suspects and prisoners. In January FORSDIR presidential guards tortured and beat a pro-opposition labor union leader whom they had detained arbitrarily (see Sections 1.d. 2.b., 3 and 6.a.). As in previous years, family members and the HRL Executive Committee continued to file court complaints with the prosecutor based on several deaths of prisoners due to police abuse, but the authorities continued to take no action (see Section 1.a.).

FORSDIR continued to be a well-equipped force parallel to the military that frequently used excessive force in its operations; it reportedly also was responsible for other serious human rights abuses (see Sections 1.a. and 1.d.). For most of the year, the Government resisted acting on a U.N. Security Council recommendation that it limit the mission of FORSDIR to the protection of the President, his family, and government institutions. As part of military restructuring legislation adopted in November, the FORSDIR unit was placed under the civilian control of the Minister of Defense. Integration of FORSDIR elements into the regular armed forces had not occurred by year's end.

There was occasional political violence during the presidential campaign (see Section 3).

There have been occasional reports that villagers who were believed to be witches were harassed, beaten, or sometimes killed by their neighbors. Courts have tried, convicted, and sentenced some persons for crimes of violence against suspected witches.

Armed foreigners, including soldiers of the governments of the Democratic Republic of Congo (DROC) and of Chad, who had fought in the civil war in the DROC on the side of the DROC Government but had fled into the country in the face of advancing DROC rebel and Ugandan forces, repeatedly abused civilians. In May heavily armed Chadian forces that withdrew from DROC conflicts committed robberies and rapes on their way back to Chad. In August six armed men alleged to be DROC government soldiers raped one French and two Korean nuns at their residence in Bangassou, near the border with the DROC, and beat a local priest (see Section 2.d.).

Prison conditions are harsh. Ngaragba, Bangui's main prison, was ransacked during the 1996 mutinies. Nearly 500 detainees, half of whom are awaiting trial, still were being kept in 10 police stations around Bangui at year's end. Cells are overcrowded, and the basic necessities of life, including food, clothing, and medicine, are in short supply and often are confiscated by prison officials for their personal use. Prisoners frequently are forced to perform uncompensated labor at the residences of government officials and magistrates (see Section 6.c.). Male and female prisoners are confined in separate facilities in Bangui but housed together elsewhere. Minors routinely are housed with adults and subjected to physical abuse.

The Government permits prison visits by human rights monitors. The national Red Cross and religious groups routinely provide supplies, food, and clothes to prisoners. The ICRC has unrestricted access to prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides protection against arbitrary arrest and detention, but the security forces often ignored these provisions. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 96 hours. In practice authorities often do not respect this deadline, in part due to inefficient judicial procedures. Judicial warrants are not required for arrest. By law, national security detainees are defined as "those held for crimes against the security of the State" and may be held without charge for up to 2 months.

On January 9, FORSDIR presidential guards arbitrarily detained labor union leader Sonny Cole shortly after he played a leading role in organizing a 1-day general strike to protest the ruling party's acquisition of a one-seat majority in the National Assembly through the postelection defection of a member elected as an opposition candidate (see Section 3). He was released the next day after being tortured and beaten (see Sections 1.c, 2.b., 3 and 6.a.), following initiatives on his behalf by MINURCA officials and the HRL. During the year, the Government released Corporal Jean Tindani, one of the 1996 mutineers who was granted amnesty following the 1997 Bangui Accords but had been under arbitrary detention by the police Squad for the Repression of Banditry since May 1997.

Prolonged pretrial detention is a serious problem. Approximately one-half the male prison population consists of pretrial detainees.

The law does not permit the use of exile, and the Government does not employ it in practice. The Government has stated repeatedly that any person in exile for strictly political, rather than criminal, reasons may return without fear of persecution.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, but there are reliable reports of executive interference.

The judiciary consists of regular and military courts. New courts of justice were created in 1997 in both urban and rural areas. A juvenile court was created in 1998. However, these courts are not functioning due to inefficient administration, shortage of trained personnel, growing salary arrears, and a lack of material resources. In April the Criminal Court opened its second session. Lawyers defended all accused persons. Some were found guilty and sentenced to imprisonment.

In criminal cases, the accused are presumed innocent and have the right to legal counsel, to public trial, to be present at their trials, and to confront witnesses. The Government generally respects these safeguards in practice in many cases; however, a number of persons were subjected to prolonged detention without trial or were summarily and extrajudicially killed by the OCRB.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law prohibits invasion of homes without a warrant in civil and criminal cases. On occasions police used provisions of the Penal Code governing certain political and secu-

rity cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes, a practice initiated in 1997 as part of a disarmament process following the 1996–97 military mutinies. In February the OCRB repeatedly searched the private residence of an opposition Member of Parliament, Alphonsine Boganda, without judicial warrant or respect for her immunity, allegedly for illegally possessed guns. No guns were found. Deputy Boganda filed a complaint against the police involved in the search that she dropped after receiving an apology from the head of the OCRB. In March the police searched without warrant the office and the residence of the editor of a private newspaper, Le Citoyen, shortly after that newspaper published articles critical of the Patasse Government (see Section 2.a.). The Government continued to monitor the telephones of some opposition figures and to engage in wiretapping without judicial authority.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted the freedom of the print media to criticize the government. Legislation enacted in 1998 rescinded the Government's authority to censor the press, defined the rights and responsibilities of private media, and created a High Broadcast Council to regulate the media; however, the Government continued to dominate domestic broadcast media. Libel cases are addressed in civil rather than criminal courts.

Citizens continued to speak freely and publicly, criticizing the Government and political parties. Opposition leaders in particular used press statements, manifestos, and copies of open correspondence to the Government to circulate their views. The Government made no apparent effort to censor, seize, or halt the printing and circulation of these materials.

The Government owns and controls two newspapers, the Agence Centrafricaine de Presse (ACAP) bulletin, which appears sporadically, and Be Africa Sango. Echo de CentrAfrique, a private daily newspaper created at the beginning of 1999, is close to the ruling party.

More than a dozen private newspapers were published over varying intervals; eight were published on a regular basis during the year. These newspapers often were outspoken in their criticism of the President, the Government's economic policies, and official corruption. However, the editor of Le Citoyen reported that in March the former Interior Minister—the present chief of the gendarmerie—harassed him regarding his criticism of the Government. In May security forces searched his office and attempted to arrest him in an effort to identify his sources of information.

Radio is the most important medium of mass communication, since literacy is not universal and newspapers and television are relatively expensive and rarely are found outside urban areas. The Government owns and operates a radio station and a television station. Programming was dominated by reporting on the activities of President Patasse and senior government officials. Observers noted that the ruling majority parties received more coverage of their activities or meetings than opposition parties. In January the Director General suspended Christien Noel Panika, a government radio station newscaster, from work for 3 months because he had broadcast a press release on a students' strike without approval of the Minister of Communications and had reported to Radio France International (RFI) on government actions. The presidency, especially the President's communications advisor, reportedly controls the radio programs and broadcasts. Some programs, such as a popular call-in show, whose listeners often expressed opinions critical of the Government, were taken off the air.

Government television and radio broadcasts included weekly programs that provided an opportunity for political parties to present their views and discuss their programs. Although the opposition originally welcomed this promised access to the public media, in practice it did not materialize. During the legislative and presidential elections, political parties had access to the public media according to a schedule established by the High Council of Communication; opposition candidates received equal coverage and had equal access to state-owned media.

Since the mid-1990's, the Government has partially relaxed its monopoly of domestic radio broadcasting. A private radio station, Africa Number One, part of a French-owned network based in Libreville, Gabon, has been broadcasting in Bangui since 1995. Its programming includes national news coverage by a correspondent based in the country. A station affiliated with the Catholic Church began operations the same year. Its programming includes national news, debates, legal counseling, and human rights education. RFI has been broadcasting domestically since 1997. Its programming includes some national news coverage by a correspondent based in the country. In 1998 Radio MINURCA, the U.N. peacekeeping forces' radio, began

broadcasting. However, there are no private broadcast media entities owned and operated by citizens of the country, as distinct from transnational French networks or Catholic networks. There are no privately owned stations that broadcast domestically produced national news or political commentary.

The Government continues to monopolize domestic television broadcasting. Private television broadcasting is allowed by law; the High Council of Communication is responsible for authorizing private television as well as radio stations. No applications to establish a private television station have been received. In the judgment of domestic investors, the economic preconditions for one do not exist. The Government does not restrict domestic receipt or distribution of satellite or cable television, but few citizens can afford it, and it is not widespread even in the capital. A private telecommunications company established pursuant to a 1996 law that liberalized telecommunications operates a domestic Internet and e-mail service provider as well as cybercafes. Few citizens can afford home access to the Internet, but many urban residents rent brief access at cybercafes.

Prior to 1999, the Government did not impede foreign journalists in their work. However, on January 14, journalists Stephen Smith, of the newspaper Liberation, and his wife, Geraldine Faes, of Jeune Afrique magazine, along with their two children, were turned back by the presidential guards immediately after landing at the airport, despite having received proper visas at the Government's embassy in Paris. In 1998 Smith had written an article on President Patasse's diamond interests. Their friend, human rights activist lawyer Nicolas Tiangaye, who met them upon arrival, was pushed and threatened by the presidential security guards (see Sections 2.d. and 4).

The Government respects academic freedom. University faculty and students belong to many political parties and generally express their views without fear of reprisal.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government restricted this right in practice on several occasions during the year. In addition, some legal restrictions on freedom of assembly remain. A 1992 decree requires organizers of demonstrations and public meetings to register with the Government 48 hours in advance and also prohibits political meetings in schools or churches. Prior to 1999, the Ministry of Administration, Territory, and Security, now known as the Ministry of Interior, generally had not prohibited demonstrations or public meetings if notified in advance. However, in January and February the Government, with the express approval of President Patasse, refused to allow the Union des Forces Acquises a la Paix (UFAP), a coalition of political parties, labor unions, and NGO's, to hold public meetings on the grounds that it was not a registered organization. The ban was not lifted by the end of the year. The UFAP cancelled a public meeting that it had called for February 6 in order to avoid a violent confrontation with security forces. Also in February, following the opposition boycott of the National Assembly, police dispersed an opposition meeting organized in Bimbo, south of Bangui, by the deputies of the opposition Movement for Democracy and Development (MDD), an opposition party, to explain the ongoing crisis at the National Assembly to their constituency. Due in part to these government restrictions on public meetings, the opposition resorted to a 1-day general strike to express widespread disapproval of the means by which the ruling party had obtained a majority in the National Assembly. After the Presidential election, in late September and early October, the Government again enforced its ban on all public demonstrations and mass meetings nationwide.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. All associations including political parties must register with the Ministry of Interior in order to enjoy legal status. The Government usually has granted registration expeditiously.

There are more than 35 registered political parties and a variety of nonpolitical associations. The Government normally allows them to hold congresses, elect officials, and publicly debate policy issues without interference except when they advocated sectarianism or tribalism. However, in January the Interior Minister suspended for 3 months the activities of two nongovernmental organizations (NGO's). These NGO's, the AITAO (Brotherhood Association) and Le Cri de la Foret distribute medicine to the rural population and promote forest conservation.

Also, in connection with prohibiting the UFAP from holding public meetings, the Government enforced a law that does not allow nonpolitical organizations to coalesce for political purposes; no comparably significant reports of enforcement of this law had been reported during previous years of the Patasse Government.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion but establishes fixed legal conditions and prohibits what the Government considers religious fundamentalism or intolerance. The constitutional provision prohibiting reli-

gious fundamentalism is widely understood to be aimed at Muslims. There is no state religion. The population is believed to be about 50 percent Christian, 15 percent Muslim, and 35 percent practitioners of traditional indigenous religions, or nonreligious. Most Christians also practice some aspects of their traditional indigenous religions. In practice, the Government permits adherents of all religions to worship without interference. Religious organizations and missionary groups are free to proselytize, worship, and construct places of worship.

Religious groups (except for traditional indigenous religious groups) are required by law to register with the Government's Ministry of Interior. This registration is free and confers official recognition and certain limited benefits, such as customs duty exemption for the importation of vehicles or equipment, but does not confer a general tax exemption. The administrative police of the Ministry of Interior keep track of groups that have failed to register, but the police have not attempted to impose any penalty on such groups. The Government continued to refuse to reregister the previously registered and subsequently banned Unification Church.

The Ministry of Interior has registered more than 100 religious and nonreligious groups since 1993. However, any religious or nonreligious group that the Government considers subversive is subject to sanctions. The Ministry of Interior may decline to register, suspend the operations of, or ban any organization that it deems offensive to public morals or likely to disturb the peace. The Government has banned the Unification Church since the mid-1980's as a subversive organization likely to disturb the peace, specifically in connection with alleged paramilitary training of young church members. However, the Government imposed no new sanctions on any religious group during the year. The Ministry of Interior also may intervene to resolve internal conflicts about property, finances, or leadership within religious groups.

The practice of witchcraft is a criminal offense under the Penal Code; however, persons generally are prosecuted for this offense only in conjunction with some other offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of which the causes were unknown. The practice of witchcraft is widely understood to encompass attempts to harm others not only by magic, but also by covert means of established efficacy such as poisons.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Persons are free to move about within the country, but the police, security forces, and other officials harass travelers unwilling or unable to pay bribes at checkpoints along major intercity roads and at major intersections in Bangui. However, under pressure from the National Assembly, the Ministry of Administration, Territory, and Security removed some security forces checkpoints on the main roads outside the capital during the year.

Presidential security forces (FORSDIR) continued to be stationed at the airport to control travelers. Immigration authorities informed some citizens, when attempting to leave the country, that their names were on unspecified official lists that prohibited their departure. The Government generally allows opposition leaders to travel abroad or inside the country without restrictions; however, interventions by human rights organizations and the international community were required to achieve this in some cases during the year. Moreover, in October the Government, acting on orders from President Patasse, prevented General Timothee Malendoma, the 63-year-old leader of an opposition party, from leaving the country for the stated purpose of attending an evangelical religious conference. In January the FORSDIR refused to allow French journalists to enter the country (see Section 2.a.).

Attacks by bandits on major routes to the north and east sometimes occurred, even though travelers moved in convoys with military escorts.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol have the force of law, and the Government treats refugees in accordance with its provisions. The Government continued to work with the office of the United Nations High Commissioner for Refugees (UNHCR) in hosting Chadian, Sudanese, Rwandan, and Congolese refugees. Almost all refugees were registered with the National Commission for Refugees.

In May the Government allowed units of the Chadian armed forces that had been fighting on the side of the DROC government in the DROC civil war to return to Chad overland through the country (see Section 1.c.). In July approximately 15,000 to 20,000 DROC civilians and DROC government soldiers entered the country as DROC rebel forces advanced into areas of the DROC adjacent to the country. The Government facilitated UNHCR efforts to feed, house, and provide medical treatment to the refugees. It also facilitated the return of the DROC soldiers and their weapons to Kinshasa in Libyan aircraft.

Applicants for asylum generally are well treated and often are accepted. There were no reports of the forced return of persons considered to be refugees under

international standards to a country where they feared persecution, but some of the DROC soldiers who were repatriated feared prosecution and possible execution for desertion by the DROC government.

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

Citizens first exercised this right in 1993, in free and fair elections that were the culmination of a successful democratization movement led by Ange Felix Patasse. Patasse's MLPC won both the presidency and a majority of seats in the unicameral national legislature. Citizens again exercised their constitutional right to change their government by democratic means through National Assembly elections in 1998 and a presidential election on September 19. International observers deemed both elections generally free and fair. However, the presidential elections were marred by irregularities in voter registration and distribution of electoral materials. Some of the registration irregularities tended to favor the ruling party.

In the 1998 National Assembly elections, opposition parties won 55 seats, while the ruling MLPC party of President Patasse and its allies won 54 seats. However, the defection of one opposition National Assembly member in December 1998 gave the ruling party and its coalition a one-seat majority. The opposition parties and the UFAP strongly protested this defection and boycotted the inauguration of the new session of the legislature. Since the Government restricted their freedom of assembly, the opposition resorted to a 1-day general strike to express widespread disapproval of the means by which the ruling party obtained a majority in the National Assembly. FORSDIR presidential guards arrested and tortured a labor union activist following the strike (see Sections 1.c and 1.d.). The FORSDIR harassed observers, such as the president of the Central African Human Rights League (LDCH), after he strongly criticized the monopolization of power by President Patasse (see Section 4).

President Patasse's first term of office expired in October, but he was constitutionally eligible to seek a second consecutive term. In June the Government established an Independent Electoral Commission (CEMI) to supervise the presidential election. Although the CEMI included representatives from many political parties on its board, its staff was run at the national level by a chairman appointed by President Patasse, and was run at the local level by central government subprefects who served at the pleasure of the President and most of whom belonged either to the ruling party or one of its coalition allies. The Government explicitly rejected suggestions by elements of the international community, which provided material and financial support for the election, that the executive branch of the Government not involve itself in the management of the electoral process. In August President Patasse promulgated a decree that subordinated CEMI to the state Organ of Control (OCASPA), a state organization that he had created by decree on May 1 to oversee the election process. Before the presidential election, there were credible reports of attempts to inflate the number of registered voters sharply in pro-MLPC northern areas, although this was corrected before the polling. The Government postponed the first round of the presidential election, first from August 29 to September 12, and then to September 19, after serious problems in ballot distribution became evident; however, the Government denied requests from opposition leaders for further delays to permit more complete resolution of problems with the electoral process. Some provisions of the electoral code, requiring publication of voter lists at least 15 days before the election and distribution of voter identification cards at least 8 days before the election, were not respected. On election day, a shortage of ballots was reported in some largely pro-opposition districts. Opposition party poll-watchers reported the use of some falsified voter identification documents by voters, and there were several reports of ballot boxes being delivered to the CEMI without certified tally sheets, or from unofficial polling places.

On October 2, two weeks after the voting, the Constitutional Court announced the official results of the election and declared President Patasse reelected with 51.6 percent of the votes cast. Nine other candidates certified by the Constitutional Court had competed in the election. The Constitution required a second-round runoff election if no candidate received 50 percent of votes cast in the first round election. However, only one of the unsuccessful candidates filed a complaint with the Constitutional Court.

There was occasional violence during the presidential election campaign. On September 10, fighting in Bangui between supporters of President Patasse and former president Kolingba, who was running against Patasse, left about 20 persons wounded. On October 2, when the Constitutional Court declared President Patasse reelected, and while the Government's ban on all large public meetings was in effect (see Section 2.b.), some opposition supporters attacked the residence of the French

Ambassador and vehicles that belonged to the Embassy of China to protest those two governments' perceived support for Patasse.

The Constitution provides for multiple political parties. The State is highly centralized. The central Government appoints all subnational government officials, and subnational government entities have no significant fiscal autonomy. The Government failed to hold constitutionally required local elections in recent years, ostensibly due to budgetary restrictions. The Government has appointed four successive mayors of Bangui, the capital, a southern city well outside the ruling party's main political base in the north (see Section 5).

There are no laws that restrict the participation of women or minorities in the political process, but their numbers are few in government and politics. Before and during the legislative and presidential elections, the Government's Department of Social Affairs and women's NGO's implemented programs and launched an extensive public awareness campaign to encourage women to register to vote and to compete for public office. There are very few women in prominent government positions. Only 8 members of the National assembly are women, although 80 women competed for the 109 seats. Three of the 25 cabinet members are women. The President, for the first time, appointed five women as prefects.

At year's end, there was one Muslim in the Prime Minister's Cabinet, and there were at least five Muslims in the National Assembly.

President Patasse is a member of the Sara-Kaba ethnic group. Members of northern ethnic groups, including the Sara and Baya, continued to predominate among the President's advisors, in the leadership of the ruling party, and among ruling party members of the National Assembly; they also held most ministerial positions in the Government until November, when Patasse appointed a more ethnically diverse Government. Both Prime Minister Qanicet George Dologuele and Luc Dondon Konambaye, who became President of the National Assembly in January, are distant relatives of Patasse.

Pygmies (Ba'aka), the indigenous inhabitants of the southern part of the country, who represent from 1 to 2 percent of the population, are not represented in the Government and have little political power or influence.

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

The Central African Human Rights League (LCDH) publicizes human rights violations and pleads individual cases of human rights abuses before the courts. The LCDH distributed to prisons, police stations, courts, schools, and to other NGO's pamphlets describing human rights and information on judicial access. In January the LCDH issued a press release protesting the arbitrary arrest and torture of union leader Sonny Cole by the FORSDIR and urged the Government to release him. In the same document, the LCDH also severely criticized the monopolization of executive and legislative power by members of President Patasse's ethnic group and Patasse's refusal to compromise with the opposition. Security forces harassed the president of the LDCH after he strongly criticized the monopolization of power by President Patasse (see Section 3).

Several other NGO's, including the Movement for the Defense of Human Rights and Humanitarian Action and some religious groups actively monitor human rights problems. Although the Government welcomed the role that some of these NGO's played in mediating its negotiations with military mutineers in 1996 and 1997, it did not welcome their criticism of the process by which the Government formed a slender majority coalition in the National Assembly in December 1998 (see Section 3).

On January 14, FORSDIR presidential guards physically abused human rights lawyer Nicolas Tiangaye at Bangui's airport, where he was meeting foreign journalists (see Section 2.a.). The previous day, in an interview on RFI, Tiangaye had criticized the growing concentration of political power in the hands of members of President Patasse's ethnic group and discussed allegations of human rights violations during the Patasse Administration.

International observers including U.N. human rights monitors from MINURCA observed the 1998 legislative elections and the September presidential election. No other international human rights organizations are known to have sought to visit the country during the year.

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

The Constitution stipulates that all persons are equal before the law without regard to wealth, race, sex, or religion, but the Government does not enforce these provisions effectively, and significant discrimination exists.

Women.—Violence against women, including wife beating, occurs although inadequate data make it impossible to quantify the extent. Victims seldom report incidents. The courts try very few cases of spousal abuse, although litigants cite these abuses during divorce trials and civil suits. Some women reportedly tolerate abuse in order to retain a measure of financial security for themselves and their children. The Government continued not to address this problem during the year.

In daily practice, women are treated as inferior to men both economically and socially. Single, divorced, or widowed women, even with children, are not considered to be heads of households. Only men are entitled to family subsidies. Women in rural areas generally suffer more discrimination than do women in urban areas. Sixty to 70 percent of urban women have attended primary school, whereas only 10 to 20 percent of their rural counterparts have done so. At the primary level, females and males enjoy equal access to education, but the majority of young women drop out at age 14 or 15 due to social pressure to marry and bear children. Only 20 percent of the students at the University of Bangui are women. There are no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at upper levels in the professions or in the government service, traditionally has been limited. In 1999 numerous active women's groups organized workshops and seminars to promote women's and children's rights and to fully participate in the electoral process.

Polygyny is legal, although this practice faces growing resistance among educated women. The law authorizes a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice many couples never marry formally because men cannot afford the traditional bride payment. Women who are educated and financially independent tend to seek monogamous marriages. Divorce is legal and may be initiated by either partner. The law does not discriminate against women in inheritance and property rights, but a welter of conflicting customary laws often prevails. A family code designed to strengthen women's rights was enacted in May 1998.

The Association of Central African Women Lawyers advises women of their legal rights. The organization also publishes pamphlets in conjunction with the Ministry of Social Affairs on the dangers of FGM and of food taboos.

Children.—Although there is no official discrimination against children, the Government spends little money on programs for children. Churches and NGO'S have relatively few programs for youths. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in street children. Education is compulsory beyond the age of 5 years through primary and secondary school, but parents rarely are prosecuted for their children's nonattendance. Moreover, in practice, the age at which a child starts school often varies by 2 to 3 years in rural areas. Many children survive by begging and stealing. Several charitable organizations strive to assist them. In some rural areas, teachers or principals use their pupils as farm laborers.

A teacher's strike that lasted all year further reduced educational opportunities for children (see Section 6.a.).

Some girls enter prostitution to earn money for the survival of the family. The presence of international peacekeeping forces in the capital has aggravated the problem of teenage prostitution. Child prostitution increased in the capital until late in the year, when MINURCA began its withdrawal from the country. The Government did not address these problems during the year.

The Penal Code forbids parental abuse of children under the age of 15 years. The Family Code was designed to strengthen children's rights. Illegitimate children now have the same rights as those born in wedlock. A juvenile court was set up in 1998 but lacked the means to function (see Section 1.e.).

A 1996 ordinance banned female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health. However, girls continued to be subjected to this traditional practice in certain rural areas, and to a lesser degree in Bangui. Approximately 45 to 50 percent of adult females have undergone FGM. A campaign of awareness organized by the Ministry of Social Welfare and NGO'S has reduced the incidence of FGM in some rural areas. This campaign was continuing at year's end.

People with Disabilities.—There is no codified or cultural discrimination against the disabled. There are several government-initiated programs designed to assist the disabled, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Services. There are no legislated or mandated accessibility provisions for the disabled.

Indigenous people.—Despite constitutional protection, there is societal discrimination against Pygmies (Ba'aka), the earliest known inhabitants of the rain forest in

the southern part of the country, who make up about 1 to 2 percent of the country's population. In general, Pygmies have little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, are subject to social and economic discrimination and exploitation, which the Government has done little to correct. Pygmies often work for villagers at wages lower than those paid to members of other groups.

Religious Minorities.—Muslims (who constitute about 15 percent of the population), particularly Mbororo (also known as Peulh or Fulani) herders, continued to claim that they were singled out for harassment by authorities, including extortion by police, due to popular resentment of their presumed affluence. Muslims play a preponderant role in the economy. On September 14, supporters of an opposition presidential candidate looted Muslim businesses in Kouanga, on the DROC border.

National/Racial/Ethnic Minorities.—The population of about 3.5 million includes about 90 ethnic groups; many of these groups speak distinct primary languages and are concentrated regionally outside urban areas. The largest ethnic groups are the Baya (more than 30 percent), the Banda (more than 25 percent), the Mandja (more than 20 percent), and the Sara (about 10 percent). The Mbororo make up about 5 percent of the population but play a preponderant role in the economy. They are involved in mining development and remain the most important cattle breeders in the country.

Until 1993 there was little ethnic balance at the higher levels of government. Under the regime of Andre Kolingba, who ruled from 1981 to 1993, members of Kolingba's ethnic group, the Yakoma subgroup of the Ngbandi, held a disproportionate number of senior positions in government, the armed forces, and state-owned firms. As a result of President Patasse's 1993 election, Yakomas no longer hold a disproportionate number of positions in the civil service, but the armed forces still are being restructured to achieve greater ethnic balance. At year's end Yakomas still constituted the majority of the army. President Patasse is a member of the Sara ethnic group, which is linked to the Baya. The Patasse Government initially brought about a more representative ethnic balance to the Government. However, by 1998 observers noted that members of the Sara and Baya northern ethnic groups close to the President were a majority in Patasse's Cabinet and also receive favorable treatment in government appointments. During the year, the opposition criticized the growing concentration of state power in the hands of members of northern ethnic groups, including the President, the President of the National Assembly, and the Prime Minister (see Section 3). In November, after the presidential election, the President appointed an ethnically more diverse group of cabinet ministers and advisors, as did the Prime Minister for his cabinet. However, about 80 percent of FORSDIR members are native to the President's northern region; many belong to the President's ethnic group or closely related groups.

Major political parties tend to have readily identifiable ethnic or ethnic-regional bases. The results of the 1998 legislative elections and the September presidential election confirmed that the MLPC Party of President Patasse has strong support in the north, especially among the Sara and Baya ethnic groups, but also has strengthened its support in the capital. The Movement for Democracy and Development (MDD) party of former President Dacko is strong in the southwestern part of the country and the Central African Democratic Rally (RDC) Party of Kolingba, is popular in the southeast, in the Oubangui River basin, especially among the Yakoma.

Section 6. Workers Rights

a. *The Right of Association.*—Under the Labor Code, all workers are free to form or join unions without prior authorization. A relatively small part of the workforce has exercised this right, chiefly wage earners such as civil servants. There are five recognized labor federations. The two most important are the Organization of Free Public Sector Unions and the Labor Union of Central African Workers (USTC), which are independent of the Government.

Unions have the right to strike in both the public and private sectors. To be legal, strikes must be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union also must provide 8 days' advance written notification of a planned strike. The Labor Code states that if employers initiate a lockout that is not in accordance with the code, the employer is required to pay workers for all days of the lockout. Other than this, the code does not provide for sanctions on employers for acting against strikers. No employer actions against strikers are known to have occurred during the year. Primary and secondary teachers remained on strike throughout the year in protest against unpaid salary arrears and unsuitable working conditions.

On January 9, FORSDIR presidential guards arbitrarily detained, beat and tortured labor union leader Sonny Cole shortly after he played a leading role in organizing a 1-day general strike to protest the ruling party's acquisition of a one-seat majority in the National Assembly through the postelection defection of a member elected as an opposition candidate (See Sections 1.c., 1.d., 2.b., and 3).

Labor federations are free to affiliate internationally. The USTC is affiliated with the International Confederation of Free Trade unions.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code grants trade unions full legal status, including the right to sue in court. It requires that union officials been employed full-time in the occupation as a wage earner, but they may conduct union business during working hours. The code does not provide specifically that unions may bargain collectively. While collective bargaining has taken place in some instances, the Government usually is involved in the process.

Wage scales are set by the Ministry of Labor and Civil Service. Salary arrears continued during the year at an average of 12 months for civilians and 9 months for military personnel; they continued to be a major complaint of the unions.

The law expressly forbids discrimination against employees on the basis of union membership or union activity. The Labor Code does not state whether employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is specifically prohibited by the Labor Code, and there were no reports of forced or bonded labor, except for prisoners who were forced to work without compensation for government officials or magistrates (see Section 1.c.). The Labor Code also applies to children, although it does not specifically prohibit forced labor by children. However, the Government does not have sufficient resources to enforce the prohibition effectively. In some rural areas, teachers or principals use school children as labor on farms and some parents force their daughters into prostitution to help support the family (see Section 5.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law forbids the employment of children under 14 years of age, but the Ministry of Labor and Civil Service enforces the provision only loosely. In practice child labor is common in many sectors of the economy, especially in rural areas. The Labor Code prohibits forced and bonded labor in general and children are covered by its provisions, but the Government does not enforce its provisions effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Labor Code states that the Minister of Labor must set minimum wages by decree. The minimum wage varies by sector and by kind of work. For example, the monthly minimum wage is equivalent to about $12 (7,800 CFA francs) for agricultural workers but to about $28 (18,000 CFA francs) for office workers. The minimum wage does not enable a worker and family to afford the basic necessities and is not adequate to maintain a decent standard of living. Most labor is performed outside the wage and social security system, especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 55 hours per week. The law also requires a minimum rest period of 48 hours a week.

There are also general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defines nor actively enforces them, a matter about which the International Labor Organization has expressed concern to the Government for many years. The Labor Code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

f. *Trafficking in Persons.*—No law was known specifically to prohibit trafficking in persons, but there were no known cases that occurred.

CHAD

Chad is a centralized republic dominated by a strong presidency. President Idriss Deby, leader of the Patriotic Salvation Movement (MPS), has ruled since taking power in a 1990 rebellion. The Sovereign National Conference confirmed Deby in 1993 as Chief of State, and he was elected President in mid-1996 under a Constitution adopted in a referendum earlier that year. According to widespread credible reports, fraud, vote-rigging, and local irregularities marred both the 1996 presidential election, which Deby won, and the 1997 legislative elections in which members of

the MPS won 65 of 125 seats in the National Assembly. The Government remained unable to exert effective control over the northwestern region of the country where former Defense Minister Youssouf Togoimi began a rebellion in October 1998. On April 28, President Deby swore in 16 members of the Supreme Court, which began operations in July. Despite this major step in formally fulfilling the 1996 Constitution's requirement for the establishment of an independent judicial branch, the courts remained ineffective, overburdened, and subject to outside interference, including by the executive branch.

The army, gendarmerie, police, National and Nomadic Guard (GNNT), and intelligence services are responsible for internal security. Officers from president Deby's ethnic group dominate the Rapid Intervention Force (FIR), and the National Security Agency (ANS), a counterintelligence organization that has acted as an internal political police force. The security forces continued to commit serious human rights abuses.

The economy is based on subsistence agriculture, herding, and fishing. Annual per capita income is estimated at $230. The country has little industry; its chief export is cotton. Among the impediments to economic growth are corruption, numerous state-owned monopolies, a bloated civil service, and a thriving informal sector outside government taxation policies. There are substantial unexploited oil reserves, which are the subject of ongoing negotiations with a consortium of international oil companies. The Government remains heavily dependent on assistance from external donors and international financial institutions.

The Government's human rights record remained poor, and there continued to be serious problems in many areas. The Government limited citizens' right to change the government. State security forces continue to commit extrajudicial killings, and they torture, beat, abuse, and rape persons. Prison conditions remain harsh and life threatening. Security forces continued to use arbitrary arrest and detention. Although the Government detains and imprisons members of the security forces implicated or accused of criminal acts, it rarely prosecutes or sanctions members of the security forces who committed human rights abuses. The Government also did not prosecute or punish security force personnel accused in previous years of killings, rape, torture, and arbitrary arrest and detention. The Government released jailed opposition Deputy Ngarlejy Yorongar, opposition party leader Yaya Batit and over 200 other prisoners in February; however, it still held political detainees, and lengthy pretrial detention remained a problem. The judiciary remained subject to executive interference and was unable to provide citizens with prompt trials. Security forces used illegal searches and wiretaps and monitored the contents of private mail. The Government at times restricted freedom of speech and of the press. It threatened the private press with judicial action if independent newspapers continued to publish interviews and statements by rebel leader Youssouf Togoimi. The Government at times limited freedom of assembly, religion, and movement and interfered with the operations of human rights groups. Societal discrimination against women remained common. Violence against women also is believed to be common, and female genital mutilation (FGM) remained widespread. Both official and societal ethnic and regional discrimination remained widespread; northerners, and in particular members of President Deby's Zaghawa ethnic minority, continued to dominate key positions in the public sector. There also were instances of forced labor, including forced child labor. Child labor is a problem. Serious armed conflict between the Government and rebels in the Tibesti continued.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Officially sanctioned extrajudicial killings of suspected criminals by police, customs officers, and gendarmes continued, although some members of the security forces were taken into custody pending further judicial action. Units of the armed forces were responsible for the extrajudicial killings of suspected members of the northwestern rebellion in the Tibesti.

In January security forces in collaboration with local administrative officials were responsible for killing seven presumed thieves in the Mayo Kebbi and Bongor areas. Also in January, two businessmen suspected of murder in Tan'djile died while in police custody. In February customs officials in Bol beat to death three men, which touched off a local sit-in. In March a local human rights group in the Logone Oriental discovered a common grave containing three unidentified corpses of persons who allegedly died at the hands of security forces from Moundou.

Throughout the year, members of the Tibesti rebellion reported human rights abuses and the killing of suspected collaborators among the civilian population by members of the army. During March a human rights group verified four deaths in

Zouar that were attributed to the army. In July Hemchi Dogori, a gendarme implicated in civilian massacres in the two Logones in 1993, opened fire on a group of villagers in Gourma near Faya Largeau. Nine persons were wounded, including two pregnant women, and one 81-year-old man was killed.

b. *Disappearances.*—There were no reports of politically motivated disappearances during the year. However, there remain numerous cases of disappearances from previous years that have never been resolved. For example, in February 1998, security forces arrested Kibel Justin in Sarh for suspicion of aiding rebel leader Dr. Nahor Ngawara Mamouth. Although most detainees held for complicity in Dr. Nahor's 1998 kidnaping of four Frenchmen were released in July 1998, Kibel Justin cannot be accounted for or located in other prisons.

c. *Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture and degrading or humiliating treatment; however, members of the security forces tortured, beat, abused, and raped citizens. No one was prosecuted for these abuses.

In January two members of the Ati gendarmerie broke the right arm of a high school student. In February members of the N'djamena gendarmerie arrested a member of the National Sugar Society and severely beat him for allegedly embezzling funds.

Dr. Djibrine Ibrahim spent much of the period from February 1998 to June in detention on suspicion of aiding rebel leaders Dr. Nahor Ngawara Mamouth and Youssouf Togoimi. During his months of incarceration, military officers as well as ANS agents subjected Dr. Ibrahim to various forms of torture, including "arbatachar" (where the victim's arms and legs are tied behind his or her back cutting off circulation and sometimes resulting in paralysis), as well as severe beatings. Due to double fractures of his right hip, Dr. Ibrahim's right leg remains crippled, requiring him to use a cane in order to walk. Both his legs are heavily scarred as a result of numerous beatings and the application of irritants to open wounds on both legs. Despite lengthy periods of incarceration, the Government never permitted Dr. Ibrahim legal counsel or brought him before a judge on formal charges.

Police injured two students when they dispersed demonstrations in February (see Section 2.b.).

Security forces extorted money at roadblocks (see Section 2.d.).

In September members of the police and military forces tortured a businesswoman at the behest of a presidential advisor who was in debt to the victim. Due to the publicity surrounding the case, President Deby dismissed the Minister of Justice, the presidential advisor, as well as the Director General of the Gendarmerie.

Two specialized police units under the Ministry of Interior's authority committed numerous human rights abuses during the year. Members of the Police Rapid Action Company (CARP) and the Special Weapons and Tactics (SWAT) Unit (RAID) tortured, beat, and raped detainees, without sanction by government authorities. Impunity for those who commit human rights abuses remains widespread.

Prison conditions were harsh and life threatening. Prisons were characterized by serious overcrowding; poor sanitation; inadequate food, shelter, and medical facilities; and the mixing of adult male and minor prisoners. Female prisoners usually are separated from males. The law provides that a doctor must visit each prison three times a week; however, there were credible reports that this was not done.

Human rights organizations in June called on the Government to investigate numerous accusations by citizens in the Kenga canton of the Guera prefecture who claimed that the canton chief was operating a private prison in which some prisoners were tortured and whipped.

The Government permitted the ICRC to visit all prisons, including military prisons, although it insisted on advance notice; the ICRC conducted 37 prison visits during the year. Domestic nongovernmental organizations (NGO's), including human rights groups, may visit a prison only with authorization from a court or from the Director of Prisons. These groups reportedly were not allowed access to military prisons, and their access to civilian prisons depended greatly on the personal inclinations of judges and prison administrators.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and the Penal Code prohibit arbitrary arrest; however, security forces continued to use arbitrary arrest and detention. Arrest warrants must be signed by a judicial official; however, the Government often does not respect these requirements.

Human rights organizations cite the cases of over 100 detainees held during the period from 1996 to 1999 by the canton chief in Kenga, Guera, who is accused of operating a private prison. In view of the lack of adequate judicial coverage in the country, the Government accords traditional chiefs some judicial authority in the area of arrest and short-term detention until prisoners can be turned over to judicial officials. However, the Kenga canton chief abused his authority in numerous cases.

In the first 3 months of the year, the army arrested three persons in Faya Largeau on suspicion of aiding Tibesti rebel leader Togoimi. On March 18, the director general of the gendarmerie of Faya Largeau, acting under the orders of the Minister of Defense, arrested the imam of the Faya Largeau mosque. The Government also detained imams Sheskh Mahamat Marouf and Sheik Kaki Suzuki (see Section 2.c.).

Members of CARP and RAID were responsible for numerous cases of arbitrary arrest and detention, and tortured, beat, and raped detainees (see Section 1.c.). Persons accused of crimes may endure up to several years of incarceration before being charged or tried, especially those arrested for felonies in the provinces, who must await remand to the overcrowded house of detention in N'djamena.

The Government released jailed opposition Deputy Ngarlejy Yorongar, opposition party leader Yaya Batit, and over 200 other prisoners in February. However, the Government continued to hold political detainees. Detainees implicated in Dr. Nahor's rebellion remain in jail without charges and without trial. Despite the arrests of individuals on suspicion of subversive activities against the Government, no one has been tried for such crimes since Deby came to power. Political detainees either eventually are released or they disappear. The army returned from the Democratic Republic of Congo in June with a group of Congolese prisoners of war, many of whom were ordinary civilians. Although the Government claimed that they were Ugandan and Rwandan soldiers, the group consisted entirely of Congolese nationals who remain housed at a military facility in N'djamena.

The Government did not practice forced exile; however, some family members of persons who joined the northern rebellion chose to leave the country for security reasons.

e. *Denial of Fair Public Trial.*—The Constitution mandates an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, and subject to executive interference. In practice officials and other influential persons often enjoyed immunity from judicial sanction. Executive influence remains a serious problem in the judiciary. For example, in the case of the 11-month imprisonment of an imam in Abeche (see Section 2.c.), President Deby supported the prolonged incarceration of the imam despite the lack of a judicial review of the case (also see Section 1.d.). During the year, the President intervened in a number of legal cases for political reasons.

On April 28, President Deby swore in 16 members of the Supreme Court as well as 9 members of the Constitutional Court. Establishment of the two courts fulfilled the Constitution's formal requirement for an independent judicial branch. Due to funding restrictions, both courts did not begin operations until mid-year and still are relatively untested legal bodies. The national judicial system operates with courts located in provincial capitals. The N'djamena court of appeals is supposed to conduct regular sessions in the provinces, but funding limitations do not permit the court to make periodic circuit visits.

Applicable law can be confusing, as courts often tend to blend the formal French-derived legal code with traditional practices. Residents of rural areas often lack effective access to formal judicial institutions. In most civil cases, they rely on traditional courts presided over by village chiefs, canton chiefs, or sultans. Decisions may be appealed to a formal court.

Official inaction and executive interference continue to plague the judiciary. Long delays in trials result in lengthy pretrial detention (see Section 1.d.).

Justice officials' salaries are often low. Although the Government has stated that the strengthening and reform of the judiciary are top priorities, it made little progress in these areas.

The Government has not enforced the Military Code of Justice since the 1979–80 civil war, and court martials instituted early in the Deby regime to try security personnel for crimes against civilians no longer operate.

In February the President pardoned opposition deputy Ngarlejy Yorongar and opposition political party leader Yaya Batit, along with approximately 200 other prisoners. Both men had been accused of defamation in 1998. The Government denied Batit a public trial and did not provide him legal counsel. Yorongar's trial and subsequent appeals were characterized by irregularities and questionable judicial proceedings.

There were no reliable figures concerning the number of political prisoners. A prominent political prisoner, Dr. Djibrine Ibrahim, was released in June. Political prisoners rarely are convicted of any crime and are either released or disappear.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy of home, correspondence, and other communications, as well as freedom from arbitrary search; however, authorities infringed on those rights. The Penal Code requires authorities to conduct searches of

homes only during daylight hours and with a legal warrant; however, in practice security forces ignored these provisions and conducted extrajudicial searches at any time.

The Government engages in wiretapping without judicial authority and monitors the contents of private mail through the postal service.

The Government illegally conscripted young men from eastern Chad and Sudan into the army where they were trained for fighting against rebel forces in northern Chad.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted this right in practice. The Government threatened journalists with legal retaliation for publication of antigovernment articles. The Government's primary concern centered on a series of interviews with rebel leader Youssouf Togoimi, which the Minister of Communications labeled as seditious. Intelligence services personnel visited the offices of one journalist and threatened her if she continued to publish articles about the rebellion. However, unlike the previous year, the Government did not prosecute private print journalists for libel.

NGO's published their findings on human rights cases in the print media, often sending statements to diplomatic missions and international human rights NGO's.

A number of private newspapers are published in the capital; some are vociferously critical of government policies and leaders.

Due to widespread illiteracy and the relatively high cost of newspapers and television, radio is the most important medium of mass communication and information. Until 1999 there was only one privately owned domestic radio station, La Voix du Paysan, which is owned by the Catholic Church and began operating in 1997. Located in Doba, it broadcasts locally produced programming including news coverage and political commentary in French and indigenous languages over a 140 mile range. The High Council on Communications (HCC) has set the licensing fee for a commercial radio station at a prohibitively high level: about $9,000 (5 million cfa francs) per year, 10 times the fee for radio stations owned by nonprofit NGO's, like La Voix du Paysan.

A new community radio station in N'djamena, DJA–FM99, received a license from the HCC but has only begun broadcasting music. Station SM-Liberte, owned by a group of human rights organizations, also received a license but has not started broadcasting.

The State owns and operates the only domestic television broadcasting station. There have been no requests to establish a private television station, economic preconditions for which may not exist. There is one privately owned cable television service that distributes foreign-sourced programming in French and Arabic, but relatively few citizens can afford to subscribe. A South African cable station also sells subscriptions.

The sole Internet access server is provided by the government-owned telecommunications monopoly. The Government does not restrict access to the Internet; however, the state-owned firm reportedly sets prices and provides a quality of service that may discourage the establishment of private domestic Internet service providers.

The official media, consisting of a national radio network, a press agency, and N'djamena's only national television station, are subject to both official and informal censorship. However, at times they are critical of the Government. The official media also give top priority to government officials and events, while providing less attention to the opposition. The HCC acts as an arbiter whose main function is to promote free access to the media, but it has no powers of enforcement.

Academic freedom is respected. In February students held a 3-day protest over an increase in tuition fees (see Section 2.b.).

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for freedom of assembly; however, the Government at times limited this right in practice. The law requires organizers of public demonstrations to notify local authorities 5 days in advance. Authorities banned demonstrations critical of the Government despite being notified in advance as required by law. The Government did not permit students at N'djamena University to protest the accidental killing of two university professors by customs authorities during a high-speed pursuit of smugglers. Despite the lack of formal government concurrence, a 3-day student protest over the increase in tuition fees erupted in February. Subsequent police action in dispersing the students resulted in injuries to two students.

By contrast peaceful demonstrations in support of the Government and its policies are condoned. In October the Government permitted demonstrations in support of the oil project.

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

c. *Freedom of Religion*.—The Constitution provides for religious freedom, and the Government generally respects this right in practice; however, at times it limited this right. The Constitution also provides that the country shall be a secular state. However, despite the secular nature of the State, a large proportion of senior government officials, including President Deby, are Muslims, and some policies favor Islam in practice. For example the Government sponsors annual Hajj trips to Mecca for certain government officials.

Non-Islamic religious leaders claim that Islamic officials and organizations receive greater tax exemptions and unofficial financial support from the Government. State lands reportedly are accorded to Islamic leaders for the purpose of building mosques, while other religious denominations must purchase land at market rates to build churches.

The Government requires religious groups, including both foreign missionary groups and Chadian religious groups, to register with the Ministry of the Interior's Department for Religious Affairs. Registration confers official recognition but not any tax preferences or other benefits. There are no specific legal penalties for failure to register, and there were no reports that any group had failed to apply for registration or that the registration process is unduly burdensome. The Government reportedly has denied official recognition to some groups of Arab Muslims in Ati, near the eastern border with Sudan, on the grounds that they have incorporated elements of traditional African religion, such as dancing and singing, into their worship. In addition to registration, foreign missionaries must receive authorization from the Ministry of Interior, but do not face restrictions.

Instances of government intervention and prohibition of religious practices during the reporting period involved both Christians and Muslims. The Christian Eglise Evangelique des Freres (EEF), which consists of approximately 40,000 adherents located primarily in Bessao in the South, underwent a split in 1998 into moderate and fundamentalist factions. Due to tensions between the two groups as well as the fact that the moderate faction controlled the church organization recognized by the Government (and resulting in registration for all EEF churches), the Government banned the fundamentalist group from its churches and further forbade adherents from meeting in their homes for prayers. Although tension remains between the two factions, the Ministry of the Interior rescinded its ban on the fundamentalist faction and issued it a legal registration on April 7 to practice under a new name (Eglise des Freres Independantes au Tchad—EFIT).

Within the Islamic community, the Government intervened to imprison and sanction fundamentalist Islamic imams believed to be promoting conflict among Muslims. In January the Government arbitrarily arrested and detained imam Sheikh Mahamat Marouf, the fundamentalist Islamic leader of the northeastern town of Abeche and refused to allow his followers to meet and pray openly in their mosque. Sheikh Marouf remained in jail without formal charges until November 19 when the President ordered his release. The Government prohibited a fundamentalist imam in N'Djdamena, Sheik Faki Suzuki (named after the Suzuki car equipped with loudspeakers that he used for broadcasting his sermons around town) from preaching Islam for 6 months, from October 1998 to March. The Government claimed that his messages promoted violence, and it also placed him under house arrest.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation*.—The Constitution provides for these rights; however, there were some limits on them in practice. The Government did not require special permission for travel in areas that it effectively controls. However, elements of the security forces, rebels, and bandits continued to maintain many roadblocks throughout the country, extorting money from travelers. The Government did not officially condone such behavior on the part of security forces members, but did not discourage it effectively. In addition armed bandits operated on many roads, assaulting, robbing, and killing travelers; some bandits were identified as active duty soldiers or deserters.

The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees. There were no confirmed reports of the forced expulsion of persons with a valid claim to refugee status, but refugees continue to complain about threats to their safety while waiting for their cases to be adjudicated. The country provides first asylum for refugees and has done so in past years. The Government has granted refugee and asylee status informally to persons and has allowed them to remain for resettlement.

In January 5,000 additional Sudanese refugees fleeing tribal violence in the western Sudan joined 12,500 Sudanese refugees who entered Chad in 1998. All remain scattered in more than 30 villages along the eastern border near Adre. Despite entreaties from the Government of Sudan to return, the Sudanese refugees continue to reside in Chad.

The Government adheres to the principles of U.N. refugee standards and criteria; however, these principles are not incorporated into the law. An official national structure is in place to deal with Chadian and foreign refugee affairs, called the National Committee for Welcoming and Reinsertion. Since 1993 the Government has registered refugees in N'djamena and sent their applications for refugee status to UNHCR Central African headquarters in Kinshasa, the Democratic Republic of Congo, or other regional UNHCR offices in Africa. A person whose application is accepted is eligible to enroll in a 6-month care maintenance program that includes a monthly subsistence allowance, medical care, and assistance in finding work. This program is funded by a local NGO.

Chadian refugees are legally free to repatriate, and the UNHCR intends to repatriate approximately 25,000 Chadians from surrounding countries in the next 3 years. Most Chadian refugees reside in the Central African Republic, Niger, Libya, Sudan, Nigeria, and Cameroon.

A group of foreign individuals, mostly Sudanese, claiming to be refugees, continue to charge that foreign officials often monitor refugees applying at the UNHCR branch office N'djamena and have stated that this intimidates some refugees.

There were no known instances of persons being returned to a country where they feared persecution. However, the Sudanese government forcibly repatriated several Chadian rebels in September, even though the Government of Chad characterized their return as a reconciliation. Although the men are no longer in prison, their movements are restricted and they are unable to leave the country.

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

Citizens' right to change their government peacefully remained limited. The 1996 presidential election, which Deby won, and the 1997 National Assembly elections, in which Deby's MPS party won 65 of a total of 125-seats, were the first multiparty elections in many years. However, both elections were compromised by widely reported fraud, including vote rigging and other irregularities committed by election officers, government officials, members of the ruling party, and other parties.

The Government is headed by a prime minister who is nominated by the President and confirmed by the National Assembly. Prime Minister Nassour Ouaidou Guelengdouksia has held office since May 1997.

The State remains highly centralized. The national government appoints all subnational government officials, who also must rely on the central government for most of their revenues and their administrative personnel. Using its parliamentary majority, the Government during the year passed twin legislative bills outlining the proposed decentralization structure leading to local government elections that are required by the Constitution. Local elections have been delayed since the conclusion of the 1997 parliamentary elections. The newly established Constitutional Court in September returned both legislative bills to parliament after finding that they violated the Constitution.

Many political parties objected to the Government's proposed decentralization plan and its presidentially decreed internal territorial divisions. Political leaders accuse the Government of coopting their most popular local politicians to run as candidates in local elections and also alleged intimidation and threats by the military forces against those party members who refused.

Women are underrepresented in Government and politics; few women hold senior leadership positions. There are 2 women of cabinet rank and 3 female members of the 125-seat National Assembly.

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

Human rights organizations generally operate with few overt restrictions, investigating and publishing their findings on human rights cases. Government officials are often accessible to human rights monitors but generally are unresponsive or hostile to their findings. The Government obstructed the work of human rights organizations during the year through arrest, detention, and intimidation. Incidents between state security forces and human rights monitors occurred in the Kanem, Moyen Chari, Mayo Kebbi, Tan'djile, and Ouaddai regions.

NGO's have gained recognition under the Deby regime and play a role in political events. Human rights groups have assisted the Government in mediation efforts to

reconcile the ancient conflict between herders and farmers over land and water rights. Numerous NGO's participated in a national conference on the farmer/herder conflict sponsored by the Government in May.

Human rights groups are outspoken, if often partisan, in publicizing abuses through reports and press releases, but only occasionally are they able to intervene successfully with authorities. Many human rights groups are composed of opponents of the Government, which impairs their credibility with both the Government and international organizations.

In January the European Interparliamentary Union issued a report on the arrest, detention, and legal proceedings against then—imprisoned opposition deputy Ngarlejy Yorongar. The delegation that visited Chad on a fact-finding mission in late 1998 raised serious objections to Yorongar's treatment in prison, the political nature of his arrest, and the lack of impartial judicial treatment in his case.

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

The Constitution provides for equal rights for all citizens, regardless of origin, race, religion, political opinion, or social status. In practice cultural traditions maintain women in a status subordinate to men, and the Government favors its ethnic supporters and allies.

Women.—While no statistics are available, domestic violence against women is believed to be common. By tradition wives are subject to the authority of their husbands, and they have only limited legal recourse against abuse. Family or traditional authorities may act in such cases, but police rarely intervene.

Discrimination against women remains widespread. In practice women do not have equal opportunities for education and training, making it difficult for them to compete for the few formal sector jobs. Property and inheritance laws do not discriminate against women, but traditional practice favors men. Exploitation of women is especially pervasive in rural areas where women do most of the agricultural labor and are discouraged from formal schooling.

In August the Government held meetings with representatives of religious groups and civil society to update the Family Code. In the absence of a comprehensive law governing women's rights, the Family Code sets the parameters of women's rights under the law.

The Government promoted increased awareness of women's rights in March by sponsoring a National Women's Congress in Moundou in honor of international women's day. Although the meetings did not result in formal resolutions or a groundbreaking political action plan, the meetings nevertheless served to focus attention on many of the problems that confront women.

Children.—The Government has demonstrated little commitment to children's rights and welfare. Although increasing its assistance to the education sector, the Government has not committed adequate funding to public education and medical care. Educational opportunities for girls are limited, mainly because of tradition. About as many girls as boys are enrolled in primary school, but the percentage of girls enrolled in secondary school is extremely low, primarily because of early marriage. Although the law prohibits sexual relations with a girl under the age of 14, even if married, this law rarely is enforced, and families arrange marriages for girls as young as the age of 11 or 12, sometimes forcibly, for the financial gain of a dowry. Many wives then are obligated to work long hours of physical labor for their husbands in fields or homes. Children work in agriculture and herding (see Section 6.d.).

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is widespread—estimated to have been practiced on about 60 percent of all females—and deeply rooted in tradition. Advocated by women as well as by men, the practice is especially prevalent among ethnic groups in the east and south, where it was introduced from Sudan. All three types of FGM are practiced. The least common but most invasive procedure, infibulation, is confined largely to the region on the eastern border with Sudan. FGM usually is performed prior to puberty as a rite of passage, an occasion that many families use to profit from gifts from their communities.

Opposition to the elimination of FGM is strong. Both the Government and the NGO community in recent years have conducted active and sustained public education campaigns against the practice. A 1995 law makes FGM theoretically a prosecutable offense as a form of assault, and charges can be brought against the parents of FGM victims, medical practitioners, or others involved in the action; however, no suits have been brought under the law.

People with Disabilities.—There is no official discrimination against disabled persons. However, the Government operates only a few therapy, education, or employ-

ment programs for persons with disabilities, and no laws mandate access to buildings for the disabled. Several local NGO's provide skills training to the deaf and blind.

Religious Minorities.—About half the population is Muslim, about one-third is Christian, and the remainder practice traditional indigenous religions or no religion. Most northerners practice Islam; most southerners practice Christianity or a traditional religion. Consequently, tensions and conflicts between government supporters from the politically dominant northern region and rebels from the politically subordinate southern region occasionally have religious overtones.

National/Racial/Ethnic Minorities.—The country's population of about 7 million consists of approximately 200 ethnic groups, many of which are concentrated regionally and speak distinct primary languages. Most ethnic groups are affiliated with one of two regional and cultural traditions: Arab and Saharan/Sahelian zone Muslims in the north, center, and east; and Sudanian zone Christian or animist groups in the south.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of buying and employment, in patterns of de facto segregation in urban neighborhoods, and in the paucity of interethnic marriages, especially across the north-south divide. Although the law prohibits state discrimination on the basis of ethnicity, in practice ethnicity continued to influence government appointments and political alliances. Northerners, in particular members of President Deby's Zaghawa ethnic group, continued to dominate the public sector and were overrepresented in key institutions of state power, including the military officer corps, elite military units, and the presidential staff. Political parties and groups generally continued to have readily identifiable regional or ethnic bases.

In the army's fight against the Tibesti rebels, several hundred soldiers were killed or injured by land mines. The Government exhibited a pattern of discrimination in selectively separating wounded northerners from southerners for treatment, with the northerners given preferential medical treatment, including evacuation abroad. Many untreated wounded southerners were left to die as a result of the selective access to medical treatment based solely on ethnicity.

Section 6. Worker Rights

a. *The Right of Association*.—The Constitution recognizes freedom of association and union membership, as well as the right to strike, and the Government generally respected the right to organize and strike in practice. All employees, except members of the armed forces, are free to join or form unions. Unions no longer need authorization from the Government in order to operate legally. However, few workers belong to unions, as most workers are unpaid subsistence cultivators or herders. The main labor organization is the Federation of Chadian Unions (UST). Its former major constituent union, the Teacher's Union of Chad, broke off from UST and became independent in 1998. Neither union has ties to the Government. A number of minor federations and unions, including the Free Confederation of Chadian Workers, also operate, some with ties to government officials.

The telecommunications workers struck in July over issues relating to the pending privatization of the telecommunications sector.

Labor unions have the right to affiliate internationally.

b. *The Right to Organize and Bargain Collectively*.—The Constitution contains only general provisions for the rights of the Government to set minimum wage standards and to permit unions to bargain collectively. The Labor Code has specific provisions on collective bargaining and workers' rights. The Labor Code empowers the Government to intervene in the bargaining process under certain circumstances.

The Labor Code protects unions against antiunion discrimination, but there is no formal mechanism for resolving such complaints.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor*.—The Constitution and the Labor Code prohibit slavery and forced or compulsory labor by adults and children; however, while there are no reports of forced labor practices in the formal economy, there were isolated instances of forced labor by adults and children in the rural sector by local authorities as well as in military installations in the north.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The Labor Code stipulates that the minimum age for employment in the formal sector is 14 years. The Government does not enforce the law, but in practice children rarely are employed except in agriculture and herding due to the high unemployment rate; however, in agriculture and herding, child labor is nearly universal. Children rarely are employed in the commercial sector; however, some children work on contract with herders. The Government does not support the use of minors in the mili-

tary services, and minors were believed to have been mustered out in the demobilization program of 1997. However, there were credible reports that minors continue to serve in the military services. The Government prohibits forced and bonded labor by children; however, it does not enforce this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work*.—The Labor Code requires the Government to set minimum wages. The minimum wage at year's end was $50 (25,480 cfa) per month. Most wages, including the minimum wage, were insufficient to provide a decent standard of living for a worker and family. Nearly all private sector and state-owned firms paid at least the minimum wage, but the lowest public sector wages remained below the minimum wage. The Government increased the salaries of civil servants by 5 percent in January because it was unable to pay many government employees the minimum wage during 1998. The Government reduced wages paid to the armed forces, which are already well below the minimum wage.

The State, which owns businesses that dominate many sectors of the formal economy, remained the largest employer. The Government reduced significantly the large salary arrears owed to civil servants and military personnel, although some arrears remain. Nevertheless, wages remained low, and many state employees continued to hold second jobs, raise their own food crops, or rely on their families for support.

The law limits most agricultural work to 39 hours per week, with overtime paid for supplementary hours. Agricultural work is limited to 2,400 hours per year. All workers are entitled to 48 hours of rest per week, although in practice these laws rarely are enforced.

The Labor Code mandates occupational health and safety standards and inspectors with the authority to enforce them. These standards rarely are respected in practice in the private sector and are nonexistent in the civil service. The UST has alleged before the International Labor Organization that the labor inspection service is not allocated the resources necessary to perform its duties. In principle workers can remove themselves from dangerous working conditions, but in practice they cannot leave without jeopardizing their employment.

f. *Trafficking*.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

COMOROS

The Federal Islamic Republic of the Comoros is ruled by Colonel Assoumani Azali, who took power in a coup in April. The country consists of three islands (Grande Comore, Anjouan, and Moheli) and claims a fourth, Mayotte, which is governed by France. Comoros has been prone to coups and political insurrection since independence in 1975. On April 29 and 30, army commander Colonel Azali staged a bloodless coup and overthrew President Tadjiddine Ben Said Massounde, the Interim President who had held office since the death of democratically elected President Mohamed Taki Abdoulkarim in November 1998. Colonel Azali justified the coup and his subsequent self-designation as president by stating that the previous government was unable to maintain law and order on Grande Comore or to solve the Anjouan secession crisis. Colonel Azali said that he would step down on April 14, 2000 and relinquish power to a democratically elected president. However, his vow was conditioned on Anjouan's return to the republic and participation in the elections. On May 6, Azali decreed a new Constitution that gives him both executive and legislative powers. While the Cabinet is predominantly civilian, three-quarters of the regime's directorate, where the real power is thought to reside, is composed of members of the military. In December in response to international criticism, Azali appointed a civilian prime minister, Bianrifi Tarmidi; however, Azali remains the Head of State and army commander in chief. The judiciary was the only federal institution to survive the coup intact. Its nominal independence was not tested during the year; however, in the past, both the executive and other elites have influenced the outcome of court cases.

The Anjouan secession crisis entered its third year. In April Anjouanais representatives were the only parties who refused to sign a reunification accord brokered by the Organization for African Unity's (OAU), which was negotiated in Antananarivo, Madagascar. The Anjouanais leadership had not signed the accords by year's end. In August legislative elections were held on Anjouan, in which the faction led by Lieutenant Colonel Said Abeid won an overwhelming majority. Opposition parties alleged that most of their candidates were disqualified unfairly. Several opposition leaders were expelled to Mayotte in September, then imprisoned when they were

sent back to Anjouan by French authorities. The OAU observer force departed the country after the coup. The OAU General Assembly and Council of Ministers both have criticized the coup, and the General Assembly threatened sanctions if constitutional government was not restored before the next OAU summit.

The Comorian Defense Force (FCD) and the gendarmerie are responsible for internal security and are under Azali's direct control. Security forces committed some human rights abuses.

The economy of this extremely poor country is dominated by agriculture. Revenues from the main crops—vanilla, essence of ylang-ylang, and cloves—continue to fall while the population of 547,600 has been growing at a rate of 2.7 percent annually. Per capita income was approximately $400 per year in 1997. The national accounts have not been updated since 1998. The country depends heavily on foreign assistance from the European Union and Arab countries, including Bahrain, Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates.

The human rights situation remained poor, and worsened in several areas. Citizens do not have the right to change their government. Police regularly threatened Christians, prison conditions remain poor, and police sometimes arbitrarily arrested and detained persons. There were some infringements on freedom of the press and academic freedom. The military regime limits freedom of religion. Societal discrimination against women and Christians continued to be serious problems. There were some instances of forced child labor. Prior to the coup, nongovernmental political factions harassed and beat Anjouanais residents throughout Grande Comore after Anjouanais representatives refused to sign the Antananarivo accords in April.

On at least one occasion, quasi-police authorities known as embargoes on Anjouan beat and detained Christians. Political violence on Anjouan resulted in a number of deaths.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There were no reports of political or extrajudicial killings by the authorities on Grande Comore.

Between May 11 and 13, 1998, police clashed with protestors on Grand Comore over the May 6 government closure of the opposition party's Radio Tropique. Police seriously injured several persons, but the only death reportedly was due to a traffic accident caused by the fighting. No police officers were held responsible for their actions during the protests.

In addition to the police and the military, there are many groups throughout Anjouan that are armed, including paramilitary forces, militias, and civilians. Battles between rival militias resulted in about a dozen deaths.

In May a Paris, France court acquitted Bob Denard, a 70-year-old mercenary, of charges that he killed President Ahmed Abdallah in 1989.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The new Constitution declared by Colonel Azali does not specifically prohibit torture or other cruel, inhuman, or degrading treatment or punishment; however, while there were no reports of security force brutality, police regularly threatened Christians (see Section 2.c.).

In April just prior to the coup, nongovernmental political factions and gangs of youths harassed and beat hundreds of Anjouanais on the main island of Grand Comore after representatives from Anjouan refused to sign a reunification accord.

In April embargoes arrested, beat, and detained three local Christians (see Section 2.c.). Prison conditions continued to be poor. A lack of proper sanitation, overcrowding, inadequate medical facilities, and poor diet are common problems. The military regime has not taken action to remedy these problems.

The military regime permits prison visit by independent monitors; however, no such visits occurred during the year.

d. *Arbitrary Arrest, Detention, or Exile*.—The Constitution does not prohibit arbitrary arrest and detention specifically, and there were instances in which authorities arbitrarily arrested and detained citizens. Three opposition politicians, including former interim Prime Minister Abbas Djoussouf, were arrested and detained briefly following minor street demonstrations in September. In September the courts dismissed charges against all three. In October authorities arrested a journalist for writing an article that suggested that there was discord within the army over Azali's rule (see Section 2.a.).

In April embargoes on Anjouan arrested, beat, and detained for a day three local Christians (see Sections 1.c. and 2.c.). Usually the authorities hold those detained for a few days and often attempt to convert them forcibly to Islam. This incident

was not investigated, nor was any action taken against the persons responsible. Anjouan authorities also detained political opponents.

In September secessionist authorities on Anjouan exiled a score of opponents to Mayotte, then imprisoned several of the group's leaders when they were sent back to Anjouan by French authorities. The opponents were released from prison in early October, and no charges were filed against them.

The Constitution does not prohibit forced exile, but the military regime did not use it.

e. *Denial of Fair Public Trial*.—The Constitution provides for an independent judiciary enforced by the Head of State; however, while the nominal independence of the judiciary was not tested during the year, in the past, the executive and other elites have exercised influence over court cases. The Head of State names magistrates by decree.

The High Council, made up of four members appointed by the President, three members elected by the Federal Assembly, and a member of each island council, also serves as the High Court of the Republic and rules on cases of constitutional law. The May Constitution does not provide for equality before the law of all citizens. It does not mention the right to counsel. Trials are open to the public except for limited exceptions defined by law. The legal system incorporates Islamic law as well as French legal codes. There are very few lawyers in the country, making it difficult to obtain legal representation. The military regime does not provide legal counsel to the accused. Most disputes are presented to village elders for possible resolution before being taken to court.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—There were no known cases of arbitrary interference with privacy or correspondence. Former President Taki's bans on alcohol and immodest dress no longer remained in effect. Alcohol can be imported and sold with a permit from the military regime.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution does not provide specifically for freedom of the press, and on at least one occasion authorities infringed on this right. In early October, a freelance correspondent with Agence France Presse, Aboubacar Mchangama, was arrested and detained for reporting about unease within the army between supporters and opponents of Colonel Azali. He reportedly was released on bail on October 21. Nevertheless, small independent newspapers exist side-by-side with the semiofficial weekly Al-Watwan, and some of the independent newspapers criticized the regime freely.

The regime-controlled radio station, Radio Comoros, was the only national radio station until the opposition radio station Radio Tropique resumed operations in June. In addition there are at least 10 regional and local stations, some of which are openly critical of the regime. Residents also receive broadcasts from Mayotte Radio, as well as from French television, without government interference. A national television station is under construction with assistance from the Chinese Government. There are several private local television stations, and satellite antennas are popular. Amateur radio licenses have been issued without hindrance in the past.

Foreign newspapers are available, as are books from abroad. Internet service was introduced by the Taki Government in September 1998.

In August an independent radio station on Anjouan, Radio Ushababi, which was opposed to the independence movement, reportedly was forced to cease broadcasting after being harassed by police and threatened on several occasions by a group of separatist militiamen.

There is no university, but secondary students and teachers speak freely and criticize the regime openly. Public schools no longer are closed on Grand Comore. In order to pressure the Anjouan authorities into signing the Antananarivo accords, the Azali military regime prevented Anjouanais students who traveled to Grande Comore from taking their baccalaureate exams.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution does not provide specifically for freedom of assembly and association, but the regime generally respected these rights in practice.

c. *Freedom of Religion*.—The Constitution does not prohibit discrimination based on religion or religious belief specifically, and authorities infringed on this right. An overwhelming majority of the population is Sunni Muslim. Authorities restricted the right of Christians to practice their faith. Police regularly threatened and sometimes detained practicing Christians. Usually, the authorities hold those detained for a few days and often attempt to convert them to Islam forcibly. In October two citizens were arrested, tried, and convicted of "anti-Islamic activity" in part because they possessed Christian books and audiovisual material. One of the citizens was

sentenced to 18 months in prison, while the other was sentenced to 4 months. Local government officials attempted to force Christians to attend services at mosques against their will.

There are two Roman Catholic churches and one Protestant church. However, prior to the April coup, the former military regime restricted the use of these three churches to noncitizens. There was no information available as to whether the new military regime continued this practice. Many Christians practice their faith in private residences. The regime permits Christian missionaries to work in local hospitals and schools, but does not permit them to proselytize.

The Ulamas council, which had advised the President, Prime Minister, President of the Federal Assembly, the Council of Isles, and the island governors on whether bills, ordinances, decrees, and laws are in conformity with the principles of Islam, no longer exists.

In April embargoes on Anjouan arrested, beat, and detained for a day three local Christians. Some community authorities on Anjouan banned Christians from attending any community events and banned Christian burials in a local cemetery.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution does not specifically provide for these rights; however, the military regime generally respected them in practice. There is no longer a curfew in effect. Air links that had been severed since December 1998 between Grande Comore and Anjouan were restored in April. Passports were again available.

The regime has not formulated a policy regarding refugees, asylees, or first asylum.

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

According to the Constitution's preamble and in practice, citizens do not have the right to change their government. The Constitution states that national sovereignty belongs to the nation's citizens who may exercise it through referendums; however, the regime had not scheduled a referendum by year's end.

According to the Constitution, the Head of State—self-appointed President Azali—has legislative power, which he exercises through ordinances, and executive power, which he exercises through decrees. On April 30, Colonel Azali said that he would step down on April 14, 2000, and relinquish power to a democratically elected president if Anjouan returns to the Republic and participates in the elections.

There are no bans in effect on political parties, which continue openly to criticize the regime without penalty.

Village chiefs and Muslim religious leaders tend to dominate local politics. Traditional social, religious, and economic institutions also affect the country's political life in important ways.

Although women have the right to vote and to run for office, they are underrepresented severely in national politics. At least two women hold senior government positions: one is the Minister for National Education and the other holds the second highest position on the State Council, which advises the Cabinet.

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

The military regime did not prevent the operation of human rights nongovernmental organizations (NGO's), and a number of NGO's operated in the country. However, the Comoros Human Rights Association, established in 1990, was on the verge of disintegration due to a lack of funds.

The military regime cooperated with international NGO's, and a few international NGO's operated in the country.

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

The Constitution does not prohibit discrimination based on these factors specifically, but only states that the judiciary is the guardian of individual liberties. Local communities discriminate against and harass Christians, and Islamic fundamentalism is growing in popularity as more students return to the country after pursuing Islamic studies abroad.

Women.—Violence against women occurs, but medical authorities, the police, and women's groups believe that it is rare. In theory a woman could seek protection through the courts in the case of violence, but in fact the problem is addressed most often within the extended family or at the village level.

Men have the dominant role in society. A matriarchal African tradition affords women some rights, especially in terms of landholding. Societal discrimination against women was most apparent in rural areas where women have onerous farming and child-rearing duties, with fewer opportunities for education and wage em-

ployment. In contrast an improvement in the status of women was most evident in the major towns, where growing numbers of women are in the labor force and generally earn wages comparable to those of men engaged in similar work; however, few women hold positions of responsibility in business. While legal discrimination exists in some areas, in general inheritance and property rights do not disfavor women. For example, the house that the father of the bride traditionally provides to the couple at the time of their marriage remains her property in the event of divorce.

Children.—The regime has not commented on the protection of children's rights and welfare, nor has it taken any action to protect or promote children's welfare. Population pressure and poverty force some families to place their children in the homes of others. These children, often as young as 7 years of age, typically work long hours as domestic servants in exchange for food and shelter (see Section 6.c.). Legal provisions that address the rights and welfare of children are not enforced because of a lack of inspectors.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, generally is not practiced. Child abuse appears to be rare.

People with Disabilities.—There is no evidence of widespread discrimination against the disabled in the provision of education or other services. No legislation is in force concerning accessibility to public buildings or services for persons with disabilities.

Religious Minorities.—There is widespread societal discrimination against Christians in all sectors of life. Attempts have been made to isolate Christians from village life. Christians face insults and threats of violence from members of their communities. Christians have been harassed by mobs in front of mosques and summoned for questioning by religious authorities. In some instances, families forced Christian members out of their homes or threatened them with a loss of financial support. Some Christians have had their Bibles taken by family members. Local government officials, religious authorities, and family members have attempted to force Christians to attend services at mosques against their will.

Community members and authorities in Lingoni, Anjouan, banned Christians from attending any community events, and in Mremeni, Anjouan, they banned Christian burials in the local cemetery.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution does not provide for the right to unionize and strike, but these rights are practiced freely. Farming on small land holdings, subsistence fishing, and petty commerce make up the daily activity of most of the population. The wage labor force is small, and numbers less than 7,000 including government employees, and less than 2,000 excluding them. Teachers, civil servants, and dockworkers are unionized. Unions are independent of the regime. Teachers and hospital workers strike intermittently, mostly because they often are not paid for months at a time. There are no laws protecting strikers from retribution, but there were no known instances of retribution.

There are no restrictions on unions joining federations or affiliating with international bodies.

b. *The Right to Organize and Bargain Collectively.*—Unions have the right to bargain collectively, and strikes are legal. Wages are set by employers in the small private sector and by the Government, especially the Ministries of Finance and Labor, in the larger public sector. The Labor Code, which is enforced only loosely, does not include a system for resolving labor disputes, and it does not prohibit antiunion discrimination by employers.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution does not mention forced or compulsory labor, but it generally is not practiced; however, some families place their children in the homes of others where they work long hours in exchange for food or shelter (see Section 5).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code defines the minimum age for employment as 15 years of age. The Ministry of Labor has few resources to enforce this provision, but, except for domestic work, child labor is not a problem due to the general lack of wage employment opportunities. There were some instances of forced or bonded labor by children (see Section 5 and 6.c.). Children generally help with the work of their families in the subsistence farming and fishing sectors (see Section 5).

e. *Acceptable Conditions of Work.*—There is no minimum wage.

Previous governments periodically have reminded employers to respect the Labor Code, which specifies 1 day off per week plus 1 month of paid vacation per year, but the regime has not set a standard workweek.

There are no safety or health standards for the minuscule manufacturing sector.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

DEMOCRATIC REPUBLIC OF THE CONGO

Much of the Democratic Republic of Congo (formerly Zaire) continued to be ruled by President Laurent Desire Kabila, whose Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) overthrew the authoritarian regime of Mobutu Sese Seko by armed force in 1997. The State continued to be highly centralized formally—although in practice the country's dilapidated transportation and communications infrastructure impaired central Government control—and Kabila continued to rule by decree, unconstrained by a constitution or a legislature. Kabila continued to ban political party activity, and replaced the ADFL with Libyan-trained "People's Power Committees" (CPP's) that monitored the activities of citizens in neighborhoods, schools and workplaces. The July 10 Lusaka Accords provided for a political dialog among the Government, rebel factions, the unarmed opposition, and elements of civil society; however, little was accomplished toward this end during the year. The judiciary continued to be subject to executive influence and corruption.

By year's end, the Government had lost control of more than half the country's territory to armed antigovernment organizations, the Congolese Rally for Democracy (RCD), and the Movement for the Liberation of the Congo (MLC). The RCD remained dominated by members of the Tutsi ethnic minority but split in May into two factions: One that continued to be headquartered in Goma and to command most RCD forces and continued to be supported by the Government of Rwanda; and a new faction based in Kisangani that commanded fewer troops and, like the largely non-Tutsi MLC, was supported by the Government of Uganda. War broke out in August 1998, when Kabila tried to expel Rwandan military forces that had helped him overthrow Mobutu. Congolese Tutsis as well as the Governments of Burundi, Rwanda, and Uganda all relied on the Rwandan military presence for protection against hostile armed groups operating out of the eastern part of the country. These groups included: The Interahamwe militia of Hutus, mostly from Rwanda, which took part in the 1994 genocide of Tutsis in Rwanda and who fought the Tutsi-dominated Government of Rwanda; Hutu members of the former Rwandan armed forces, which also took part in the 1994 genocide of Tutsis in Rwanda, and who also fought the Government of Rwanda; the Mai Mai, a loose association of traditional Congolese local defense forces, which fought the influx of perceived Rwandan immigrants; the Alliance of Democratic Forces (ADF), made of up Ugandan expatriates and supported by the Government of Sudan, which fought the Government of Uganda; and several groups of Hutus from Burundi fighting the Tutsi-dominated Government of Burundi. In the ensuing war, elements of the armed forces of Rwanda and Uganda operated inside the country in support of the RCD or the MLC; elements of the armed forces of Angola, Chad (whose forces withdrew from the country during the year), Namibia, and Zimbabwe operated inside the country in support of the Government; and the Mai Mai and Hutu armed groups operated inside the country on the side of the Government, often as guerillas operating inside territory held by antigovernment forces. Elements of the armed forces of Burundi operated inside the country against armed groups of Hutus from Burundi who used the country as a base. A small detachment of Libyan troops was present in the capital for a few months but did not conduct any combat operations. Antigovernment forces generally continued to win territory from progovernment forces during the year despite sporadic fighting among rival rebel organizations. A cease-fire agreement negotiated in Lusaka in July was violated by all parties especially in the north and east, but fighting was generally less intense than during the first half of the year.

The Government's security forces consist of a national police force under the Ministry of Interior, a National Security Council (CNS), the National Intelligence Agency (ANR), and the Congolese Armed Forces (FAC), which includes an Office for the Military Detection of Subversive Activities (DEMIAP). There is also a Presidential Guard, which has its own Investigative Branch (DGGP). The immigration service (DGM) and the recently organized Autodefense Forces (FAP) and CPP's also function as security forces. During the year, Kabila gave Mai Mai leaders commissions in the FAC and coordinated operations with the Mai Mai and Hutu militias; the Government also formed People's Defense Committees (CPD's), which were armed

elements of the new CPP's and operated outside the formal structure of the State, but which were not yet armed in some areas at year's end. The police force, reorganized in 1997, handles basic criminal cases. The CNS shares responsibility for internal and external security with the ANR, including border security matters. The FAC retains some residual police functions. Military police have jurisdiction over armed forces personnel. The security forces committed numerous, serious human rights abuses.

Most sectors of the economy continue to decline. Production and incomes continued to fall, and the modern sector virtually has disappeared. Physical infrastructure was in serious disrepair, financial institutions have collapsed, and public education and health have deteriorated. Annual per capita national income fell from an estimated $115 in 1998 to less than $100 in 1999. Subsistence activities, a large informal sector, and widespread barter characterized much of the economy; the insolvent public sector could not provide even basic public services. External economic assistance remained limited, and the State's revenues from diamond exports, its leading source of foreign exchange, declined. Public sector employees, including most soldiers, routinely went months without pay, which caused a number of strikes. Rebel-held areas increasingly were integrated financially and administratively with the economies of Rwanda and Uganda. The Governments of Rwanda and Uganda established commercial agreements and reportedly have levied and collected taxes and customs duties.

The Kabila Government's human rights record remained poor. Citizens do not have the right to change their government peacefully. Security forces were responsible for numerous extrajudicial killings, disappearances, torture, beatings, rape, and other abuses. In general, security forces committed these abuses with impunity, although a special military tribunal tried and executed some security force members for various human rights abuses. Prison conditions remained harsh and life threatening. Security forces increasingly used arbitrary arrest and detention throughout the year. Prolonged pretrial detention remained a problem, and citizens often were denied fair public trials. The special military tribunal tried civilians for political offenses and executed civilians, frequently with total disregard for process protections. The judiciary remained subject to executive influence and continued to suffer from a lack of resources, inefficiency, and corruption. It was largely ineffective as either a deterrent to human rights abuses or a corrective force. Security forces violated citizens' rights to privacy. Forcible conscription of adults and children continued, although children were conscripted to a lesser extent than in the previous year. Government security forces continued to use excessive force and committed violations of international law in the war that started in August 1998. On at least three occasions, government aircraft bombed civilian populated areas in rebel-held territory. Although a large number of private newspapers often published criticism of the Government, the Government continued to restrict freedom of speech and of the press by harassing and arresting newspaper editors and journalists and seizing individual issues of publications, as well as by continuing to increase its restrictions on private radio broadcasting. The Government severely restricted freedom of assembly and association. The Government continued to restrict freedom of movement; it required exit visas and imposed curfews even in cities not immediately threatened by the war. The Government continued to ban political party activity and used security services to stop political demonstrations, resulting in numerous arrests and detentions. It also harassed and imprisoned members of opposition parties and harassed human rights nongovernmental organizations (NGO's). Violence against women is a problem and rarely was punished. Female genital mutilation (FGM) persists among isolated populations in the north. Discrimination against indigenous pygmies and ethnic minorities is a problem. Serious governmental and societal violence and discrimination against members of the Tutsi ethnic minority continued; however, the Government protected many Tutsis who were at risk and permitted 1,341 to leave the country. The Government arrested labor leaders during public sector strikes and allowed private employers to refuse to recognize unions. Child labor including use of child soldiers remained a common problem. There were credible reports of beatings, rapes, and extrajudicial killings of Tutsis; however, societal abuses of Tutsis in government-controlled areas were far fewer than in 1998 because by the start of the year surviving Tutsis generally either had left the government-controlled part of the country or were in hiding, places of refuge, or government custody.

There were numerous credible reports that Mai Mai groups fighting on the side of the Government committed serious abuses, including many extrajudicial killings and the torture of civilians.

There were many reports, some of which were confirmed, that some antigovernment forces, in particular Rwandan army and RCD-Goma units, committed serious abuses against civilians living in territories under their control, in-

cluding deliberate large-scale killings, disappearances, torture, rape, extortion, robbery, arbitrary arrests and detention, harassment of human rights workers and journalists, and forcible recruitment of child soldiers. Rebel organizations severely restricted freedom of speech, assembly and association in areas they held. There were also many deaths due to interethnic mob violence in areas held by antigovernment forces. However, reports from such areas often were difficult to investigate.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The widespread extrajudicial killings of Tutsis and suspected Tutsis that occurred in government-controlled areas after the start of the war in 1998 did not continue during the year; by the start of the year, surviving Tutsis generally either had left the government-controlled part of the country or were in hiding, places of refuge, or government custody. One Tutsi girl died of an illness while in government custody, but it was credibly reported that her death was not due to government negligence or abuse. The Government also materially supported Mai Mai and Hutu armed groups, which, according to credible reports, repeatedly killed unarmed as well as armed Tutsis in areas held by antigovernment forces. However, government officials no longer instigated mob violence against unarmed Tutsis, and there were no further reports of mass extrajudicial killings of Tutsis by the security forces.

Members of the security forces committed extrajudicial killings, and the Government misused the judicial system to try, sentence, and execute numerous persons without due process.

On the night of January 6 in Kinshasa, members of the Presidential Guard under the command of an officer named Kabengele beat and killed university student Remy Lushima Nyamangombe, whom they accused of being a member of the armed rebellion. After stealing Lushima's personal belongings, presidential security agents then beat the student to death. No action is known to have been taken against the members of the Presidential Guard who committed this abuse.

On February 14, in the Ndjili district of Kinshasa, an FAC soldier shot and killed a civilian in the Sebastien Bar after bumping into his table.

On April 17 in Kinshasa, unidentified soldiers shot and killed a public transportation driver known only as Kalle. The soldiers flagged down his vehicle and ordered him to drive them to Kinshasa's international airport. When Kalle explained he was taking a woman in labor to the hospital, the soldiers shot him, leaving the pregnant woman alone in the vehicle.

On April 17, security force members charged with protecting a presidential motorcade shot and killed a minibus driver. They shot the driver three times in the head as he was attempting to move his vehicle out of the way of the coming motorcade.

In May Col. Ndoma Moteke died at the Gombel Polyclinique, in the commune of Lemba, of injuries suffered when members of government security forces tortured and beat him at the Groupe Litho-Moboti building (GLM) detention facility on May 20 (see Section 1.c.).

In the early hours of July 16 in Ndjili, uniformed soldiers from an unidentified unit shot and killed an unarmed 12-year-old boy in his own home. The soldiers shot the boy and his father, whom they wounded in the shoulder, when he opened the door of his house in response to their request.

On July 7 in Kinshasa, uniformed soldiers shot and killed Charles Bokeleale, then stole his vehicle.

On November 15 in Kinshasa, FAC soldiers enforcing a night time curfew at a roadblock shot at a taxi that veered around their barricade and killed Kamba Kanyinda, a student who was riding in the taxi (see Section 2.d.). On November 17 students from Kanyinda's school took to the streets to protest his killing.

On November 24 in Kinshasa, 23-year-old Simon Makoko died of injuries inflicted by soldiers the previous night. Makoko was in the home of Leon Lumingu when, at about midnight, soldiers broke in, accused the household of making too much noise during the nighttime curfew, and whipped Makoko when he refused to comply with an order to go outside and sit on the ground.

Throughout the year, government military tribunals continued to sentence to death many civilians after military trials that were often perfunctory, and many of these civilians were executed (see Section 1.e.). Members of the security forces repeatedly killed civilians, particularly in areas that they were preparing to abandon to advancing antigovernment forces. The military justice system, revised in 1997, prosecuted FAC members for individual incidents ranging from armed robbery to

rape to murder, and sentenced to death and executed more than 50 FAC members during the year (see Section 1.e.).

Harsh prison conditions and abuse led to an undetermined number of deaths in prisons. Many prisoners died of illness or starvation (see Section 1.c.). On October 11, Sangu Matembi, an activist of the United Lumumbist Party (PALU), died in Makala Central Prison; in a press release, PALU reported that he died after being deprived of food and medical care since his arrest in July. It was reported that, since Kabila took power in 1997, both extrajudicial killings and deaths due to torture and neglect have become common at a secret detention center known as "Alfa" that was run directly by the Office of the President (see Section 1.d.).

The Government continued to fail to prosecute any state officials or other persons in connection with the mass extrajudicial killings of Tutsis in 1998.

There was widespread reporting throughout the year of killings and other human rights abuses by both pro and antigovernment forces. Verification of these reports is extremely difficult, particularly those emanating from remote areas and those affected by active combat primarily in eastern Congo. Independent observers often find access difficult due to hazardous security conditions as well as frequent impediments imposed by authorities. Both pro and antigovernment forces extensively use propaganda disseminated via local media, including charges leveled at opposing forces, further complicating efforts to obtain accurate information regarding events and acts in the Congolese interior.

Progovernment Mai Mai guerrilla units reportedly killed many civilians, sometimes after torturing them, in areas where they operated. In January in the Kamituga area of South Kivu Province, Mai Mai leader Silvestre Louetcha reportedly executed 32 women who had supported the Mwami (traditional ruler) of Kamituga in resisting Mai Mai demands for forced labor; before killing these women, the Mai Mai reportedly accused them of witchcraft, then cut off their breasts and forced them to eat their own breasts (see Sections 1.c. and 5). There were also reports that Mai Mai units killed persons by crucifying them. Hutu militia units fighting on the side of the Government also killed many noncombatants. It was reported that in August in South Kivu Province alone, Interahamwe militia killed a police officer at Luhwindja and that the Forces for the Defense of Democracy, a Burundian Hutu nongovernmental armed group based in the country, killed six Tutsi herders while conducting an interethnic cattle raid at Kiliba (see Section 5). Information about killings by Mai Mai and Hutu militia units remained very incomplete, and many such killings may not have been reported.

Mob violence resulted in killings; however, the Government did not incite lethal mob violence during the year, unlike 1998.

In December in the Ituri District of Orientale Province, an area dominated by Ugandan and Ugandan-supported forces, a large but unknown number of persons were killed in fighting between members of the Lendu and Hema tribes that reportedly displaced tens of thousands of persons. This fighting, which continued and was worsening at year's end, reportedly arose from a dispute about land use. (see Section 5).

During the year, antigovernment forces, particularly RCD-Goma and Rwandan units, committed repeated mass killings, generally in reprisal for Mai Mai attacks against RCD or Rwandan forces. Some of the many reports of such killings were verified; however, investigations of such reported killings often were difficult, and details of reported abuses sometimes emerged long after the events.

On December 31, 1998, and January 1, RCD and reportedly also Rwandan units killed a large number of civilians in the area of Makobola, 9 miles south of Uvira in South Kivu Province. The attack was in retaliation for losses that the rebels recently had suffered during a fight with Mai Mai fighters on December 30. Red Cross volunteers, Catholic priests, and Protestant pastors and their families were among those killed.

From January 1–3, in Walungu in South Kivu Province, following a fight with government troops, RCD-Goma rebels reportedly killed 12 civilians, looted homes, and stole livestock.

On January 5, in Mwenga in South Kivu Province, RCD-Goma rebels reportedly killed two local chiefs.

During the months of January and February, antigovernment forces reportedly killed some 45 civilians in North and South Kivu Provinces. Eight bodies were discovered along the Nshesa River, near Walungu. On February 11, Rwandan and Ugandan soldiers entered the town of Loashi in North Kivu Province and reportedly attempted to force local inhabitants to lead them to Interahamwe arms stashes. When the inhabitants fled, some soldiers reportedly opened fire, killing 10 persons.

During the same months, antigovernment forces killed 16 noncombatants in 9 separate incidents; those reportedly killed included villagers, shepherds, travelers, and merchants.

On February 24, rebels reportedly attacked a civilian convoy of seven vehicles escorted by nine government soldiers. Rebels reportedly killed at least seven civilians, including a mother and her two children, who died when their vehicle caught fire.

In early March, according to a report by the Rome-based Missionary News Agency (MISNA), RCD-Goma rebels killed more than 100 noncombatants in a series of killings near Kamituga in South Kivu Province; no independent reports of this were known to have emerged during the year.

There were credible reports that between March 19 and March 21 Rwandan soldiers killed many civilians, more than 250 according to one report, in Burhinyi and Ngweshe in South Kivu Province, apparently in retaliation for a Mai Mai attack.

It was reported that in April antigovernment forces including RCD units killed at least 20 persons, most of whom were women and children, in the villages of Gasiza and Nyabubuye in South Kivu Province.

On May 7, Father Paul Juakali, a priest in Kalembe, near Goma, reportedly was ambushed and killed by RCD rebels who previously accused him of spreading false information about life in rebel-occupied territories.

During the night of July 27, Rwandan and RCD-Goma troops reportedly burned alive 41 civilians in the town of Kasala in Katanga Province, by locking them in 5 separate houses, then setting the houses on fire.

From August 14 to 16, disputes among antigovernment forces led to fighting in Kisangani between Rwandan and Ugandan troops. During the clashes, rebels, Rwandans, and Ugandans reportedly killed approximately 50 civilians. It was reported that Rwandan and RCD-Goma rebels also attempted to kill archbishop Monsengwo of Kisangani, who fled his home dressed as a servant.

Between September 4 and 10, RCD-Goma rebels reportedly launched retaliatory attacks against civilians in South Kivu Province, leaving an undetermined number dead.

On September 24 near Rutshuru in North Kivu Province, elements of the Rwandan army reportedly killed 19 civilians.

In mid-September, on the banks of Lake Mukamba, Rwandan troops reportedly executed an undisclosed number of Congolese tribal chiefs from the Dimbelenge area of western Kasai Province. The chiefs were called together by Rwandan military authorities, who accused them of sabotaging the Rwandan advance towards Kananga and Mbuji-Mayi. After executing several chiefs, the Rwandans reportedly shot villagers who came running toward the sounds of gunfire, killing an unknown number.

In early November, in the Mwenga area of South Kivu, RCD-Goma rebels tortured and buried alive 15 women whom they suspected of supporting local Mai Mai guerrillas, according to several reports. At year's end, NGO's were investigating these reports.

On November 22, at the Kalonge Parish near Bukavu in South Kivu Province, Rwandan and RCD-Goma units shot and killed an abbot and other persons attending a Catholic mass, according to a missionary news agency report.

The Government publicly alleged that antigovernment forces massacred civilians at Ngweshe in South Kivu Province on February 15, at Kongolo in Northern Katanga Province in August, in Kibumbu, near Kalungwe in South Kivu Province on October 23, and at Nonge, an unknown location on an unknown date; however, no independent reports to support any of these allegations are known to exist.

b. *Disappearance.*—There were many reported cases of disappearance, most as a result of the war. Government and antigovernment forces reportedly were responsible for the disappearance of many persons. Throughout the year, government security forces regularly held alleged suspects in detention for varying periods of time before acknowledging that they were in custody. Typical accounts described unidentified assailants who abducted, threatened, and often beat their victims before releasing them. Journalists and opposition members claimed that they were targets of such actions.

On February 9, security force members rearrested Commandant Jean Nkumu Wangala, former chief of police in Matadi during the Mobutu era, whom a military court had acquitted of charges of treason on January 12. He has not been heard from since, although authorities told his wife that he had escaped from state custody.

In April two refugees from the neighboring Republic of Congo disappeared from ANR detention facilities in Kinshasa. Both Congolese—Bernard Ntandou, former police commander of the Point Noire military district, and Jean Mpalabouna, a follower of B. Kolelas—were affiliated with organizations involved in armed opposition

to the Government of the Republic of Congo. On May 25, two representatives from a human rights NGO visited the ANR prison in an attempt to determine their whereabouts. ANR security agents refused to answer any questions and threatened them with arrest (see Section 4).

On June 6, security agents forced their way into a private residence in the Limete neighborhood of Kinshasa and abducted Justin Djuambe Tegi and Michel Gbetoro. Neither has been seen since, and both are presumed to have disappeared. No motive is known for the abduction.

In November, an RCD leader publicly alleged that Zimbabwean troops aligned with the Government kidnapped and held as hostages 17 missionaries of the Church of Jesus Christ on Earth of the Prophet Simon Kimbangu; however, no other reports of this were known to have emerged, and no other abuses by Zimbabwean forces were reported.

Belmonde Ma Gloire Coffi, the owner of the newspaper, Le Point Congo and a citizen of Benin, was last seen on September 3, 1998, and is believed to have disappeared. He reportedly drove into town after editing the latest edition of Le Point. There has been no reported trace of either him or his vehicle (see Section 2.a.).

In February the Democracy and Human Rights Committee (CDDH), an NGO, reported that in December 1998 CDDH investigator Donnat N'Kola Shambuyi disappeared in Tshikapa in Western Kasai Province.

The bodies of many persons killed extrajudicially in the war were burned, dumped in rivers, or buried in mass graves that remain unopened. Neither side is known to have kept or released records of the identities of the persons whom its forces killed extrajudicially.

Rebel forces reportedly were responsible for the disappearance of many persons. There were reports that antigovernment forces repeatedly failed to acknowledge detaining persons. Persons whom rebel, Rwandan, or Ugandan forces allegedly detained in 1998 reportedly have been transferred to Rwanda or Uganda and remained unaccounted for at year's end. These missing persons included 22 Franciscan friars from Sola in Katanga Province and 3 university professors from Bukuvu in South Kivu Province.

c. *Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law forbids torture; however, security forces and prison officials used torture, and often beat prisoners in the process of arresting or interrogating them.

Authorities of the Kabila administration have not responded to charges of inmate abuse and repeated beatings by its security force and prison officials.

Members of the security forces also raped, robbed, and extorted money from civilians; some abusers were prosecuted (see Section 1.a.). Incidents of physical abuse by security forces occurred during the arrest or detention of political opponents, journalists, and businessmen (see Sections 1.d. and 2.a.).

On January 12, soldiers of the 50th Brigade who were raiding the Bethany Catholic Center to arrest Tutsis who were hiding there beat human rights activists Christophe Bintu and Bienvenu Kasole, who were visiting the center. Kasole lost a tooth and suffered from bleeding during a subsequent 6-day detention, but military authorities refused him medical attention. Guards forced Bintu and Kalole to sleep on the ground and denied them food and visitors (see Sections 1.d. and 4).

Following his arrest on January 12 on charges of divulging state secrets, security forces at the Committee of State Security prison and at the Kokolo detention center repeatedly beat newspaper publisher Thierry Kyalumba with a belt and buckle during pretrial interrogations (see Sections 1.e. and 2.a.).

On February 16, two military officers known only as Gisha and Chubaka who worked on the staff of Joseph Kabila, the son of President Kabila and chief of staff of the Congolese army, entered the Kinshasa home of Toussaint Muhavu Shankulu without a warrant and tortured him inside his own house. They then took Muhavu to an underground cell at the Tshatshi military camp, where they abused him until he signed a document giving up the equivalent of $700 to a man known as Benoit, on whose behalf Gisha and Chubaka reportedly were acting. When Muhavu lodged a complaint against Gisha and Chubaka, the two attempted to find Mr. Muhavu, who was then in hiding, by abducting and torturing a neighbor and personal friend of Muhavu. Other members of Joseph Kabila's staff then kidnaped Muhavu's wife in an attempt to force Muhavu out of hiding. Senior officers at Camp Tshatshi prevailed upon Muhavu not to press charges against Gisha and Chubaka.

On February 20, military personnel beat with sticks Luyinumu Lelo Koko and Jonas Ndoko in a wooded area outside Kinshasa after arresting them for breaking a curfew 3 hours before the curfew started (see Section 1.d.).

In February guards beat and tortured professor Tshibangu Kalala during a 2-week detention following his arrest by ANR agents for describing to students poor economic conditions in Katanga Province (see Sections 1.d. and 2.a.).

On March 10, at the police station in the Kin-Maziere building in the Gombe district of Kinshasa, police stripped two female money changers and beat them with a wire whip after interrogating them about changing money at a different exchange rate from that set by the central bank (see Section 1.d.).

On March 22, presidential security personnel lashed a detained journalist 100 times with a whip, reportedly saying that they did so because the journalist possessed "Tutsi facial features" (see Section 1.d.).

On April 29, at the ANR detention center at Binza ma Campagne, ANR agents severely beat Lambert Edimba, whom ANR agents had arrested for associating with members of various opposition political parties (see Section 1.d.).

Between May 17 and May 26, at the headquarters of the Investigative Branch of the Presidential Guard in the Gombe neighborhood of Kinshasa, guards daily beat with a whip eight members of the opposition PALU party and forced them to eat mud; after 10 days of detention, one PALU member was urinating blood and three others were unable to stand or walk (see Section 1.d.).

During May 20–23, DEMIAP police repeatedly beat on the feet Christian Badibangi, the president of the opposition party Union Socialist Congolaise, while detaining him in a cell measuring 3 square yards with approximately 60 other prisoners without food, water, ventilation, or sanitation facilities (see Section 1.d.)

On May 20, guards at the GLM detention facility in Kinshasa tortured and beat Colonel Ndoma Moteke, an army officer under the Mobutu regime, who died of the resulting injuries at a medical clinic in the Righini area of Kinshasa a few days later (see Section 1.a.).

On June 23, members of the security forces publicly beat three journalists working for the Kinshasa daily newspaper Tempete des Tropiques, after arresting them at the newspaper's offices and before taking them away in a vehicle (see Sections 1.d. and 2.a.).

On June 29, naval personnel tortured the owner of a dugout canoe, known only as Motinga, from the Limete commune of Kinshasa. Motinga reportedly complained of a lack of space to dock his canoe. According to a human rights group, the ranking naval commander, identified only as Jean Louis, ordered his men to beat Motinga until he lost consciousness.

On July 26, security forces in the town of Mbuji Mayi whipped Jean Marie Kashils, of the Agence Congolaise de Presse, and Bienvenu Tshiela of Kasai Horizon Radio Television, while briefly detaining them on orders from the deputy governor of Eastern Kasai Province, Kalala Kaniki (see Sections 1.d. and 2.c.).

Following his arrest on July 29, security forces in Lumbumbashi tortured professor Kambaj Wa Kambaji and denied him access to his doctor and his family. Security forces also mistreated him during an August 19 aircraft flight to Kinshasa (see Sections 1.d. and 2.a.).

In September police at the GLM detention facility in Kinshasa's Gombe neighborhood beat human rights NGO activist Wetemwani Katembo Merikas an average of four times a day during a 4-day detention. A colleague bringing meals for Katembo said that prison guards stole the food and ate it in front of prison visitors (see Sections 1.d. and 4).

On and after September 10, ANR agents in Mbuji Mayi in Eastern Kasai Province tortured Francois Mpoyi Mukandu, the legal adviser of the governor of the province, and Marcel Mpuanga Mindu, who was also an attorney. ANR agents reportedly tortured and beat Mpoyi so severely that he could not walk and he was taken to a hospital. ANR agents also beat Ditutu bin Bwebwe, a court clerk whom the head of the bar association in Mbuji Mayi sent to the ANR to serve a summons on Tshiamuang Tshombe, the ANR's chief investigator in Mbuji Mayi, in connection with the detention of Mpoyi and Mpuanga (see Section 1.d.).

In early October, according to domestic media reports, Pascal Kusehuka, secretary general of the PALU opposition party for Bandundu Province, stated that a group of men including the son and the nephew of Marc Katshunga, the governor of Bandundu Province, dragged him naked through the streets of Kikwit after arresting him and accusing him of political activity.

Some persons suffered physical abuse from both sides of the war. On March 8, RCD members reportedly raided the Goma home of Dieudonne Mirimo Mulongo and, finding Miromo gone, physically abused his wife while interrogating her about the whereabouts of her husband. Soon thereafter, Miromo and his wife fled to Kinshasa, where government security forces arrested and detained him and reportedly beat him while interrogating him about his brother-in-law, whom they suspected of being a Tutsi (see Section 5).

There were numerous reports that nongovernmental armed groups fighting on the side of the Government tortured, raped, and otherwise physically abused many persons during the year. Mai Mai guerillas reportedly killed persons by torture, includ-

ing by mutilation and crucifixion (see Section 1.a.). There were reports that Interahamwe militia in South Kivu Province often raped women, especially in villages near Kahuzi Biega Forest.

There were numerous reports of killings and torture of prisoners by some antigovernment forces. A number of prisoners reportedly died of suffocation after guards detained them in overcrowded shipping containers. Guards reportedly overcrowded containers with prisoners, sealed the prisoners inside without ventilation, then the cut off all food and water, causing death by dehydration, suffocation, and exhaustion. This treatment reportedly was reserved for suspected Interahamwe or Mai Mai collaborators.

Mobs sometimes beat persons, including mostly suspected thieves but also suspected Tutsis. In April a mob of students at the University of Lubumbashi severely beat and destroyed the vehicle of a foreigner employed by the government of an ethnically largely European country that some government propaganda had portrayed as supporting the RCD (see Section 5).

The Kabila Government operated 220 known prisons and other places of detention, and in all such facilities, conditions remained harsh and life threatening; there reportedly were many other secret or informal detention centers (see Section 1.d.). During the year, the Government made limited efforts to improve the harsh conditions at Kinshasa's main prison, the Makala National Penitentiary and Reeducation Center. The Government provided food at some prisons, but not in sufficient quantities to ensure adequate nutrition for all inmates. Prison conditions remained a threat to prisoners' lives. Living conditions were harsh and unsanitary, and prisoners were treated poorly. The penal system suffered from severe shortages of funds, medical facilities, food, and trained personnel.

Overcrowding and corruption in the prisons are widespread. Prisoners reportedly were beaten to death, tortured, deprived of food and water, or died of starvation (see Section 1.a.). Prisoners are wholly dependent on the personal resources of family or friends for their survival. Guards have been known to steal food brought to prisoners. Inmates at Makala Prison in Kinshasa sleep on the floor without bedding and have no access to sanitation, potable water, or adequate health care. There were reports of guards forcing 55 or 60 prisoners into a small cell with room only to stand. No water or food is given to these prisoners. There are no toilets, forcing prisoners to urinate and defecate on the floor. Tuberculosis, red diarrhea, and other infectious diseases are rampant. Although authorities do not target women for abuse, prison guards rape female inmates.

The Government exacerbated the overcrowding of civilian prisons by incarcerating in them many soldiers who declined to fight for the Kabila Government in the war. In March it was credibly reported that of 2,509 persons incarcerated at Makala Prison, 1,854 were soldiers, almost all of whom were awaiting trial for refusing to fight in the war.

The use of unpublicized and unofficial detention sites by the civil and military authorities circumvented humanitarian groups' access to many prisoners and detainees. The International Committee for the Red Cross (ICRC) was denied access to these sites, and to regular detention facilities, including some facilities where the Government incarcerated Tutsi civilians and the "Alfa" prison facility in Kinshasa run by the Office of the President (see Sections 1.a. and 5).

It was reported that RCD-Goma forces frequently used the private residences of Rwandan or rebel military commanders for purposes of incarceration. Reports from former detainees indicate a systematic pattern of beatings, undernourishment, and deliberate killings in these houses.

d. *Arbitrary Arrest, Detention, or Exile.*—Despite legal provisions governing arrest and detention procedures, the security forces were responsible for numerous cases of arbitrary arrest and detention.

Under the law, serious offenses (those punishable by more than 6 months' imprisonment) do not require a warrant for a suspect's arrest. Only a law enforcement officer with "judicial police officer" status is empowered to authorize arrest. This status also is vested in senior officers of the security services. The law instructs security forces to bring detainees to the police within 24 hours. The law also provides that detainees must be charged within 24 hours and be brought within 48 hours before a magistrate, who may authorize provisional detention for varying periods.

In practice these provisions were violated systematically. Security forces, especially those carrying out the orders of any official who could claim authority, used arbitrary arrest to intimidate outspoken opponents and journalists. Charges rarely were filed, and the political motivation for such detentions often was obscure. When the authorities did press charges, the claims that they filed sometimes were contrived or recitations of archaic colonial regulations.

Detention without charge has been a frequent problem under the Kabila administration. During the year, a number of leaders of human rights and religious organizations indicated that increases not only in the number of arrests and detentions but also in the number of security agencies arresting and detaining persons and in the number of detention centers made it increasingly difficult to monitor arrests and detentions or investigate reports of arbitrary arrest and detention. There were many secret or unofficial detention centers in Kinshasa, some of which reportedly were run by the Office of the President (see Section 1.a.); there were several reports of secret jails on the premises of the presidential palace.

Throughout the year the Government continued to arrest and detain members of the Tutsi ethnic group without charge and merely on the basis of their ethnicity. On January 12, soldiers of the 50th Brigade raided the Bethany Catholic Center and arrested about 50 Tutsis who took refuge there, and whom the Government subsequently incarcerated. Hundreds of Tutsis arrested in 1998 after the start of the war remained detained during the year, at locations including Kokolo military camp, the National Social Security Institute west of Kinshasa, and Lubumbashi in Katanga Province. However, the Government released many Tutsis on condition that they leave the country through ICRC relocation programs. In June the ICRC repatriated detained Tutsis whom the Government regarded as Rwandan, Ugandan, or Burundian nationals, and who were willing to depart the Congo; starting in October, the ICRC evacuated detained Tutsi citizens to other countries. About 3,000 persons who claimed to be Tutsis in hiding presented themselves for detention in Kinshasa during the year, mostly after the Government announced that Tutsis could be relocated to foreign countries. Many Tutsis remained in detention because of their ethnicity at year's end. However, due in part to intervention by the international community, at some detention sites Tutsis' terms of detention became increasingly liberal during the year and included substantial freedom of movement by year's end. Government detention of at least some Tutsis became increasingly protective rather than punitive and many Tutsis increasingly felt safer in government custody than elsewhere in the government-controlled part of the country; throughout the year, Government officials and state media continued to publish and broadcast anti-Tutsi propaganda, the Government directed its security forces and encouraged the CPP's and CPD's to search for and detain Tutsis, and outside their special detention centers even suspected Tutsis were harassed and beaten (see Sections 1.c., 1.f. and 5).

Between December 31, 1998, and January 29, police in Kinshasa arrested four members of the Solidarity labor union, apparently in connection with a strike by Finance Ministry employees, and subsequently detained them at Makala Prison (see Section 6.a.); they later were released.

On January 1, ANR agents detained Adrien Phongo Kunda, the secretary general of the Union for Democracy and Social Progress (UDPS) political party, for 9 hours at the ANR facility in Gombe. He was charged with breaking a ban on political activity by distributing a New Year's message to party members. On January 16, he was arrested again and interrogated about the activities of the UDPS. He was released 9 days later. On the night of January 5, police in Kinshasa arrested and then released Louis Botimbili, who was visiting the capital, on charges of being a suspicious character who did not register his presence with the commune. He was called back to the police station on January 7 for being a member of the human rights NGO Friends of Nelson Mandela. He was released on January 9, after the intervention of several human rights NGO's.

On January 8, ANR agents in Kinshasa arrested the 74-year-old father of former FAZ general Kpama Baramoto for having an international telephone conversation with his son. Baramoto suffered from hypertension, but was refused treatment by ANR guards. He was released after a few days.

On January 8, soldiers in Mawanga in Bandundu Province arrested former government minister Hypolite N'sema Mambakila, detained him for a week at Kenge and Kikwit, and then transported him to Kinshasa. He was charged with breaking the ban on political activity and organizing a band of rebels near the border with Angola. He was freed on February 26.

On January 12, soldiers of the 50th Brigade who were raiding the Bethany Catholic Center to detain Tutsis arrested human rights activists Christophe Bintu and Bienvenu Kasole, who were visiting the center. Soldiers beat Bintu and Kasole. Kasole lost a tooth in detention and suffered from bleeding, but military authorities refused him medical attention. They also were forced to sleep on the ground and were denied food and visitors. Bintu and Kasole were released on January 18 (see Section 4).

On January 16, five police officers in Kinshasa arrested UDPS political counselor Jean Joseph Mukendi wa Mulumba on suspicion of carrying out political initiatives

in defiance of a Kabila decree banning all political party activities. He was held in confinement until January 21, when he was released as a result of poor health.

On January 16, police arrested the following opposition political party members on the charge of conducting political activities: Adrien Phongo Kunda (UDPS), Cleophas Kamitatu Masamba (PDSC), and Charles Bofassa Djema (MPR). On January 21, police arrested Nyembo Shabani (UDPS) and Denis Bazinga (of a faction of the UDPS) on the same charge. All were released by January 25.

On January 21, police in Kinshasa arrested UDPS spokesman Joseph Kapika Ndji Kanku on charges of violating the ban on political activities by hosting party events at his house. He was freed on January 25 but was rearrested on February 3 and brought to the ANR holding facility at Lemera, where he was charged with criticizing the law banning political party activity in an interview with a foreign radio station. ANR guards reportedly threatened his life and subjected him to cruel and humiliating treatment. Kapika was released in December.

On January 26, and again on February 4 and February 5, security forces arrested newspaper editor Andre Ipakala; following the third arrest, they held him for 3 days without charge (see Sections 2.a. and 2.d.).

Between January 28 and February 13, ANR agents in Kinshasa and Mbuji Mayi arrested 11 employees of a cellular telephone company, a manager and 10 workers who had formed a bargaining group, and subsequently detained them in Makala Prison (see Section 6.a.).

On February 1, five members of the PALU opposition political party were arrested for hoisting the party flag in defiance of the presidential ban on all political activity. One was released on February 10. The other four, Lexis Mikwinzi, Kasongo Mumoshi, and Luzolo and Mpoyo Doingo Moise, were released in December.

On February 3, ANR agents raided the offices of the daily newspaper Le Potentiel, arrested five journalists, and detained them for a day, without producing a warrant either for the search or for the arrests; the journalists were released the following day (see Section 2.a.).

On February 5, DEMIAP agents detained Floribert Chebeya Bahizire, president of the human rights NGO, Voix des Sans-Voix (VSV), and two other VSV colleagues, and reportedly threatened to kill them before releasing them later the same day. Security forces then ordered Chebeya, one of the Congo's most prominent human rights advocates, to present himself daily to police authorities in the Gombe district of Kinshasa (see Section 4).

On February 9, police in Kinshasa arrested Theo Ibwala for wearing a T-shirt promoting the UDPS political party. Ibwala was held for 3 days, during which he suffered several epileptic fits and was refused treatment. Ibwala was never charged. Police forced him to change into a "Support President Kabila" T-shirt before allowing him to leave.

On February 16, members of the security forces briefly detained three members of the Front for the Pursuit of Democracy (FSD), including FSD president Eugene Diomi Ngongala, as they left a foreign embassy, allegedly for visiting a foreign embassy without prior government permission (see Section 2.b.).

On February 16, presidential security agents detained VSV activist Justin Chiba Sengey. He was released after 7 hours, and told to tell his colleagues to stay clear of any matters concerning military security.

On February 20, military personnel arrested Luyinumu Lelo Koko and Jonas Ndoko in the Ndjili neighborhood outside Kinshasa. While the arrests were made at 8 p.m. for allegedly breaking a curfew, the actual curfew did not begin until 11 p.m. Soldiers took the pair to a wooded area and beat them with sticks (see Section 1.c.). Soldiers also stole the equivalent of $2 (10 francs) from Ndoko.

On February 24, ANR and CNS agents arrested Mabanza Meti, acting managing director of the Citibank office in Kinshasa in connection with an alleged international funds transfer on behalf of a rebel leader. Authorities detained two other Citibank employees in connection with the same alleged transfer on February 6. At least one bank employee was held incommunicado for several days. All three bank employees were released on March 3, without being charged formally.

On February 27, authorities lured Brigitte Sakina Lundula to the ANR station at Binza ma Campagne with the promise of a ministerial post. On her arrival, Sakina was arrested and accused of being an RCD rebel agent. She was released on May 22 without being charged.

In February ANR agents arrested Professor Tshibangu Kalala in Kinshasa and detained him for 2 weeks without charges (see Sections 1.c. and 2.a.).

On March 5, soldiers in Kinshasa acting under the orders of a military tribunal raided the offices of Mitchell and Associates, an international law firm that represented foreign investors, seized the firm's files, and arrested two partners in the firm, Lambert Djunga and Pierre Risasi Nsimbwa. The two lawyers were charged

with high treason and acquitted in November. Their detention and indictment is believed to have been related to the role their firm played in the South African Government's seizure of a shipment of tin ore from the country.

On March 10, police arrested two female money changers, detained them at the police station in the Kin-Maziere building in the Gombe district of Kinshasa, and accused them of changing money at a different exchange rate from that set by the central bank. After an interrogation by Major Muanza, the pair were ordered to pay a fine equivalent to $200, which the police took without issuing a receipt. After a second interrogation by another police officer, the women were stripped and whipped with a wire cable before being released (see Section 1.c.).

On March 14, ANR agents arrested four persons at the Kinshasa airport as they returned from a conference about the war in the country that was held in South Africa, and in which the Government had refused to participate. Those arrested were: Modeste Mutinga, editor of Le Potentiel newspaper; Andre Ipakala, editor of La Reference Plus newspaper; Marie-Ange Lukiana, president of the National Womens' Union; and a political party representative named Kabamba. Mutinga, Ipakala, and Lukiana were detained for about week, and Hamuli for about 2 weeks, without being charged (see Sections 2.b. and 2.d.).

On March 16 and again on April 5, ANR agents arrested a missionary for "suspicious behavior" for using a cell phone near an ANR facility. The missionary worked in a building across the street from an ANR facility and used a cell phone to summon his driver. The missionary was released for the second time on April 19.

On March 22, police detained a journalist after his driver parked his vehicle close to a police roadblock. The journalist and driver were taken before presidential security personnel who whipped the journalist (see Section 1.c.).

On April 16, ANR agents at Ndjili Airport arrested former Minister of Posts, Telephone and Telegraph Kinkela vi Kin'sy, who subsequently was detained at Makala Prison for about 1 month. The ANR agents reportedly accused Kinkela of trying to flee the country, but Kinkela reportedly stated that he was at the airport to meet a friend who was traveling (see Section 2.d.).

On March 29, police Major Bruce Kifua arrested Simon Tshamala for being a "rebel sympathizer." He was incarcerated for 4 days without food or water and released on April 2. No charges were filed.

On April 6, ANR security forces arrested Baudouin Hamuli Kabarhuza, executive secretary of the NGO umbrella group, National Council of Nongovernmental Organizations for Development (CNONGD). He was charged with leaving Congo in order to meet with both Mobutists and rebels in South Africa. He was released on April 14.

On April 8, members of the security forces arrested the vice president of the local chapter of the UDPS opposition party while he was conversing on the street with a colleague. He remained in detention until April 14. No charges were filed.

On April 10, presidential security agents arrested two electric company workers for allegedly speaking ill of President Kabila on a city bus. The two, Kennedy Mukendi and Don King Mabuso, were placed in an airless overcrowded cell with 11 other prisoners and released the following day.

On April 26, ANR agents arrested Andre Bamwe Kabasu, Thierry Tshiamumayi Kabunda, and Daniel Faustin Kalala Mashika after reportedly intercepting a letter addressed to a rebel leader. The letter, allegedly written by the president of the Congolese Socialist Union president, claimed that the three men would be willing to receive the rebels, should the town of Tshikapa fall. The three were detained for a week, then released after ANR authorities determined the letter to be false.

On April 29, ANR agents arrested Lambert Edimba for associating with members of various opposition political parties. They took Edimba to the ANR detention facility at Binza ma Campagne, where they confiscated a tape recorder and several video cassettes. ANR agents severely beat him before confining him to a cell. Edimba was released on May 8 (see Sections 1.c. and 2.a.).

On May 2, rapid intervention police arrested Emmanuel Cole, president of the NGO, Bill Clinton Foundation. He was charged with illegally operating an NGO and conspiracy against the security of the State. He was released on May 11.

On May 8, police arrested Stephane Kitutu O'leontwa, president of the Congo Press Union, in an effort to locate the author of an article that was published in a newspaper for which Kitutu had never written. Kitutu was released 4 days later (see Section 2.a.).

On May 12, ANR agents in Kinshasa arrested four members of the opposition UDPS party: Professor Alidor Mwamba Mtita, a journalist and member of the national committee of the UPDS; Raymond Kabala, administrative secretary of the UPDS national committee; Odile Kalala, a national committee member and an employee of Catholic Relief Services; and Mpoyi Placide, a U.N. agency employee. They

were arrested at Mpoyi's home and held incommunicado for 8 days. On May 19, they were transferred from an ANR facility to Kokolo, a military camp also used to detain Tutsis. Mitita and Kabala were released in December, without having been charged; the others reportedly remained in detention at year's end.

On May 17, eight members of the opposition PALU party were rounded up in Kinshasa and arrested. The eight were taken to the headquarters of the presidential guard investigative branch in the Gombe neighborhood of Kinshasa. Authorities accused the eight PALU members of attempting to overthrow Kabila and being in league with the rebellion, and kept them in a small dark airless cell. Guards administered daily beatings with a whip. One detainee urinated blood, while three others were unable to stand or walk. The eight detainees then were thrown into mud and told to eat it. Authorities freed the eight after 10 days in detention but kept them under surveillance throughout the year (see Section 1.c.).

On May 20, DEMIAP police arrested the president of the opposition party Union Socialist Congolaise, Christian Badibangi, along with approximately 40 supporters. They remained in jail at the DEMIAP holding facility in Kinshasa commonly called "L'inter" until July 5, when they were released. Badibangi was charged with being in contact with the armed rebellion and training rebel forces in Angola. For the first 2 days he was repeatedly beaten on the feet. He was placed in a cell measuring 3 square yards with approximately 60 other prisoners, who were held without food or water. Ventilation was cut off, and prisoners were wedged in so tightly that they could not sit. There were no toilet facilities. This holding cell is called "Ouagadougou" and is allegedly a holding cell for dangerous criminals. No one is allowed access to this area, and the Kabila Government refuses to allow NGO representatives to visit it. Badibangi developed permanent health problems as a result of his incarceration. As of September, the Government continued to refuse to grant him an exit visa to seek medical attention overseas.

On May 20, Major Bruce Kifua, son of National Police Inspector General Celestin Kifua, and his police bodyguards stopped the driver of a sports car for passing them. The driver was taken to Kifua's office, where he was lashed 50 times with a whip. His vehicle, watch, cellular phone, personal jewelry, and money worth about $150 were confiscated. He then was delivered to the police. Police authorities returned his confiscated vehicle, but not his other belongings. No action was taken against Kifua.

On May 25, security forces arrested two journalists of a Kinshasa-based newspaper, Le Soft, on charges of "undermining the Government," in connection with the publication of an article describing mismanagement of the central bank. Both journalists were released on June 4 (see Section 2.a.).

On May 27, security agents arrested a medical doctor named Elongo, who worked with SEMBUAC, a domestic NGO. He was accused of being an infiltrated rebel and was detained at an ANR facility in Kinshasa's Gombe neighborhood for nearly a week.

On May 29, security forces arrested Laurent Kantu Lumpungu, president of L'Association des Cadres Penitentiaires du Congo, a human rights NGO, after he criticized the summary executions carried out by orders of military courts. Security forces detained Kantu at various locations between May and August, without giving him a court hearing. On August 26, a state-controlled television station broadcast a documentary on Kantu, entitled "A Smuggler Unlike the Others," and alleged that Kantu was in possession of subversive documents at the time of his arrest. He was not charged or tried, and remained in detention at year's end (see Section 4).

In June security forces arrested Beyeye Djema, formerly a supporter of President Mobutu, and accused him of keeping a pistol at his house; he was released in December.

In June security forces arrested Tabu Kalaia, president of the Katangan provincial branch of the opposition UDPS party; he subsequently was detained at the ANR detention facility in Lubumbashi. He remained in detention at year's end.

On June 3, security agents arrested Kazadi Ntumba Mulongo, editor of the Kinshasa newspaper Top Media, and detained him for about a week without charges; security agents accused Ntumba of publishing articles too critical of the Government (see Section 2.a.).

On June 10, security forces in Kinshasa arrested three UDPS party members, Raoul Nsolwa, Tchete Katala, and Tchaba Fils, as well as five associates. The eight were detained until June 23 at various facilities around Kinshasa, on charges of using bad language towards two soldiers.

On June 14, police in Kinshasa jailed 12 members of the opposition UDPS party for allegedly booing the passing motorcade of President Kabila. The police released nine of the detainees over a period of several weeks. However, three remained in detention until December (see Section 2.b.).

On June 23, members of the security forces raided the Kinshasa office of Tempete des Tropiques, a daily newsaper, and arrested three journalists. The journalists were beaten publicly before being loaded into a vehicle and taken away; they were released later the same day (see Sections 1.c. and 2.a.).

On June 28, security agents arrested a reporter for the Kinshasa daily newspaper, Le Potentiel, after learning that he intended to write a story detailing animosity between the President's chief of staff and the Minister of Finance. The reporter was released the following day (see Section 2.a.).

On July 2, police detained Bertin Lukhanda, a member of the human rights NGO Haki za Binadamu, which specializes in protecting the rights of prisoners. Security agents interrogated Lukhanda concerning the activities of his organization before releasing him the following day (see Section 4).

Between July 16 and August 27, security agents rounded up and arrested approximately 154 activists of the opposition PALU party. The Government charged the PALU members with illegally engaging in political activity and dispersed them among various holding facilities in Kinshasa. It is believed that most were arrested for exhibiting the party flag and other emblems of PALU, although the Government filed no formal charges against them (see Sections 2.b. and 3).

On July 19, according to a public statement by the PALU opposition party, members of the security forces arrested and detained PALU member Sangu Matembi on charges of political activity; Matembi reportedly died in Makala Prison on October 11 due to lack of food and medical care (see Section 1.a.).

On the night of July 24–25, members of the security forces arrested Christophe Lutundula, president of the Movement for Solidarity, Democracy and Development (MSDD), an opposition party, at his home. Security forces detained Lutundula for 46 days without bringing charges against him, after he made comments critical of the country's political institutions (see Section 2.a.).

On July 26, ANR agents arrested Honore Kaputu and Timothe Dikueza, both members of the domestic human rights after they attempted to mail a VSV newsletter to the NGO's leader in Germany (see Sections 1.f. and 4). Both detainees were released a few days later without being charged.

On July 26, security forces in the town of Mbuji Mayi arrested, briefly detained, and whipped two journalists for criticizing the deputy governor of Eastern Kasai Province (see Sections 1.c. and 2.a.).

On July 29, security forces in Lubumbashi arrested professor Kambaj wa Kambaji because of the professor's critical analysis of the use of ethnic hate radio in Congolese politics (see Section 5). Security forces in Lubumbashi tortured professor Kambaji in detention and denied him access to his doctor and his family. He was flown to Kinshasa on August 19 and mistreated aboard the aircraft. At year's end, Professor Kambaji remained in detention at an ANR facility in Kinshasa (see Sections 1.c. and 1.d.).

In early August, DEMIAP personnel again arrested Christian Badibangi, president of the Union Socialiste Congolaise, who had been detained from May 21 until July 20. He was released a few days later with no charges pressed and no explanation given; his repeated detentions appeared to be an attempt to curb his political activities (see Section 2.b.).

On August 2, the rapid intervention police arrested three union leaders while dispersing striking civil service workers who were protesting low pay and nonpayment of salaries (see Sections 2.b. and 6.a).

On August 13, police in Kinshasa arrested an attorney named Ntamirira, who was attached to the appeals court of Kinshasa/Gombe. Police gave no reason for the arrest. Ntamirira was transferred from a police jail to an ANR holding facility despite health problems, and he was allowed no visitors. Police released Ntamirira on August 18.

On August 24, police in Kinshasa arrested two members of the free speech NGO, Journalistes en Danger, Mwamba wa Ba Mulamba Morro and Achille Kadima, and detained them for 4 days in a private house in the Kintambo neighborhood of Kinshasa, after they wrote an article implicating the Director General of Taxation in corruption (see Sections 2.a. and 4).

In September the police arrested Wetemwani Katembo Merikas, an activist with the youth-oriented human rights NGO Cojeski. Police accused Katembo of being a rebel infiltrator charged with starting a clandestine political party. Security agents took Katembo to the GLM detention facility in Kinshasa's Gombe neighborhood, where he was held in a dark cell for 4 days. During his incarceration, police handcuffed and beat Katembo an average of four times a day (see Sections 1.c. and 4).

In early September, security forces again arrested Cleophas Kamitatu, who had been detained in January, and had subsequently become president of a newly-formed opposition group, Community of the Pluralist Democratic Opposition

(CODEP). He was arrested soon after he criticized the Government in a foreign radio broadcast, but he was charged with malfeasance in connection with prior service as ambassador to Japan. Kamitatu reportedly signed over the deed of a provincial house in return for a promise of release, and a court ruled that he be placed under house arrest; however, he remained in detention at year's end (see Sections 2.a. and 2.b.).

In the predawn hours of September 7, security forces raided the offices of the Biaka Press and arrested two writers and the printer of Alerte Ndule, a periodical dedicated to music. Security officials apparently sought writers of the newspaper L'Alarme and did not distinguish between the names. The three were released three days after their arrest (see Section 2.a.).

On September 10, ANR agents in Mbuji Mayi in Eastern Kasai Province arrested Francois Mpoyi Mukandu, the legal adviser of the governor of the province. No charges were made public. ANR agents reportedly tortured and beat Mpoyi so severely that he could not walk, and he was taken to a hospital. On the same day and in the same city, a second attorney, Marcel Mpuanga Mindu, also was arrested by the ANR and tortured. The head of the bar association in Mbuji Mayi then complained to the Minister of Justice about these abuses and dispatched the court clerk to give Mbuji Mayi ANR chief investigator Tshiamuang Tshombe a summons to appear in court. Tshiamuang ordered police to arrest the court clerk on bogus charges of breaking into his house. The clerk, Ditutu bin Bwebwe, was taken to an ANR holding facility where he was beaten. Ditutu was released after 9 days. The two attorneys were released in November (see Section 1.c.).

On September 10, ANR security police arrested prominent soccer player Eugene Kabongo Ngoy upon his return to Kinshasa from Lusaka, Zambia. The arrest came after Kabongo was seen in the lobby of a Lusaka hotel greeting a number of persons believed to be rebels.

On September 14, security forces briefly detained Catherine Nzuzi, president of former president Mobutu's Popular Movement of the Revolution (MPR) party, in connection with a mass for the late president that she organized on the second anniversary of his death (see Section 2.c.).

In mid-September, security forces arrested Albert Bosange Yema, a journalist employed by L'Alarme, a Kinshasa-based daily newspaper, who reportedly wrote an erroneous article on the capture of Lake Mukamba by the rebels (see Section 2.a.).

During the week preceding September 28, security forces arrested and detained 18 PALU opposition party members, according to a PALU press release issued on that date.

In early October, according to media interviews with Pascal Kusehuka, secretary general of the PALU opposition party for the Bandundu Province, a group of men including the son and nephew of provincial governor Marc Katshunga, acting on orders from Katshunga, arrested Kusehaka, accused him of political activity, and tortured him (see Section 1.c.). Kusehaka reportedly was released later the same month without being charged formally.

On October 2, DEMIAP officials in Kinshasa arrested the publisher of the weekly newspaper Avant Guard on charges of compromising state security, and detained her for 2 days, reportedly in connection with a military tribunal judge's effort to learn the names of the authors of some open letters that were published anonymously in Avant Guard (see Section 2.a.).

In November security forces arrested Djojo Kazadi Mpayo, editor of the Kinshasa newspaper, Palme d'Or, after that newspaper published a story that predicted that natives of the Kivu Provinces (apparently an allusion to RCD rebels) would soon take President Kabila to court (see Section 2.a).

On December 11, two unidentified men blindfolded and abducted University of Kinshasa student leader Alain Shekomba Okende. They reportedly tied him up, took him to an unknown location, and interrogated him about suspected ties to the media and to foreign embassies and intelligence services. It was reported that shortly after Shekomba's release on December 13, the ANR summoned him and other student leaders to the ANR facility in Kin-Maziere, where they detained but subequently released him and another student leader, Ntumba Kapajika.

On December 10, the Government freed 156 political detainees, including all 90 PALU activists then detained in Malaka Prison and 4 prominent UDPS members, including party spokesman Joseph Kapika and two UDPS members arrested on May 12, Professor Alidor Mwamba Mtita and Raymond Kabala. However, seven UDPS activists reportedly remained in detention at year's end.

On November 7, 1998, police arrested Thiery Itangaza Mubango and held him in detention until January 8, for attempting to make a long distance telephone call to a foreign business executive whose business he represented in the country. He was

held at the ANR facility in the Gombe neighborhood of Kinshasa. He was arrested without a warrant and never charged.

Pretrial detention often was prolonged. In March it was credibly reported that of 2,509 persons incarcerated at Makala Prison, only 276 had been tried and convicted; almost 90 percent of the inmates were awaiting trial. Two-thirds of Makala's 655 civilian inmates were awaiting trial.

The Government also held prisoners of war, reportedly including about 96 members of the Rwandan armed forces and a few members of the Burundian armed forces. They reportedly were guarded by members of the Zimbabwean armed forces. Although the Lusaka Accords called for an exchange of prisoners, none took place during the year.

Antigovernment forces reportedly detained persons repeatedly (see Section 1.b.). Many of those whom antigovernment forces detained reportedly were Hutus. The Rwandan and Ugandan armed forces held some Zimbabwean and Namibian prisoners of war, and allowed the ICRC to visit them. However, government soldiers captured by antigovernment forces reportedly were held by the RCD or MLC, which reportedly did not permit the ICRC to visit them.

The law prohibits forced exile, and the Government did not practice it formally; however, the Government released 1,341 Tutsis from detention on the condition that they leave the country through internationally-sponsored relocation programs. These Tutsis chose freely to leave the country rather than remain in government detention. In February the Government moved approximately 200 at-risk Tutsis from Camp Kokolo to the National Social Security Institute (INSS) center, in the western suburbs of Kinshasa, where their comfort and security were improved greatly and where the ICRC had continued access. They remained at the INSS center until June, when the ICRC repatriated Rwandans, Ugandans, and Burundians who were willing to depart the Congo. The remaining at-risk individuals remained at the INSS until late October. In Lubumbashi some 270 at-risk individuals were detained during the same period and also were repatriated to Burundi, Rwanda, or Uganda by the ICRC or evacuated to Belgium or Benin.

e. *Denial of Fair Public Trial.*—The Transitional Act of the Mobutu regime and Kabila's Decree Law No. 3 provide for the independence of the judiciary; however, in practice the judiciary was not independent of the executive branch, which could and did manipulate it. The Kabila administration continued not to establish mechanisms to ensure the independence of the judiciary; a judicial reform decree, reportedly awaiting presidential approval since 1997, still had not been promulgated. The judiciary also is ineffective and suffers from corruption.

The civil judiciary, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, was largely dysfunctional; during the year military tribunals that have been organized since August 1997 tried nearly all cases and sentenced many civilians as well as military personnel to death after summary trials. Defendents before these tribunal had no automatic right of appeal to a higher court, and many apparently lacked counsel.

Between January and early August at least 183 individuals were tried and convicted by military courts. By April the military tribunals in Kinshasa and Matadi had sentenced 52 persons to death; by year's end, they were believed to have sentenced more than 100 persons to death. Fourteen of the condemned were executed publicly on May 13 at a police facility in Kinshasa. On May 25, 23 others were executed at Camp Tshatshi, in Kinshasa. Death sentences and executions resulting from summary military trials became increasingly frequent as the year progressed. According to a domestic human rights NGO, between August 23 and November 23 alone, military tribunals sentenced 278 persons to death, of whom 142 already were executed by late November. Government military tribunals repeatedly sentenced civilians to death for nonviolent offenses, including mismanagement of public funds and violations of government restrictions on private economic activity, such as private distribution of state-monopolized and state-rationed gasoline. Military tribunals also convicted and ordered the execution of persons charged with armed robbery, murder, inciting mutiny, espionage, and looting while in a state of mutiny. Persons convicted by military tribunals sometimes were executed publicly in ceremonies held in stadiums and presided over by senior government officials, such as provincial governors.

Civil and criminal codes are based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel at all stages of proceedings; however, the Government did not respect these rights in practice. Defendants have the right to appeal in all cases except those involving national security, armed robbery, and smuggling, all of which are adjudicated in theory by the Court of State Security, and cases adjudicated by the special military tribunals, whose jurisdiction appears ill defined. The law provides

for court-appointed counsel at state expense in capital cases, in all proceedings before the Supreme Court, and in other cases when requested by the court. The Kabila administration still has not stated a position on providing counsel, and has provided it only at its discretion.

Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently, and also were trained poorly. The system remained hobbled by major shortages of personnel, supplies, and infrastructure.

On March 30, a military tribunal convicted Thierry Kyalumba, publisher of the Kinshasa newspaper, Vision, of divulging state secrets and sentenced him to 4 years in prison for writing an article describing a Ugandan purchase of missiles destined for rebel forces. He was beaten repeatedly during pretrial interrogations. He escaped from a prison hospital in May, and is believed to have left the country (see Sections 1.c. and 2.a.).

On June 18, a military tribunal in Katanga province sentenced two journalists to 8 months in prison for "slander and lies" for publishing an article that alleged that the governor of Katanga favored antigovernment insurgents. President Kabila granted clemency to the journalists on September 27 (see Section 2.a.).

On June 16, the Government released Joseph Olenghankoy, head of the political party Innovative Forces for Unity and Solidarity (FONUS), whom a military tribunal in May 1998 had convicted and sentenced to 15 years' imprisonment on charges of violating the ban on political activity.

At year's end the Government continued to hold some political prisoners, including ADFL co-founder Anselme Masasu and former Bas Congo Province governor Fuka Unzola and five associates, all of whom were convicted and sentenced to long prison terms in 1998. However, television reporter Joseph Mbakulu Pambu was tried and acquitted in December. The total number of political prisoners could not be ascertained due to restrictions on access to prisons by independent monitors (see Section 1.c.). Persons whom the Government incarcerated during the year for political offenses, including violations of Kabila's ban on political activity, mostly were detained without being tried and many were released in December (see Section 1.d.).

Similarly, persons reportedly incarcerated by antigovernment forces for political reasons generally were reported to be detained without being formally tried (see Section 1.d.).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Security forces routinely ignored legal provisions for the inviolability of the home, the family, and private correspondence. Members of the security officials often harassed and robbed persons.

Government security forces routinely kept under surveillance the headquarters of opposition parties and the movements of leading opposition political figures (see Section 2.b.).

The security forces repeatedly raided private businesses, including newspapers, banks, and law firms, seizing documents and other property, and arrested and detained employees whom they accused of collaborating with antigovernment forces (see Sections 1.d. and 2.a.). Security forces routinely ignored requirements for search warrants, entering and searching at will. In February the Government seized two foreign-owned diamond mines near Tschikapa in Western Kisai Province, and subsequently operated them.

When unable to locate a specific individual, authorities routinely arrested or beat the closest family member (see Sections 1.c. and 1.d.). On July 9, soldiers entered and searched the home of Innocent Kyuma without a warrant, seeking to arrest him for unknown reasons. After stealing money, they arrested Kyuma's pregnant wife and his sister. Military personnel held the two hostage until Kyuma appeared, and then arrested him. His release had not been reported by year's end. In March security agents forced their way into the homes of two Kinshasa families, ostensibly searching for Tutsis in hiding (see Sections 1.d. and 5). In one house, they arrested the son, since the father was not at home. In both homes they looted belongings and threatened to kill the inhabitants. On July 9, the same soldiers raided the office of a businessman named Kisaka for unknown reasons. The soldiers reportedly whipped the office staff as well as clients in their search for Kisaka. Upon learning that he was traveling, the soldiers arrested his secretary and stole her minibus. Later that night the same soldiers arrested Kisaka's younger sister Judith. ANR agents detained Kisaka's secretary for almost 1 week, and his sister for almost 2 weeks.

Security agents forced their way into private homes without search or arrest warrants, often beating the inhabitants and stealing money and goods. There were reports that security forces raped women during these raids. The police often raided opposition party leaders' residences, made arrests, and seized files (see Sections 1.c. and 1.d.). On January 11, security forces invaded the residence of UDPS opposition

party member Jean Joseph Mukendi wa Mulumba. They claimed to be searching for Tutsis in hiding (see Sections 1.d. and 5).

On April 17, elements of the 50th brigade cordoned off sections of the Masina neighborhood of Kinshasa, ostensibly to search for rebels in hiding. However, the raid likely was in retaliation for an unfavorable reception residents recently gave to President Kabila's passing motorcade. In the course of searching the neighborhood's homes without warrants, soldiers arrested 72 individuals on charges ranging from a lack of documentation to being in possession of suspicious objects such as cellular telephones. All were released from police custody the same day.

On February 8, the CDDH publicly reported that soldiers in Tshikapa in Western Kisai Province, then a government-controlled area, had recently committed several acts of robbery, looting, and rape, including a violent robbery of parish priests.

ANR security agents monitored mail passing through private express delivery companies as well as through the largely dysfunctional state mail service. On July 26, ANR agents arrested two members of the domestic NGO VSV, after intercepting and reading the contents of their private correspondence. The ANR agents were assigned to the mail room of the international package delivery company Express Mail International, and intercepted a newsletter NGO activists Honore Kaputu and Timothe Dikueza attempted to send to a colleague in Germany. The ANR agents arrested the pair when they appeared at the package delivery company to inquire about the delay in delivery (see Section 1.d.).

The Government was widely believed to monitor telephone communications.

There were credible reports that government forces used forcible conscription, and that many of those forced to enlist were children. The Government stated that it would reduce its use of child soldiers and curtailed forcible conscription of children during the year; however, there was no general demobilization of child soldiers, and many children already in the armed forces continued to serve in them (see Section 5).

Some Mai Mai and Hutu militia units fighting on the side of the Government routinely seized private property and looted homes to supply themselves. On two occasions in September, Burundian Hutu militia units operating out of the country raided and looted villages in Zambia.

Antigovernment forces subjected civilians to arbitrary interference with privacy, family, home, and correspondence of civilians in the areas that their forces dominated (see Sections 1.a. and 1.c.).

Between January 1 and 3, following fighting in the Mushinga and Kanioka areas, and near the chiefdom of Ngweshe in the Walungu territory, antigovernment forces stole livestock, tore apart homes, and hauled away windows and glass (see Section 1.a.). In October Rwandan soldiers and RCD-Goma rebels reportedly evicted Kisangani university professors from their homes and occupied their houses.

There were credible reports that rebel forces used forcible conscription, and that many of those forced to enlist were children. The problem reportedly diminished during the year and rebel forces stated that they would reduce their use of child soldiers; however, there were no reports that they generally demobilized child soldiers, and many child soldiers reportedly continued to serve in rebel armed forces.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—Throughout the year, war continued with external intervention on both sides. The war began in August 1998, when Kabila tried to expel from the country Rwandan military forces that had helped him overthrow Mobutu. Congolese Tutsis and the Governments of Rwanda, Uganda, and Burundi all relied on these Rwandan forces for protection from hostile nongovernmental armed groups operating out of the eastern part of the country. These groups included: The Interahamwe militia of ethnic Hutus, mostly from Rwanda, which fought the Tutsi-dominated Government of Rwanda, and Hutu members of the former Rwandan armed forces, two groups believed to be responsible for the 1994 genocide of Tutsis in Rwanda; the Mai Mai, a loose association of traditional Congolese local defense forces, which fought the influx of Rwandan immigrants; the Alliance of Democratic Forces (ADF), made up of Ugandan expatriates and supported by the Government of Sudan; and several groups of Hutus from Burundi fighting the Tutsi-dominated Government in Bujumbura. Kabila's attempt to expel the Rwandan armed forces was frustrated by the outbreak on August 2 of a rebellion, led by a group that called itself the Congolese Rally for Democracy (RCD). The RCD was dominated by members of the Tutsi ethnic minority, but from the outset depended heavily on troops, materiel, and direction from the Government of Rwanda, and, to a lesser extent, the Government of Uganda. Military intervention by Angola, Chad, Namibia, and Zimbabwe resulted in the defeat of an RDC drive on Kinshasa in August 1998, but antigovernment forces advanced elsewhere. During the year, the rebels split into three factions, a Rwandan-supported faction of the RCD based in Goma, a Ugandan-supported fac-

tion of the RCD based in Bunia, and the Ugandan-supported Movement for the Liberation of the Congo, which, unlike the original RCD, was not dominated by ethnic Tutsis. Nevertheless, antigovernment forces continued to advance and at year's end controlled most of the country's territory, including its eastern and northern regions. During the year, elements of the armed forces of Rwanda and Uganda continued to operate inside the country in support of rebels, and elements of the armed forces of Burundi operated inside the country against armed groups of Hutus from Burundi. Elements of the armed forces of Angola, Namibia, and Zimbabwe continued to operate inside the country in support of the Government throughout the year, but the Chadian forces withdrew from the country in May. Nongovernmental armed groups such as the Interahamwe, former Rwandan Hutu military, and Mai Mai continued to operate inside the country on the side of the Government, often as guerillas inside territory held by antigovernment forces. Cease-fire accords signed in July between progovernment and antigovernment forces briefly reduced the intensity of the war. By the end of the year, all sides violated the cease-fire, although the level of fighting was generally limited. In this conflict, both sides repeatedly used excessive force and committed numerous abuses.

Progovernment forces on several occasions used excessive force by bombing civilian populations in air raids against towns held by antigovernment forces. The crude bombs used, their manner of delivery (rolled out of the aircraft through an open hatch), and the fact that the raids were carried out at night over populated areas, nearly always resulted in heavy civilian casualties and little or no damage to antigovernment forces. On the night of January 10, progovernment forces bombed the city of Kisangani, killing 12 civilians and wounding 26. Two civilians reportedly died as a result of being hit by antiaircraft fire. In addition to human casualties, the raids also damaged houses, water, and electrical facilities in the communes of Makiso and Tshopo. There were also reports of progovernment air strikes in May. On June 2, government aircraft raided Bukavu and Uvira. During the first week of August progovernment aircraft bombed the towns of Makanza and Bobonga. A large although uncertain number of civilians were killed in these attacks. According to a report by the U.N. Special Rapporteur on the Situation of Human Rights in the Democratic Republic of Congo, not only the government's armed forces but also elements of the armed forces of other countries, including Zimbabwe, conducted such bombings.

However, the widespread killings of Tutsi noncombatants, reportedly including some mass killings, which were the most serious violations of humanitarian law committed by government security forces during 1998, did not continue during the year. Government security forces continued to use child soldiers, but greatly reduced their forcible recruitment of child soldiers during the year (see Sections 1.f. and 5).

There were reports that Mai Mai and Hutu guerrillas fighting on the side of the Government killed and tortured noncombatants (see Sections 1.a. and 1.c.).

There were many reports, at least some of them credible, that elements of the Rwandan armed forces and the Goma faction of the RCD repeatedly committed mass extrajudicial killings of noncombatants, usually in reprisal for attacks in the same area on RCD forces by Mai Mai or Hutu groups (see Section 1.a.). Rebel forces reportedly continued to use child soldiers, but reduced their forcible recruitment of child soldiers greatly during the year (see Sections 1.f. and 5).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Statutes provide for these rights, and remain in effect; however, in practice the Government increasingly restricted these rights.

The Libyan-inspired CPP's that Kabila formed during the year monitored persons' speech, as well as association and movement, in residential areas, workplaces, and schools, and reported speech critical of the Government to security forces. Although the CPP's were not part of the formal structure of the State, they were clearly agencies of the Kabila regime.

On June 14, police jailed 14 members of the opposition UDPS party for allegedly having booed the passing motorcade of President Kabila. Among those arrested were Tito Malengi, Nlandu Mavakala, Alain Ngoy, Gauthier Missau, Ibula Mosanzu. The police released nine of the detainees over a period of several weeks. However, three remained in detention until December, when they were released (see Section 1.d.).

Incidents of harassment, intimidation, and detention of journalists were increasingly frequent for the second consecutive year, and violations of press freedom became more common. During the year government security forces arrested and detained more than 80 journalists; few of them were tried. At least three remained incarcerated at year's end. Others were subjected to harassment, beatings, and torture. Police seized radio stations, shut down newspapers, and set fire to publishing

houses. State authorities expelled foreign journalists and banned the transmission of some international radio broadcasts.

Almost 400 newspapers were licensed to publish but only a score appeared regularly in Kinshasa. There was also an active private press in Lubumbashi, and some private newspapers were published in other provincial cities. Of the Kinshasa-based newspapers, seven were dailies; the rest of the newspapers that appeared regularly were published between one and three times a week. Most private news publications relied on external financing, often from political parties and individual politicians. News publications tended to emphasize editorial commentary and analysis rather than factual descriptions of events; many were highly critical of the Government. There were no overtly government-controlled newspapers. However, the editors of at least two newspapers, L'Avenir and L'Ouragon, worked respectively at the office of the presidency and the Ministry of Justice. Le Forum and Le Palmares have close ties to the security services. Of these, only Le Palmares appeared daily.

The newspaper industry is regulated by a press law enacted in 1996. Publishers must continue to deposit copies of their publications with the Information Ministry. However, there is no longer a formal censorship regime. Criminal libel laws exist but were not used against journalists, even though, in most cases where journalists were charged formally, state authorities charged them with "endangering the State" through the publication or broadcast of political news, or news of the war. Charges often were brought under the June 22, 1996, press law. However, the law has not been published by the Government in 5 years, and many of the judges, as well as the journalists on trial, are unfamiliar with it. Government officials criticized or implicated in fraudulent practices by the press at times encouraged police to arrest the journalists responsible for such stories.

On January 12, the police arrested Thierry Kyalumba, publisher of the Kinshasa newspaper, Vision, for writing an article describing a Ugandan purchase of missiles destined for rebel forces. Security forces repeatedly beat him with a belt and buckle while interrogating him during his subsequent detention at the Committee of State Security prison and the Kokolo military detention facility. On March 30, a military tribunal convicted him of divulging state secrets and sentenced him to 4 years in prison. He escaped from a prison hospital in May, and is believed to have left the country (see Sections 1.c. and 1.e.).

On February 3, ANR agents raided the offices of the Kinshasa newspaper, Le Potentiel, and arrested five journalists, after the pro-opposition daily criticized a statement by the President in which he encouraged the formation of CPP's. The five, director of publication Moise Musanga, assistant editor Vernon-Clement Kongo, and reporters Emmanuel Katshunga, Godefroid Ngamisata, and St. Theodore Ngangu, were detained for 1 day at the ANR station in the Gombe neighborhood of Kinshasa, where they were made to sing pro-Kabila songs and warned not to "annoy the President" before being released (see Sections 1.d. and 1.f.).

On February 5, police in Kinshasa arrested journalist Andre Ipakala, of the daily newspaper, Reference Plus, and held him for 3 days without charge. In what appears to be a pattern of intimidation, security forces also arrested Ipakala on January 26 and February 4. The latest arrest followed a number of intimidating telephone calls to the newspaper. Authorities reportedly claimed that Ipakala's recent coverage of President Kabila was "too tendentious" (see Section 1.d.).

On May 8, police in Kinhasa arrested Stephane Kitutu O'leontwa, president of the Congo Press Union, because they had been unable to locate the author of an article that appeared in the satirical newspaper Pot-Pourri. Kitutu had never written for Pot-Pourri and was released 4 days later (see Section 1.d.).

On May 25, security forces arrested Kidimbu Mpese, managing editor of the Kinshasa newspaper, Le Soft, and reporter Awazi Kharomon on charges of "undermining the Government," in connection with the publication in Le Soft, 6 weeks earlier, of an article describing mismanagement of the central bank. Both journalists were released on June 4 (see Section 1.d.).

On June 3, security agents arrested Kazadi Ntumba Mulongo, editor of the Kinshasa newspaper Top Media, who also worked as a reporter for a state-owned radio/television station. Security agents accused Ntumba of publishing articles too critical of the Government. He reportedly was released after about a week's detention. No charges were filed against him (see Section 1.d.).

On June 18, a military tribunal in Katanga province sentenced Bella Mako and Ngoy Kikungula, the publisher and editor in chief of a Lubumbashi weekly, Le Lushois, to 8 months in prison for "slander and lies," in connection with an article published in Le Lushois that alleged that the governor of Katanga favored antigovernment insurgents. President Kabila granted clemency to the journalists on September 27, after an appeal by the NGO, Journalists in Danger (see Section 1.e.).

On June 23, members of the security forces raided the Kinshasa office of Tempete des Tropiques, a daily newspaper, and arrested three journalists: managing editor Martin Mukania, editor in chief Dimbuka wa Dimbuka; and reporter Boniface Lopaka. The journalists were beaten publicly before being loaded into a vehicle and taken away (see Sections 1.c. and 1.d.); they were released later the same day.

On June 28, security agents arrested Clin Beya, a reporter for the Kinshasa daily newspaper Le Potentiel, after learning that he intended to write a story describing animosity between the President's chief of staff and the Minister of Finance. He was released the following day, after several other papers published the same story (see Section 1.d.).

On July 26, security forces in the town of Mbuji Mayi arrested, briefly detained, and whipped Jean Marie Kashils of the Agence Congolaise de Presse, and Bienvenu Tshiela of Kasai Horizon Radio Television. The deputy governor of Eastern Kasai Province, Kalala Kaniki, ordered the arrest, claiming that journalists criticized him in various reports. In 1998 Kanini ordered the whipping of another journalist, Robert Ndaye, for the same reason (see Sections 1.c. and 1.d.).

On August 9, following news coverage of a military tribunal hearing, security agents again raided the offices of Le Potentiel. Unable to find the authors of the article, security agents arrested Modeste Mutinga, the publisher. He was released later in the day.

On August 24, police arrested Achille Kadima Mulamba on the order of employees of the public treasury, after Kadima wrote an article implicating the Director General of Taxation in fraudulent practices. Police held him for 4 days at the Kinshasa/Kitambo police station (see Section 1.d.).

In the predawn hours of September 7, security forces raided the offices of the Biaka Press and arrested two writers of Alerte Ndule, a periodical dedicated to music. Security officials apparently sought writers of the daily newspaper L'Alarme and did not distinguish between the names. The security agents, who did not identify themselves, arrested Alerte Ndule writers Kala Bokangu and Bosange "Feu D'or" Ifonge. Agents also arrested the printer Emile Thomas Dodo Lumingu (see Section 1.d.). Later the same month, security forces arrested L'Alarme journalist Albert Bosange Yema, who reportedly wrote an erroneous article on the capture of Lake Mukamba by the rebels (see Section 1.d.).

On October 2, DEMIAP officials ordered Perserverance Ndeghey, the publisher of the weekly newspaper Avant Guard to report to a DEMIAP detention center, where he was arrested on charges of compromising state security. Ms. Ndeghey reportedly was arrested by the order of military tribunal judge Col. Alamba Mungako, who sought to learn the names of the authors of some open letters that were published anonymously in Avant Guard. When Avant Guard journalists failed to provide this information, he reportedly ordered the editor's arrest (see Section 1.d.).

In November security forces arrested Djojo Kazadi Mpayo, editor of the Kinshasa newspaper, Palme d'Or, after that newspaper published a story that predicted that natives of the Kivu Provinces (apparently an allusion to RCD rebels) would soon take President Kabila to court (see Section 2.a). Palme d'Or also had recently published a photograph of former president Mobutu.

Security forces also arrested other print media journalists during the year (see Section 1.d.).

On February 7, 1998, authorities arrested Albert Bonsange Yema of L'Alarme along with his two wives and six of his children. His wives and children were released within a few days. However, Bonsange was transferred to the Makala prison in Kinshasa. A military tribunal convicted him of endangering the security of the State by publishing an article written by members of the political opposition and sentenced him to pay fines worth about $1,433. Upon his release on February 3, Bonsange required medical attention as a result of mistreatment while in detention. Police continued their harassment of Bonsange following his release; he was arrested again in September.

Government security forces sometimes seized individual issues of various newspapers or printing equipment. During the first quarter of the year, security forces occasionally seized newspapers from street vendors to prevent circulation of articles deemed damaging to the Government. Security forces also occupied the offices of the newspaper, Elima, and prevented the newspaper from going to press.

Due to limited literacy and the higher costs of newspapers and television, radio remained the most important medium of public information. At year's end, 6 radio stations operated in Kinshasa alone. In 1997 the Kabila Government lifted the Mobutu regime's ban on news programming on private radio; however, two radio stations continued to be state-owned and government-controlled. Opposition parties were unable to gain access to state-owned radio, and private radio was markedly less critical of the Government than private newspapers. The Kabila Government

has closed down private radio stations because they broadcast news unfavorable to the Government or commentary critical of the Government. In 1998 the Government shut down Radio Amani, a privately owned radio station affiliated with the Catholic Church, because it carried British Broadcasting Company (BBC) news programming and commentary unfavorable to the Government.

On October 24, 1998, security forces arrested Joseph Mbakulu Pambu, a reporter for a private television station in Matadi, for having collaborated with the rebels during their August 1997 drive on Kinshasa. A military tribunal tried and acquitted him of endangering the security of the State.

Other methods of silencing the broadcast media have included burning down radio stations and expelling journalists from their homes. On January 13, a mysterious nighttime fire broke out and destroyed the radio and television studios of Message de Vie, in the Kasa Vubu district of Kinshasa. The station was owned by a Pentecostal minister and opened only recently. Neighbors and observers believe that the blaze was set deliberately. On January 26, soldiers expelled national radio and television journalist Michael Museme Diawe from his home, claiming it had been allocated to a member of the President's staff. Diawe was arrested and suspended previously for statements made on the air.

Eight television stations broadcast in the Kinshasa area, two of which are state-controlled, and two of which are religious; opposition parties remained unable to gain access to state-controlled television.

During the year, the Government prevented foreign broadcasts through domestic transmitters. On July 22, Information Minister Didier Mumengi ordered privately owned radio and television stations to cease transmitting foreign broadcasts. The order was aimed at Elikya, a Catholic radio station that transmits Radio Vatican, and Raga FM, which broadcasts the VOA, BBC world service, and Deutsche Welle. However, Kinshasa still receives Radio France Internationale, which is transmitted from nearby Brazzaville.

At year's end, there were two domestic Internet service providers. Because of technical difficulties and high costs, the Internet is not widely used.

Some antigovernment forces, including the RCD-Goma, reportedly restricted freedom of speech and of the press; at year's end, there reportedly were no independent media in areas controlled by the RCD-Goma.

On July 21, RCD security forces in Bukavu in South Kivu Province seized the radio transmitter and other equipment from the private radio station radio Maendeleo, effectively taking it off the air.

On August 25, RCD-Goma soldiers arrested two journalists from Radio Maendeleo, senior editor Kizio Mushisi and programming chief Omba Kamengele, as they were leaving a meeting of the Regional Council of Nongovernment Development Organizations (CRONGD). Four NGO members also were arrested. Mushisi and Kamengele were taken to the offices of the RCD-Goma's Agence National de Reseignement. They were released September 13, along with the four NGO members.

Academic freedom increasingly was endangered as professors exercised self-censorship or modified their lectures to suit the views of their patrons in the Government. Faculty members complained that members of the Government took an increasing interest in activities at the university. The regime monitored university classrooms through student and teacher members of the newly created CPP's (see Section 2.b.). During the year CPP's were introduced to university campuses in Kinshasa and Lubumbashi, employing a cadre of both students and faculty. Several lecturers were arrested after CPP members denounced them for questioning the Government. In February ANR agents arrested professor Tshibangu Kalala in Kinshasa and detained him for 2 weeks without charges after CPP members criticized the professor for relating to students his impressions of the poor economy and infrastructure of Katanga after he returned from a visit to that province. Guards beat and tortured him during his incarceration (see Sections 1.c. and 1.d.). On July 29, security forces in Lubumbashi arrested professor Kambaj wa Kambaji because of the professor's critical analysis of the use of ethnic hate radio in Congolese politics (see Section 5). ANR agents raided his home and seized student essays dealing with hate radio. Security forces in Lubumbashi tortured professor Kambaji in detention and denied him access to his doctor and his family. He was flown to Kinshasa August 19 and mistreated aboard the aircraft. At year's end, Professor Kambaji remained in detention at an ANR facility in Kinshasa (see Sections 1.c. and 1.d.).

b. *Freedom of Peaceful Assembly and Association.*—There is no legal protection for freedom of assembly, and the Government continued to restrict this right severely. The Government considers the rights to assemble and associate subordinate to the maintenance of "public order." The Government requires all organizers to apply for

permits, which are granted or rejected at the Government's discretion. Public activities generally are dispersed by government security services.

On August 2, the Kabila Government took over the agenda of a peace rally planned by Kinshasa-based NGO's that it previously had approved. Government military and police personnel, as well as elements of the CPP' dispersed themselves among the crowd and refused to let NGO officials or opposition politicians speak. The government agents turned the event into a Kabila rally, as ministers spoke extolling the virtues of the President.

In August the rapid intervention police dispersed striking civil service workers who assembled before the office of the Ministry of Finance to protest low pay and nonpayment of salaries. Three union leaders were arrested (see Section 6.a.).

On September 9, a planned demonstration by university students during a faculty strike was thwarted by the presence of police and military units that surrounded the campus of Kinshasa University. The Kabila Government threatened to shut down Kinshasa University and turn out its 28,000 students if the unrest continued; however, a Government promise to increase faculty salaries ended both the strike and student unrest.

The law provides no protection for freedom of association, and the Government severely restricted this right. Upon assuming power in 1997, the Kabila Government suspended political party activities, but not political parties themselves. In January Kabila issued a decree that partially lifted the ban on political party activities. However, the decree allows the Interior Minister to ban parties arbitrarily, and requires that legally recognized parties have members from all provinces, a requirement that could not be satisfied under war conditions. Moreover, in practice, the Government continued to ban any political activity by opposition groups beyond small administrative meetings.

During the year, President Kabila dissolved the AFDL movement, which he led. In its stead Kabila organized CPP's, based on the Libyan model developed by Muammar Qadhafi; state-funded CPP's in residential neighborhoods, workplaces, and schools not only undertook community development projects but also monitored all activity, including forms of association that they deemed suspicious or a threat to the State. In a July presidential decree legalizing the CPP's, Kabila proclaimed that all political activity must pass through the CPP's, which he leads. This decree was widely criticized.

Individuals from opposition parties served in Kabila's Government, but in their individual capacities (see Section 3). Political party offices by and large remained open, and parties continued internal administrative functions. At different times and for different periods, the headquarters of various political parties were under surveillance, padlocked, or patrolled by soldiers. The Government effectively prevented public political gatherings, although opposition party leaders remained able to conduct small private meetings. The effects of the restrictions on political parties varied widely throughout the country, and they were enforced less strictly in some provinces.

In theory anyone wishing to form a new political party could do so by registering with the Minister of Interior. The President's January decree required all political parties including existing parties to register. However, no political parties were registered during the year.

NGO's are required to register with the Minister of Justice, filing copies of internal regulations and descriptions of organizational structure. During the year, President Kabila promulgated a decree that restricted the activities of NGO's, including religious organizations, by establishing requirements for their activities. However, some existing organizations were exempt, and the decree was not enforced during the year.

Security forces arrested individuals visiting foreign embassies, as well as persons who have contacts with NGO's or citizens living in other countries (see Sections 1.d., 1.f., and 4).

There were credible reports that antigovernment forces seriously restricted freedom of assembly and association in the areas that they controlled. However, antigovernment forces permitted some humanitarian NGO's to work in those areas, and such NGO's reported that their working environment improved in some of those areas during the year.

c. *Freedom of Religion.*—Freedom of religion is recognized, and the Government generally respected this right in practice, with the reservation that the expression of this right neither disturb public order nor contradict commonly held morals. The establishment and operation of religious institutions is provided for and regulated through a statutory order on Regulation of Non-profit Associations and Public Utility Institutions. Requirements for the establishment of a religious organization are simple and the process was not abused; exemption from taxation is among the bene-

fits of official recognition as a religious organization. During the year President Kabila promulgated a decree that restricts the activities of NGO's, including religious organizations, by establishing requirements for them; however, existing religious organizations were exempt, and the decree was not enforced during the year. There is no legally established or favored church or religion.

Although the Government required that foreign religious groups obtain the approval of the President, through the Minister of Justice, foreign religious groups generally operate without restriction once they receive approval from the Government.

A 1971 law regulating religious organizations grants civil servants the power to establish and dissolve religious groups. There have been no reports of the Government suspending or dissolving a religious group since 1990, when the Government suspended its recognition of Jehovah's Witnesses; that suspension subsequently was reversed by a court. Although this law restricts the process for official recognition, officially recognized religions are free to establish places of worship and to train clergy. In practice, religious groups that are not recognized also worship freely.

Many recognized churches have external ties, and foreigners are allowed to proselytize. The Government generally did not interfere with foreign missionaries. The Government took no action to limit the ability of members of Jehovah's Witnesses or any other group to practice their faith.

On April 19, security agents arrested Pastor Job Mukendi as he was driving his vehicle in Kinshasa. Security forces took this action after Pastor Mukendi criticized the new presidential decree establishing requirements for the activities of religious organizations. Pastor Mukendi was released the following day.

In January a radio and television studio owned by a Pentecostal pastor burned down under suspicious circumstances. The government's July order that private radio stations cease transmitting foreign radio broadcasts effectively targeted a Catholic radio station; in 1998 the Government shut down a Catholic radio station that transmitted domestic broadcasts (see Section 2.a.).

On September 14, security forces arrested Catherine Nzuzi, president of the major faction of the MPR party, after she organized a Mass for former president Mobutu on the second anniversary of his death. She was detained for 5 hours on charges of violating a decree prohibiting political activity (see Section 1.d.).

In September security forces arrested Reverend Fernando Kuthino after his actions sparked street demonstrations by Muslims; he converted a Muslim on television, then publicly burned notes the convert had taken while studying the Koran. He remained in detention at year's end (see Section 5).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the law allows for freedom of movement, the Government, and in particular the security forces acting independently, continued to restrict this freedom; the Government increased its restrictions after the war began. The war also brought new restrictions on internal travel even within the government-controlled and rebel-controlled zones and made movement between the two zones difficult and dangerous.

Even before the war, security forces throughout the country established and manned many roadblocks at which they demanded that travelers produce documents and bribes. There were many more such roadblocks than could be justified by public safety considerations; both their numbers and the conduct of the security force members manning them indicated that their main function was to extort money and goods from travelers to supplement their below-subsistence official wages. This made internal travel costlier, more time consuming, and more dangerous, since violence including shootings was not uncommon at these roadblocks.

During the war, the Government has required exit visas for all foreign travel. No data on the refusal rate for exit visa applications was available; there were several known cases in which a political leader was denied an exit visa during the year. Security forces occasionally hindered foreign travel by citizens, including journalists.

On January 26, airport authorities arrested Andre Ipakala, the editor of the Kinshasa-based daily newspaper La Reference Plus. Ipakala, who was traveling to attend conferences in Kenya and Ethiopia, was charged with attempting to smuggle issues of his own newspaper out of the country. He was released the following day after explaining that the issues in question were a week old and already had been disseminated internationally over the Internet (see Section 1.d.).

On March 14, airport security agents arrested four members of a returning Congolese delegation that had traveled to South Africa to discuss the upcoming national dialog. The four were Modeste Mutinga, editor of Le Potentiel, Andre Ipakala, editor of La Reference Plus, Marie Angue Lukiana, president of the NGO National Women's Union, and a representative of an opposition political party (see Section 1.d.).

On April 16, airport authorities arrested Kinkela vi Kin'si, former Minister of Post, Telephone, and Telegraph. The Kabila Government claims that Kinkela was attempting to flee the country after being ordered to remain at the Ministry to brief his successor. Kinkela maintains that he was at the airport to greet an arriving friend (see Section 1.d.).

The Government refused an exit visa in late June to UDPS President Etienne Tshisekedi. The opposition leader was traveling to Europe to attend a seminar on the crisis in the Congo. The Government claimed that his passport was not in order, since it was issued under the last regime. Police also surrounded his house to prevent his departure.

On September 11 and again on September 12, the Kabila Government denied the exit visa application of prominent journalist Modeste Mutinga Mutuishayi, effectively preventing his travel. Mutinga, the owner/editor of the newspaper Le Potentiel, was due to travel to the United Kingdom and Canada to attend a series of conferences on good governance. Airport and ANR authorities seized his passport, apparently in retaliation for Mutinga's recent hosting of a conference that questioned Kabila's overt favoritism toward his own Muluba tribe.

The Kabila Government also refused to permit international travel by Christian Badibangi, head of the opposition party Union Socialiste Congolaise. Badibangi was seeking medical attention overseas following repeated beatings while in detention (see Sections 1.c. and 1.d.).

The Government lifted Kinshasa's night-time curfew in April, but reimposed it in October, although there was no evident immediate military threat to the capital. Security forces enforcing the reimposed curfew killed two persons (see Section 1.a.). The Government again lifted the curfew in December.

There reportedly was substantial freedom of movement within the rebel-controlled territories. However, travel across the war front was often inconvenient and sometimes impossible.

The significant risk of rape, sometimes perpetrated by uniformed men, restricts freedom of movement at night for women in many neighborhoods. Groups of citizens implemented neighborhood watch programs, but women in many parts of Kinshasa and Lubumbashi do not leave their homes at night due to fear of attack.

The law includes provisions to grant refugee status and asylum in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government continued to provide first asylum. Tens of thousands of refugees were accepted into the country from the Republic of Congo during the year. Refugees from Uganda and Angola also continued to live in the country.

The Government's cooperation with the U.N. High Commissioner for Refugees (UNHCR) and other international agencies fluctuated widely. The Ministry of Human Rights and in particular Human Rights Minister She Okitundu played an active role in organizing the protection and voluntary departure of Tutsis who were not incarcerated before their departure from the country. Since the start of the war, the Government has stopped its former practice of involuntarily repatriating Hutus to Rwanda.

Antigovernment forces cooperated with NGO's in voluntarily repatriating Rwandan Hutus to Rwanda. There was no independent confirmation of news reports in May, that antigovernment forces were repatriating Rwandan Hutus involuntarily.

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

Citizens do not have the right to change their government peacefully. Citizens have not been able to change their government through free elections since independence in 1960.

In his May 1997 inaugural address, President Kabila promised a constitution and elections by 1999. However, the 1998 outbreak of war proved a setback for the democratic process as it effectively ruled out holding national elections. The President used the pretext of war to suppress the activities of political opposition parties and continued to rule by decree. The war also provided a reason for security forces to arrest anyone they chose on charges of subversion or being in league with the rebellion (see Sections 1.d. and 1.e.).

The Government did not pursue the ratification of the proposed constitution drafted in 1998; after it was disseminated in the press, many leaders of political parties, NGO's and religious organizations criticized it as insufficiently democratic.

To address allegations that President Kabila had no intention of introducing democracy, the Government called for a national dialog to settle questions surrounding the legitimacy of its power. Cease-fire accords signed in July at Lusaka between the progovernment and antigovernment forces called for an open national dialog among

all political parties and civil society groups. In October, the Government staged a "national debate," whose agenda was controlled by the Government; nongovernmental entities, anticipating the more open dialog prescribed by the Lusaka Accords, participated very little, and the national debate attracted little press coverage. The Government subsequently reaffirmed its commitment to participate in a national dialog under the control of a neutral facilitator.

Although the Government did not ban political parties, it continued to impose severe restrictions on their activities, and to enforce these restrictions with numerous arrests and detentions (see Sections 1.d. and 2.b.). In practice the permitted operations of political parties continued to be restricted to internal administrative functions. At various times government security forces put opposition political party members under surveillance. Police also raided and padlocked party headquarters.

Hundreds of political activists were arrested for engaging in political activity and detained for prolonged periods, although most were released on December 10 (see Sections 1.d. and 2.b.).

The State continued to be highly centralized in many ways. Governors generally were appointed by the central government executive, but once in the provinces they had considerable autonomy, due in part to the poor communications and transportation infrastructure. Territorial administrators were also were appointed from Kinshasa. Provincial government resources, both financial and logistical, have come almost exclusively from Kinshasa since Kabila took control of the Government.

A disproportionate number of Kabila's ministers were from the President's home province of Katanga and from his Muluba tribe.

There are no official restrictions on the participation of women or minorities in politics; however, in practice, they are underrepresented, and there are few women or Muslims in senior positions in the government or in political parties. There were five female ministers and vice ministers in the Cabinet at year's end.

The rebel movements established civil administrations in the areas controlled by antigovernment forces, including appointment of provincial governors and issuance of visas for foreigners to travel into their areas. Rebel authorities reportedly began training police forces, but appointed local officials rather than holding local elections.

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

The Kabila Government showed increased hostility to effective human rights organizations, either domestic or international, operating in the country. Local human rights NGO's continued to investigate and publish their findings on human rights cases, but these activities took place in the context of significant government harassment.

The main domestic human rights organizations operating in the country include Comite Droits de l'Homme Mainenant (CODHOM), a national network of human rights organizations; VSV, an active Kinshasa-based organization; Groupe Amos, a Christian-inspired group that focuses on human rights and democracy issues; Toges Noires, an international association of lawyers and judges involved with human rights; and Associations de Defense des Droits de l'Homme (ASADHO). In addition, numerous groups that are involved with development and with specific issues such as voter education and women's rights are active.

Local human rights activists were subjected to frequent harassment, arrest, and detention by security forces (see Section 1.d.). The legality of such arrests was often unclear, as was the authority of the security forces members effecting the arrests and detentions. In December 1998, Donnat N'Kola Shamuyi, an investigator for the human rights NGO CDDH, disappeared while working in Tshiapa in Western Kisai Province (see Section 1.b.).

In November VSV issued a report stating that the Government responded to only 18 percent of VSV's requests for information during the year. During the year, VSV staff received numerous threats from government officials. Security agents detained or questioned VSV members on at least eight occasions between January and July and forced several VSV members into temporary hiding (see Sections 1.c. and 1.d.). In June security forces visited VSV offices to invite VSV activist Floribert Chebeya to witness the release of a detained government minister. When informed that Chebeya was not in the office, soldiers arrested two VSV activists, took them to Kokolo military camp, and interrogated them about what Chebeya knew about the arrested government minister. The minister was not released that day; he apparently only had been used as bait to lure Chebeya.

U.N. Special Rapporteur Roberto Garreton visited the Congo in February, August, and September. After reviewing the prevailing human rights situation, the U.N. Rapporteur called for the release of political prisoners and the end of capital punish-

ment in the Congo. He expressed concern at the abuses of government military tribunals, as well as at a wide variety of serious abuses in both government-controlled and RCD-controlled territory.

During the year there were no further investigations into the massacres of Hutus reportedly committed in the country in 1997 by Rwandan forces and domestic Tutsi militias during the campaign in which they and Kabila's ADFL overthrew the Mobutu government.

Human rights groups and members of political, religious and other nongovernmental organizations in the parts of the country held by antigovernment forces frequently were harassed and detained on suspicion of helping the Government.

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

The previous Constitutions forbade discrimination based on ethnicity, sex, or religious affiliation, but the Government did not enforce these prohibitions effectively and continued to act with serious official prejudice against members of the Tutsi ethnic group. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women, Tutsis, Muslims, and the indigenous Pygmy (Batwa) people.

Women.—Domestic violence against women, including rape, is common, but there are no known government or NGO statistics on the extent of this violence. The police rarely intervene in domestic disputes. Rape is a crime, but the press rarely reported incidents of violence against women or children. Press reports of rape generally appear only if rape occurs in conjunction with another crime, not because of the act of rape itself.

Women are relegated to a secondary role in society. They constitute the majority of primary agricultural laborers and small-scale traders and are almost exclusively responsible for child rearing. In the nontraditional sector, women commonly receive less pay for comparable work. Only rarely do they occupy positions of authority or high responsibility. Women also tend to receive less education then men. Women are required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. A 1987 revision of the Family Code permits a widow to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce. In practice, sometimes consistent with customary law, women are denied these rights. Widows commonly are stripped of all possessions—as well as their dependent children—by the deceased husband's family. Human rights groups and church organizations are working to combat this custom, but there is generally no government intervention or legal recourse. Women also are denied custody of their children in divorce cases, but they retain the right to visit them. Polygyny is practiced, although it is illegal. Father-child relationships resulting from polygamous unions are recognized legally, but only the first wife is recognized legally as a spouse.

Children.—Government spending on children's programs is nearly nonexistent. Primary school education is not compulsory, free, or universal. In public schools, parents are required formally to pay a small fee, but parents often are expected informally to pay teachers' salaries. Dire economic circumstances often hamper parents' ability to cover these added expenses, meaning that children may not be able to attend school. Most schools function only in areas where parents have formed cooperatives. The Government's economic policies have resulted in massive unemployment, inflation, and a devaluation of the currency, putting basic education out of reach of many families. There have been reports of economic circumstances forcing children to hunt or fish for their family's livelihood, instead of attending school.

There are no documented cases in which security agents or others targeted children for specific abuse, although children suffer from the same conditions of generalized social disorder and widespread disregard for human rights that affect society as a whole. These conditions sometimes render parents unable to meet their children's basic human needs.

Some children as young as 10 years of age have been allowed to enlist as soldiers in the FAC. The Government has not taken comprehensive measures to remove child soldiers from its armed forces, although it has stated its intention of demobilizing child soldiers once the war is over. While many child soldiers continued to serve in the armed forces, during the year the Government greatly reduced and may have stopped recruiting children into its armed forces. However, the Government increasingly encouraged the enlistment of children in paramilitary organizations. In March the African Association of Human Rights reported that unemployed Katangan youth recruited by the GSSP were "excessively militarized," and that provincial authorities in Katanga were arming unemployed youth through CCP's.

Rebel forces, too, reportedly continued to use child soldiers already in service, but greatly reduced and may have stopped recruiting them during the year. Credible reports have indicated that rebel forces have conscripted forcibly boys as young as age 10, but there were no reports that this practice continued during the year.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is not widespread, but it is practiced on young girls among isolated groups in the north. The Government has not addressed the problem.

People with Disabilities.—The law does not mandate accessibility to buildings or government services for the disabled. There are some special schools, many with missionary staff, which use private funds and limited public support to provide education and vocational training to blind and physically disabled students.

Indigenous People.—There is a population of fewer than 10,000 Pygmies (Batwa), who are believed to have been the country's original human inhabitants. Societal discrimination against them continued. Although citizens, most Pygmies continued to live in remote areas and took no part in the political process.

Religious minorities.—Approximately 50 percent of the population are Roman Catholic, 20 percent are Protestant, and 10 are percent Islamic. About 20 percent practice traditional indigenous religions exclusively.

However, many persons practice elements of both Christianity or Islam and a traditional indigenous religion. Although relations among religious groups generally were amicable, accusations of witchcraft in a traditionalist rural area and tensions between Christians and Muslims reportedly contributed to some violence during the year.

In January in the Kamituga area of South Kivu Province, Mai Mai leader Sylvestre Louetcha reportedly accused of witchcraft 32 women who supported their traditional ruler in resisting Mai Mai demands for forced labor, then cut off their breasts, forced them to eat their own breasts, and killed them. In November, in the Mwenga area of South Kivu Province, RCD-Goma rebels tortured and buried alive 15 women who were suspected of having performed witchcraft in support of a local Mai Mai force, according to some accounts of that incident (see Sections 1.a. and 1.c.).

In September Muslims in Kinshasa staged street demonstrations to protest the actions of Protestant Reverend Fernando Kuthino, who converted a Muslim on television, then publicly burned notes the convert had taken while studying the Koran. Security forces suppressed the demonstrations and arrested and detained Reverend Kuthino (see Section 2.a.).

National/Racial/Ethnic Minorities.—The last official census was taken in 1984. It is estimated that the population is now 45 to 50 million, and comprises more than 200 separate ethnic groups. These groups generally are concentrated regionally and speak distinct primary languages. There is no majority ethnic group; the four largest ethnic groups are the Mongo, Luba, Kongo, and Angbetu-Azande, who together make up about 45 percent of the population. Four indigenous languages—Kiswahili, Lingala, Kikongo, and Tshiluba—have official status. French is the language of government, commerce, and education.

Societal discrimination on the basis of ethnicity is widely practiced by members of virtually all ethnic groups and is evident in private hiring and buying patterns, and in patterns of de facto ethnic segregation in some cities; however, intermarriage across major ethnic and regional divides is common in large cities.

Persons from President Kabila's home province, Katanga, and from his Mulaba tribe, filled a disproportionate number of positions in his Government and in the senior ranks of the civil service, and dominated the FAC officer corps. Katangans in the FAC were substantially more likely both to be promoted and to be paid than persons from other regions; about 80 percent of army promotions announced in June were granted to Katangans. Since the start of the war, Tutsis have been absent from the Government, which previously included persons from all regions and major ethnic groups.

Birth on national territory reportedly does not necessarily confer citizenship. The Government continued to refuse to recognize the citizenship claims of longtime residents whose ancestors immigrated to the country, including the Banyamulenge Tutsis. According to some accounts, resentment of their noncitizen status contributed to the participation of many Tutsi residents of the country first in Kabila's rebellion against Mobutu and then in the RCD rebellion against Kabila.

Since the start of the war in August 1998, ethnic Tutsis have been subjected to serious abuses, both in the capital and elsewhere, by government security forces and by some citizens, for perceived or potential disloyalty to the regime (see Section 1.a.). During the year, extrajudicial killings of noncombantant Tutsis in government-controlled areas largely stopped. However, in Kinshasa and in Katanga Province,

Tutsis continued to be held in prolonged detention, from which the Government was willing to release them only on condition that they leave the country (see Sections 1.d. and 2.d.). One Tutsi girl died of an illness while in government custody, but it was credibly reported that her death was not due to government negligence or abuse. Throughout the year, government officials and state media continued to publish anti-Tutsi propaganda, and continued to exhort not only state security forces but also citizens and in particular CCP members to exercise vigilance to uncover Tutsis in hiding and Tutsi infiltrators (see Sections 1.c. and 1.f.). Consequently, although most surviving Tutsis in government-controlled areas were either in hiding or detained or had left the government-controlled part of the country, many non-Tutsis who physically resembled Tutsis were detained or beaten on suspicion of being Tutsi. The Government also materially supported Mai Mai and Hutu armed groups, which, according to credible reports, repeatedly killed unarmed as well as armed Tutsis in areas militarily dominated by antigovernment forces. However, the Government no longer incited mob violence against unarmed Tutsis, and there were no reports of mass extrajudicial killings of Tutsis by the security forces.

On January 12, security forces from the 50th brigade broke into the Bethany Catholic Center, where a number of Tutsis and Rwandan nationals were granted refuge with the consent of the Government. Soldiers forced the Tutsis out of the compound and led them to camp Kokolo, a military installation, where they suffered mistreatment and deprivation until the Government, under international pressure, moved them to a training facility. During the raid soldiers of the 50th brigade looted and vandalized the Catholic Center, stealing food and money from both the Tutsis and the staff.

On April 30, members of the presidential guard attacked, severely beat, and abducted Ralph Biteo because he had the facial features of a Tutsi. Biteo was visiting a child in a hospital when agents of the presidential guard, under the command of a Major Batembo, stopped him at the hospital entrance. Despite Bitco's explanation that he was a member of the Batembo tribe from South Kivu, he was beaten severely by presidential guardsmen. Biteo told the guardsmen that he was visiting the hospital to see the burned child of a cousin, Mirimo Mulongo. Members of the presidential guard then arrested Mulongo, who had traveled from Goma with a child suffering from burns. Both Biteo and Mulongo were taken to the GLM detention facility in the Gombe area of Kinshasa. Both were denied visitors and were believed to still be in detention at year's end.

The longstanding violent conflict between the Tutsi and Hutu ethnic groups continued inside the country. Congolese Hutu militias continued to increase their recruitment from populations of Hutu refugees from Rwanda and Burundi in neighboring countries, including the Republic of Congo and Zambia. According to credible reports, these recruitments occurred with the knowledge and consent of the Government, which welcomed the support of these Hutu groups in its fight against the Tutsi-dominated RCD and the Tutsi-dominated Rwandan Government.

Senior government officials and state media continued to represent the war as part of a larger supranational conflict between Bantus and Nilotics. Similar Nilotic-Bantu rhetoric also appeared in private publications and broadcasts in the country.

State-owned television and radio and progovernment private newspapers repeatedly published racist remarks directed not only against Tutsis and Nilotics, but also against Europeans, in connection with propaganda alleging that countries in Europe and with populations largely of European ethnicity supported antigovernment forces in the war.

In December in the Ituri district in Orientale Province, an area dominated by Ugandan and Ugandan-supported forces, fighting between members of the Lendu and Hema tribes reportedly killed many persons and displaced tens of thousands of persons. This fighting, which continued and was worsening at year's end, reportedly arose from a dispute about land use (see Section 1.a.). Local officials, one of whom was a Hema, sold arms to the Hema, reportedly after using administrative authority to advance Hema interests at the expense of Lendu interests.

Section 6. Worker Rights

a. *The Right of Association*.—Legislation in effect from the Mobutu period permits all workers except magistrates and military personnel to form and join trade unions.

Before 1990 the law required all trade unions to affiliate with the National Union of Zairian Workers (UNTZA), the sole recognized labor confederation, which also formed part of Mobutu's Popular Movement of the Revolution (MPR) Party. When political pluralism was permitted in April 1990, the UNTZA disaffiliated itself from the MPR and reorganized under new leadership chosen through elections deemed fair by outside observers. After the ADFL takeover, the union renamed itself the National Union of Congolese Workers (UNTC). Although the UNTC remains the

largest labor federation, almost 100 other independent unions are now registered with the Labor Ministry and two other large federations are active. Some are affiliated with political parties or associated with a single industry or geographic area.

Government security forces repeatedly arrested and detained labor leaders and activists.

On January 28, ANR agents in Kinshasa briefly detained an employee of the cellular telephone company Telecel named Kimene and seven of his colleagues, who had formed a bargaining group, the Confederation Democratique du Travail (CDT). On February 13, police in Mbuji Mayi in Eastern Kasai Province arrested Telecel's Mbuji Mayi manager and two employees who were CDT members, and accused all three of "uncivic" behavior and violating a law forbidding transactions in foreign currency. Telecel called all three employees to Kinshasa, then handed them over to police, who detained the company manager until February 15 and the two union members until February 20 (see Section 1.d.).

During the year, police also arrested and detained a number of communications workers who attempted to form unions for the purpose of collective bargaining.

On December 31, 1998, police arrested Toussaint Kilundu Manbongo, an employee of the Direction General des Contributions (DGC) branch of the Finance Ministry and a member of the union, Solidarity. Three other Solidarity union members were arrested the same month: Albano Mopipi on January 17; Anderson Yoba Mbeso on January 18; and Laise Banzwa on January 29. The three were interrogated by ANR agents and transferred to Makala prison (see Section 1.d.). Kilundu and the other three Solidarity union members were released in August. The arrests appeared to be connected to a strike within the Finance Ministry over wages.

The law recognizes the right to strike. However, legal strikes rarely occur since the law requires prior resort to lengthy mandatory arbitration and appeal procedures. Labor unions have not been able to defend effectively the rights of workers in the deteriorating economic environment. The law prohibits employers or the Government from retaliating against strikers, but this prohibition rarely is enforced.

On August 2, civil servants in Kinshasa staged a strike to protest low salaries and months of unpaid wages. University administrators and health care workers soon followed them. When striking workers gathered before the offices of the Ministry of Finance, rapid intervention police arrested three union leaders (see Sections 1.d. and 2.b.). The police on August 12 also arrested four organizers of the health care workers strike but quickly released them. In October the Government claimed that it would meet the demands of the strikers. It did so by implementing progressively a comprehensive, higher civil service salary scale; however, civil servants were still paid sporadically.

Unions may affiliate with international bodies. The UNTC participates in the organization of African Trade Union unit, and the Central Union of Congo is affiliated with the World Confederation of Labor.

b. *The Right to Organize and Bargain Collectively*.—The law provides for the right to bargain collectively, and an agreement between the UNTC and the employers' association formerly provided for wages and prices to be negotiated jointly each year under minimal government supervision. This system, which functioned until 1991, broke down as a result of the rapid depreciation of the currency. The professional unions and the Congolese Business Federation signed a cooperative agreement in 1997. While collective bargaining still exists in theory, continuing inflation encouraged a return to pay rates individually arranged between employers and employees.

The collapse of the formal economy also has resulted in a decline in the influence of unions, a tendency to ignore existing labor regulations, and a buyer's market for labor. The Labor Code prohibits antiunion discrimination, although this regulation was not enforced effectively by the Ministry of Labor. The law also requires employers to reinstate workers fired for union activities. In the public sector, the Government sets wages by decree; public sector unions act only in an informal advisory capacity.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor*.—The law prohibits forced or compulsory labor, and the Government it not known to use it, apart from forcible conscription of adults and children (see Section 1.f.). However, there were reports that some Mai Mai guerrillas fighting on the side of the Government in the war demanded forced labor from persons in rural areas, and tortured and killed persons when a local traditional ruler refused to provide such forced labor (see Sections 1.a. and 1.c.). The law does not specifically prohibit forced and bonded labor by children, and such practices are not known to occur, apart from the forcible conscription of children (see Sections 1.g. and 5).

Antigovernment forces also forcibly conscripted adults and children.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The legal minimum age for employment is 18 years. Employers legally may hire minors between the ages of 14 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day; those between the ages of 16 and 18 may work up to 8 hours. The employment of children of all ages is common in the informal sector and in subsistence agriculture, which are the dominant portions of the economy. Such employment is often the only way a child or family can obtain money for food. Neither the Ministry of Labor, which is responsible for enforcement, nor the labor unions make an effort to enforce child labor laws. Larger enterprises generally do not exploit child labor. The availability of education for children is extremely limited in practice (see section 5). The law prohibiting forced or compulsory labor does not specifically mention children, but there were no reports of such practices, apart from forced conscription (see section 6.c.).

e. *Acceptable Conditions of Work*.—Most citizens are engaged in subsistence agriculture or commerce outside the formal wage sector. The minimum wage, last adjusted by government decree in 1990, subsequently was rendered irrelevant by rapid inflation. The average wage does not provide a decent standard of living for a worker and family. Most workers rely on the extended family and informal economic activity to survive. The maximum legal workweek (excluding voluntary overtime) is 48 hours. One 24-hour rest period is required every 7 days.

The Labor Code specifies health and safety standards. The Ministry of Labor officially is charged with enforcing these standards, but it does not do so effectively. No provisions in the Labor Code permit workers to remove themselves from dangerous work situations without penalty.

f. *Trafficking in Persons*.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

REPUBLIC OF CONGO [1]

The Republic of Congo continued to be ruled by a transitional government that came to power by force of arms in October 1997. President Denis Sassou-Nguesso wields executive power without meaningful legislative or judicial constraints. Forces supporting Sassou-Nguesso, a northerner, defeated those of former president Pascal Lissouba, a southerner, with the help of Angolan troops in 1997. Sassou-Nguesso's principal base of political support lay in the sparsely populated northern region of the country and in particular among his minority Mbochi ethnic group. Lissouba was elected democratically in 1992 after 28 years of one-party rule, including a lengthy period (1979–91) during which Sassou-Nguesso served as President. Lissouba's administration was characterized by severe mismanagement and by recurring clashes among militia forces loyal to the country's major political leaders. A civil war began when Lissouba's forces surrounded Sassou-Nguesso's home in June 1997, in an apparent attempt to eliminate his political-military faction. Civil conflict between the Government and armed groups of southerners throughout much of the south broke out in August 1998 and continued during the year. Fighting and heavy looting led to the destruction of many southern towns, including parts of Brazzaville, the capital. An estimated 800,000 civilians, mostly from the south—approximately one-third of the country's total population—were displaced as a result of the violence. During the second half of the year, the Government reestablished effective control over most of the south through military offensives, offers of amnesty, negotiations, and efforts to broaden the government's political base. In August President Sassou offered amnesty to rebel fighters who renounced violence and turned in their arms. The Government signed cease-fire and reconciliation accords with leaders of some rebel groups in November and with most other rebel groups in late December. Soon after taking power in 1997, President Sassou-Nguesso's Government replaced Congo's 1992 constitution with a new Fundamental Act. The Fundamental Act establishes a strong and highly centralized presidential system of government. The President appoints all members of the Government, all senior military officers and all subnational government officials, serves as commander in chief of the armed forces, and is mandated specifically to direct the general policy of the Government and exercise regulatory powers.

Legislative authority is vested in the 75-member National Transition Council (NTC), a body that was elected at the National Reconciliation Forum convoked by

---

[1] The United States Embassy evacuated its facilities in the country during the 1997 civil war and subsequently has operated out of the American Embassy in the Democratic Republic of Congo. Throughout the year, fighting in both countries impeded efforts to collect information.

the Government in January 1998. Although the forum included some representatives of opposition political parties and nongovernmental actors, the event was orchestrated by the executive and did not constitute a sufficiently broad-based forum from which to elect a genuinely representative legislature. During the forum, the Government announced its intention to create a new Constitution and hold elections within a flexible 3-year timetable. In August a constitutional committee named by the President in late 1998 presented him with a draft constitution that, once approved by the Cabinet, is to be submitted to the NTC and then to a popular referendum. The President has announced his intention to complete the constitutional reform process during the year 2000 and then hold elections. The judiciary is overburdened and subject to political interference and corruption.

The security forces include the police, the gendarmerie and the armed forces; the functional distinction between these forces is not clear. In theory the police should be the first to respond to security incidents, with gendarmes and army units intervening later if necessary; in practice joint operations are common. Many new recruits who have joined the security forces since the 1997 civil war are former members of nongovernmental militias. Effectively autonomous progovernment "Cobra" militia units also continued to operate, although the Government asserted increasing control over these units during the second half of the year. Units of the Angolan armed forces operated inside the country in support of the Government. Rwandan Hutu militiamen, formerly in refugee camps in the country, as well as citizens of Chad and the Democratic Republic of Congo (DROC), also participated in government military operations. Members of the security forces committed numerous, serious human rights abuses.

The economy has suffered serious losses from destruction and looting in much of the south during the 1997 civil war and the 1998–99 conflict, particularly in Brazzaville, where more than one-third of the country's population of roughly 2.7 million normally resides. However, this violence did not affect significantly the oil industry, which operates offshore. Oil exports and external assistance remained the country's main sources of foreign exchange. The doubling of world oil prices during the year greatly increased government revenues and by mid-year enabled the Government to stop the accumulation of salary arrears to public sector employees including members of the security forces. Although per capita gross domestic product was estimated at about $670 per year, this figure includes substantial oil exports, the benefits of which are not widely distributed throughout the population. Lack of transparency in government and high levels of defense and security spending continued to impede growth. During the first half of the year, large salary arrears for state employees including members of the security forces continued to contribute to widespread looting and other human rights abuses.

The Government's human rights record was poor, and there continued to be numerous serious abuses. Citizens do not have the right to change their government peacefully. Security forces, which included many undisciplined and poorly controlled former members of nongovernmental militias, were responsible for extrajudicial killings, including summary executions; disappearances; rapes; beatings and physical abuse of detainees and the civilian population; arbitrary arrest and detention; and arbitrary searches and widespread looting of private homes. Prison conditions remained life threatening. The judiciary was overburdened, underfinanced, and subject to corruption and political influence. It was unable to ensure fair and expeditious trials. The Government infringed on citizens' privacy rights. The Government continued to monopolize domestic broadcast media, although private newspapers circulated freely and were sometimes critical of the authorities. The Government permitted opposition political parties and nongovernmental organizations (NGO's), including human rights organizations, to function, and there was a relatively open dialog on public policy issues. The Government sent mixed signals on political participation by opposition figures. While many former cabinet ministers and other officials of the Lissouba government returned to Brazzaville during the year and were permitted to resume political activities, the Government also repeatedly stated that the most senior figures—including former President Lissouba and Prime Minister Kolelas—would be subject to trial for war crimes. Security forces restricted freedom of movement within the country. Violence and societal discrimination against women are serious problems, and incidents of rape increased during the renewal of civil unrest. Some minority indigenous Pygmies face severe exploitation and are inherited by Bantu patrons. Societal discrimination on the basis of ethnicity remained widespread. Ethnic and regional tensions continued to contribute to large-scale organized civil violence. Child labor, reportedly including forced labor, persists. Citizens sometimes resorted to vigilante justice, killing those presumed to be criminals.

Rebel militiamen were responsible for serious abuses, including summary execution, rape and extortion. Rebel militias severed rail and power lines, thereby causing

serious food and water shortages in southern towns. Militia commanders prevented displaced civilians from returning to their homes, prolonging their suffering under conditions of inadequate food and medical care.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—Security forces committed many extrajudicial killings. There were numerous reported cases of summary execution of suspected rebels among displaced civilians, most of whom were southerners, as they returned from other countries to which they had fled or emerged from forests or other places of refuge within the country. Young men were singled out for beatings or execution, and women were raped routinely. There were reports that in May members of the security forces shot and killed men a group of who were separated from groups of returning refugees.

In some cases, security forces summarily executed soldiers or members of progovernment militias who were looting (see Section 1.f.).

The Government often deployed undisciplined troops, including some recently recruited from President Sassou-Nguesso's former Cobra militia. These government forces were responsible for summary executions as well as rape, looting, and other violent acts. Numerous incidents were documented by local human rights groups, as well as humanitarian organizations such as Medecins sans Frontieres. While some improvements in government forces' discipline were noted as the year progressed, serious abuses continued. In October the Minister of Defense announced that military tribunals would be established to bring to justice those responsible for such abuses and the Government introduced legislation to that end; however, as of year's end these tribunals were not in place.

Angolan troops allied with the government generally were better disciplined, but also committed acts of summary execution, rape, and looting.

There continued to be deaths due to mob violence, as civilians took vigilante action against presumed criminals, although police sometimes intervened to stop such action.

Rebel militiamen, particularly the "Ninjas" and "Nsiloulou" based in the southern Pool region, also committed summary executions. These militiamen questioned young men among displaced civilians in the local dialect to ascertain their ethnicity and, if they were unable to answer, killed them as suspected government infiltrators. There were credible reports that rebels burned villages suspected of harboring infiltrators or whose inhabitants contemplated returning to government-controlled areas. During rebel advances in the town of Dolisie in January and February, opposition "Cocoye" militiamen summarily executed government officials and military officers in the town, although precise numbers are unknown.

b. *Disappearance*.—According to credible reports, young men, mostly members of southern ethnic groups, who took refuge in the Democratic Republic of Congo (DROC) early in the year were separated from their families by security forces upon returning to Brazzaville in May and subsequently disappeared. While some sources reported that security forces shot and killed these men, no firm evidence was developed, and a poor counting of the returnees made it difficult to verify what happened to them after arrival in Brazzaville. As a result of these reports, the U.N. High Commissioner for Refugees (UNHCR) increased monitoring of returnees which largely ended further charge of disappearance. An association of family members of persons who disappeared reported that 74 of those who returned in May remained unaccounted for as of year's end. A joint report issued by a local human rights group and an international human rights federation in June reported that approximately 30 persons who had been detained in late 1998 by security forces remained unaccounted for; these detainees were transferred late in the year to Impfondo, in the Likouala region, and subsequently were released.

Given the incomplete figures on those killed in the 1997 civil war and subsequent civil conflict, and the massive displacement of civilian populations as a result of the fighting, many disappearances may have occurred that have not been reported.

c. *Torture and Other Cruel and Inhuman Treatment or Punishment*.—The Fundamental Act prohibits torture; however, in practice, security forces sometimes used beatings to extract confessions or merely to punish detainees. Security forces generally operated with impunity in committing such acts. Members of the security forces looted citizens' homes (see Section 1.f.), and security forces extorted money from travelers at checkpoints (see Section 2.d.). Security force officers sometimes beat and released civilian looters instead of arresting them.

There were reports that security forces repeatedly separated males from groups of displaced southerners returning to the country or emerging from forests where

they had hidden, detained them, stripped and searched them for scars or other evidence of combat experience, and beat and interrogated those whom they suspected of having ties to rebel groups. Some persons reportedly died from such beatings.

Security forces routinely raped internally displaced women. Humanitarian NGO's cited more than a thousand cases of rape by security force members of such women returning to Brazzaville and believed that many more cases went unreported.

Security forces also were responsible for looting (see Section 1.f.).

There were credible reports that rebel militia groups from the Lari ethnic group and operating in the Pool region repeatedly raped women, looted homes, and killed persons, even among their own ethnic group, and that they also tortured suspected infiltrators from other groups.

Prison conditions remained life threatening, as they have been for years, due to overcrowded facilities and scarcity of resources to provide food or health care to the inmates. The Brazzaville prison (Maison d'Arret), which was vacated by all inmates due to heavy fighting in 1997, was repaired and reoccupied during the year. The Pointe Noire prison continued to function. Detainees held at police stations often were subjected to beatings, overcrowding, extortion, and other cruel, inhuman, or degrading treatment. Paul Omoye Kamaro, a detainee held without charge for twelve months in the Regional Directorate for Territorial Surveillance (DGST) in Pointe Noire, contracted pulmonary tuberculosis while in detention and died shortly after being transferred to the Pointe Noire military hospital in October.

Human right groups sometimes encountered difficulty in gaining access to prisons. However, a local human rights group sometimes was able to gain access to Pointe Noire prison through informal channels during the year. In November the Government signed an agreement to permit the International Committee of the Red Cross (ICRC) complete access to all prisoners and detainees, and by year's end the ICRC had been permitted to visit several detention centers.

d. *Arbitrary Arrest, Detention, or Exile*.—The Fundamental Act prohibits arbitrary arrest and detention; however, in practice security forces frequently commit such acts. The Code of Penal Procedure, which remains in force, requires that a person be apprehended openly and that a lawyer be present during initial questioning. The code further stipulates that warrants be issued before arrests are made and that detainees be brought before a judge within 3 days and either charged or released within 4 months. In practice the Government often violates these legal provisions. Detainees usually were informed of the charges levied against them, and lawyers and family members usually had free access to them.

There were political detainees at year's end. Precise figures are unknown, but local human rights groups estimated fewer than 20 political detainees remaining in Pointe Noire at the end of November. In most cases, no formal charges had been brought. The detainees were primarily minor officials of the former Lissouba Government. No figures were available for political detainees at locations elsewhere in the country. In February Nestor Makounzi Wolo, who had been detained since November 1998 in connection with his service on the Lissouba-era Constitutional Court, was released from detention. In October Bar Association President Herve Ambroise Malonga, another former Constitutional Court member held since November 1998, was also released. Also in October, the Government freed 12 Lissouba-era military officers who had been detained since the 1997 civil war, and announced that they would be re-integrated into the national armed forces.

The Fundamental Act does not address forced exile, and the Government does not practice it formally. Some officials of the predecessor government including former president Lissouba and former Prime Minister Kolelas remained outside the country, and in practice the threat of trial for war crimes in Congo was among the factors discouraging their return. However, other officials of the former government—including cabinet members—returned during the year.

e. *Denial of Fair Public Trial*.—The Fundamental Act mandates the President to ensure the independence of the judiciary through the Higher Council of Magistrates; however, in practice, the judiciary continued to be overburdened, underfinanced, and subject to corruption and political influence. Resource problems increased as a result of the destruction and looting sustained by judicial facilities during the 1997 civil war.

The judicial system consists of local courts, courts of appeal, the Supreme Court, and traditional courts. In rural areas, traditional courts continued to handle many local disputes, especially property and probate cases, and domestic conflicts that could not be resolved within the extended family.

In general defendants are tried in a public court of law presided over by a state-appointed magistrate. The defense has access to prosecution evidence and testimony and the right to counter it. In formal courts defendants are presumed innocent and have the right of appeal. However, the legal caseload far exceeded the capacity of

the judiciary to ensure fair and timely trials. Some cases never reach the court system. In October the Government announced plans to establish military tribunals to try soldiers for abuses committed during recent periods of conflict, and the Government introduced legislation to establish these tribunals, however, they were not functioning by year's end.

During the last quarter of the year, a court tried former President Lissouba and three other former government officials in absentia on charges of having conspired to kill President Sassou in June using four Europeans alleged to be mercenaries. In December the court convicted all four former officials and sentenced them in absentia to 20 years' imprisonment. The Government subsequently expelled the four Europeans, who also were tried and convicted in the same process.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence*.—The Fundamental Act provides for the inviolability of the home, and for privacy of letters, correspondence, telecommunications, and other forms of communication, except as may be provided by law; however, in practice government security forces often illegally entered, searched, and looted private homes.

Members of government security forces continued to loot the southwest Brazzaville neighborhoods of Bacongo and Makelekele during the first 4 months of the year, and other areas of the south throughout the year. Following the return of civilians, first to Bacongo and Makelekele in May, and later to areas beyond the Djoue River southwest of the city, the Government increased efforts to prevent looting. These methods were often brutal and included summary executions and beatings of looters (see Sections 1.a. and 1.c.). Looting also was widespread in other areas of southern Congo where Government forces clashed with rebel militiamen and continued through November. The town of Dolisie, in Niari Region, served as a market for looted goods brought by government forces from throughout the southern zone of military operations.

The Government was widely believed to monitor private mail and telephone communications. An NGO report in June cited two cases in which civilians were detained apparently after security forces intercepted their mail and found reports of summary executions by the security forces or hardship among displaced civilians.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts*.—The civil conflict that broke out in mid-1998 intensified in early 1999 before subsiding during the second half of the year. During the year, the conflict pitted forces supporting the Government, including Angolan allies, Rwandan Hutu militiamen, and irregular fighters of Chadian and DROC nationality, against southern rebel groups, including Cocoye militiamen operating in Bouenza, Niari, and Lekoumou regions, and Ninja and Nsiloulou militiamen operating principally in southern Pool region. Although the Cocoyes were formed from a nucleus of former President Lissouba's Presidential Guard and the Ninjas originally were founded by former Prime Minister Kolelas, it was unclear whether Lissouba and Kolelas continued to exercise any meaningful control over rebel military operations. The Ninjas and Nsiloulou were based largely in the Lari ethnic group. Members of the Nsiloulou widely believed that traditional indigenous religious practices made them invisible or bulletproof (see Section 5).

During January and February, opposition groups denied the Government control of a large area of southern Congo extending nearly 210 miles, from Dolisie to the outskirts of Brazzaville. Combat at Dolisie was intense in late January and early February as government forces deployed heavy artillery and Angolan aircraft to prevent rebel capture of the city, Congo's third largest. Government troops gradually drove the rebels east from Dolisie and west from Brazzaville, and then north and south from these positions, reducing the zone of rebel control. However, as late as May 12 rebel Ninja forces briefly penetrated Brazzaville, but subsequently were not able to threaten the capital. By the end of November, Government forces had recaptured most of the south and pushed remaining rebel concentrations to the vicinity of the Gabonese border. The northern region was unaffected by the conflict.

Government forces used artillery and aerial bombardment from helicopters in areas populated by civilians during the year. They also engaged in widespread looting in all areas where they were present. Despite a presidential amnesty offered in August to opposition militiamen who renounced violence and turned in their weapons, there were reports of summary execution of some militiamen who surrendered both before and after the amnesty. Following the amnesty and subsequent cease-fire agreements, Government sources reported that some 6,000 militiamen had surrendered and were being returned to civilian life or integrated into the military. Parties to the conflict generally did not take prisoners.

From January through mid-August, opposition forces cut electric power to much of Pointe Noire, Congo's second largest city and principal port, causing severe hard-

ship for the civilian population. Rebel forces also disrupted the economically vital Pointe Noire to Brazzaville railroad and sabotaged bridges and railway stations along the route. While partial train service was restored from Pointe Noire to Nkayi during the year, full operations did not resume by year's end. The power and transport cutoffs caused serious water and food shortages in southern towns, contributing to widespread hunger, disease, and displacement.

The conflict in southern Congo displaced approximately 800,000 civilians, according to U.N. estimates, or nearly one-third of Congo's population of 2.7 million. Tens of thousands of persons fled into neighboring countries, chiefly Gabon and the DROC. The health and nutritional conditions under which the displaced lived were life threatening. Among the more than 200,000 displaced persons who returned to Brazzaville in the late spring and summer, humanitarian agencies noted a 40 percent malnutrition rate among children under 5 years of age and a high incidence of adult malnutrition. Insecure conditions precluded humanitarian access to most of those displaced to rural areas and, for much of the year, rebel forces prevented civilians from returning to government-controlled areas where they could receive assistance. Although the Government appealed for the return of civilians to areas under its control, in practice government forces' continued extortion, rape, and summary execution of returnees undermined this message until late in the year, after ceasefire and reconciliation accords were concluded.

In November the Government and leaders of some rebel groups signed an accord calling for a cessation of hostilities and disarmament of militias. In late December, representatives of the Government and most other rebel groups also signed ceasefire agreements.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Fundamental Act provides for freedom of speech and of the press, and in practice the Government generally respected this right, although it continued to monopolize broadcast media. The 1996 Press Law, which sharply increased criminal penalties for libel, remained in effect.

There is no state-owned newspaper. Approximately 10 private newspapers appear weekly in Brazzaville. Some of these newspapers take editorial positions critical of the Government and print articles unflattering to the authorities. Newspapers on occasion published open letters written by opponents of the Government who are in detention or living abroad. Print media do not circulate widely beyond a small elite in Brazzaville and Pointe Noire.

Most citizens obtained their news from the broadcast media, which remained effectively a government monopoly. Government-owned Radio Congo broadcast approximately 18 hours a day; Government-owned Television Congo broadcast for fewer hours. However, Radio France Internationale was rebroadcast on a local FM station, and radio and television broadcasts from neighboring Kinshasa, in the DROC, could be received in Brazzaville. The independent Radio Liberte, established by President Sassou-Nguesso's forces during the civil war, continued to broadcast. A new Government station, Radio Brazzaville, was established at mid-year to serve listeners in the capital.

Local rebroadcast of Gabon-based Africa Number One was suspended from February through July after the Government accused the station of promulgating rebel views.

The news coverage and the editorial lines of the state-owned media reflected government priorities and views. Government broadcast media focused its attention on the activities of the government officials and their supporters; there was no meaningful airing of alternative political views.

No Internet service providers were based in the country, but connections through providers in the neighboring DROC were available.

There were no known abridgements of academic freedom. The Marien Ngouabi University, which was disrupted by civil unrest in fall 1998, resumed classes in fall 1999.

b. *Freedom of Peaceful Assembly and Association.*—The Fundamental Act provides for freedom of assembly, and the Government generally respected this right in practice. Political parties and civic associations held numerous meetings during the year. Public demonstrations were less common and there were no known public protests. Groups that wished to hold public assemblies were required to inform the Ministry of Interior, which could withhold authorization for meetings that threatened public order; however, there were no known instances in which the authorities withheld permission for request to meet.

The Fundamental Act provides for freedom of association, and the Government largely respected this right in practice. The act permits associations, political parties and other groups to form freely, provided that they respect principles of Congolese

sovereignty, territorial integrity, national unity, and democracy. No political parties were banned or suspended. The parties of some prominent leaders of the former government continued to operate, but under the leadership of political figures willing to cooperate with the Government.

c. *Freedom of Religion.*—The Fundamental Act provides for freedom of religion and the Government respected this right in practice. There is no official state religion. About half the population is Christian; most of the rest practices either traditional indigenous religions or no religion.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Fundamental Act provides for freedom of movement; however, the Government restricted this right in practice. Military checkpoints sometimes interfered with the movement of civilians. Members of the security forces manning these checkpoints commonly extorted bribes from travelers. The number of checkpoints increased late at night and in areas of insecurity. Government forces operating southwest of Brazzaville routinely stopped vehicles carrying displaced persons returning to the capital, and often extorted money, brutalized or killed young men, and raped women.

For much of the year, rebel "Ninja" and "Nsiloulou" militiamen prevented the return to Brazzaville of civilians who had fled the capital in December 1998. Rebels denied the displaced persons access to information about conditions in Brazzaville and punished families or villages of those who sought to return. Throughout the year, insecurity and rebel sabotage of the railway prevented train service between Brazzaville and Pointe Noire.

The Fundamental Act provides for the right of asylum. The Government reiterated its commitment to respect applicable international refugee law, but it permitted Hutu militiamen from refugee camps to join in military operations with government forces. The country was host to a small number of Burundians and approximately 7,000 Rwandan, largely members of the Hutu ethnic group, who fled camps in eastern Zaire (now the DROC) in 1996 and arrived in Congo in May and June 1997. The Government, in collaboration with the office of UNHCR, has announced plans to integrate these refugees in regions of north-central Congo.

A total of approximately 45,000 Congolese fled to the Bas-Congo Province of the DROC in late 1998 and early 1999. Beginning in May, the Congolese and DROC governments agreed to repatriation, with UNHCR facilitation, of those refugees who wished to return to Brazzaville. By year's end, approximately 40,000 had been repatriated.

As a result of military operations in northwest Niari and Lekoumou regions in July, approximately 15,000 Congolese fled to Gabon. None were repatriated as of the end of November.

Approximately 6,000 Angolan refugees fled the Angolan province of Cabinda in 1992 and continue to receive UNHCR assistance in camps near Pointe Noire.

The Government granted first asylum to refugees from other countries. Fighting in the neighboring DROC's Equateur province in July prompted the flow of approximately 15,000 refugees and combatants (including both DROC troops and Rwandan Hutu militiamen) to the northern Likouala region. The combatants among the new arrivals were repatriated to Kinshasa.

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

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

Citizens do not have the right to change their government peacefully. The current Government came to power by force of arms in 1997 with the help of the armed forces of Angola. During the National Reconciliation Forum that it convened in January 1998, the Government announced its intention to create a new constitution and hold elections within 3 years. A constitutional committee appointed by the President presented him with a draft Constitution in August. Once approved by the cabinet, this draft must be passed by the NTC, then adopted by popular referendum. In October, President Sassou publicly reaffirmed his intention to complete the constitutional reform process during 2000 and then to hold elections.

The executive branch dominates the current system of government. Under the Fundamental Act, the President is mandated to direct the general policy of the Government and to exercise regulatory powers. He appoints all significant military, executive, and judicial officials. The President convenes the interim national legislature, called the NTC. The CNT was elected at the 1998 National Reconciliation Forum. Although the forum included some representatives of opposition political parties and nongovernmental actors, the event was orchestrated by the executive and did not constitute a sufficiently broad-based forum from which to elect a genu-

inely representative legislature. Although the NTC debates issues freely and summons cabinet ministers to answer questions about their portfolios, it was dominated by supporters of the President and did not serve as a meaningful check on executive authority.

Major political parties included the ruling Congolese Workers' Party, the Panafrican Union for Social Democracy, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and many others. In some cases, party leaders remained in exile while other party officials willing to cooperate with the Government remained in the country. In the absence of electoral politics or a constitutional framework for such politics, party leaders held meetings and party congresses, commented to the media on the current political environment, and raised questions in the NTC. The NTC included representatives of a range of political parties but was dominated by allies of the Government.

The State is highly centralized. Since the 1997 civil war, key regional and local leaders have been appointed by the central Government. Subnational government entities lack an independent revenue base and do not represent a significant check on central authority.

The Government has announced repeatedly its intention to bring to trial members of the former government on charges of war crimes, genocide, or other criminal acts, and in December a court convicted former president Lissouba of plotting to kill President Sassou (see Section 1.e.). In 1998 the NTC passed a law on genocide, war crimes, and crimes against humanity that permits the exclusion from public office of those found guilty of such crimes. This law could be used to exclude opponents from the political process, and the mere threat of charges under this law may dissuade political figures who are in exile from returning to the country, including former president Lissouba and former prime minister Kolelas. Nonetheless, many senior officials of the former government—including a number of cabinet ministers—returned to Congo during the year and resumed political activities without incident.

There are no legal restrictions on representation by women or minority populations; however, women were underrepresented in government and politics. Two of 25 cabinet ministers were female, and women held 2 of 7 leadership positions in the NTC. Pygmies continued to be effectively excluded from the political process. The cabinet included members of many ethnic groups throughout the country. Although many key posts were held by northerners, including members of the President's Mbochi ethnic group, there was no consistent pattern of clear overrepresentation of any ethnic or regional group.

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

Several domestic human rights organizations operated with minimal government restriction and investigated and published their findings on human rights problems. While some human rights leaders maintained that they sometimes were subjected to subtle forms of intimidation, they continued to publish reports that were highly critical of the Government with no apparent reprisal. On one occasion, a local human rights group reported that security forces confiscated copies of an Amnesty International report; however, the report later was circulated.

The International Committee of the Red Cross (ICRC) maintained an office in Brazzaville and, among other activities, continued its program of human rights training for units of the armed forces.

Responding to some of the issues raised by non-governmental human rights groups, in July the Government published a "Report on Violence Committed in Congo Since the End of the Civil War," which emphasized abuses by the opposition.

While insecurity in much of the south early in the year prevented U.N. and other humanitarian agencies from assessing conditions in these areas, by year's end they enjoyed improved access to Dolisie, Nkayi, Kinkala, and among other towns in the south.

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

The Fundamental Act specifically prohibits such discrimination; however, societal discrimination persisted in practice, particularly against women and Pygmies. Ethnic and regional differences, especially between northern and southern ethnic groups contributed to large-scale organized civil violence during the year. Members of northern ethnic groups generally supported the Government, while nongovernmental armed rebel forces generally drew their support from southern ethnic groups.

Women.—Domestic violence against women, including rape and beatings, is widespread but reported rarely. Domestic violence is handled within the extended family and only in the most extreme incidents is it brought to the police. There are no provisions under the law for spousal battery. Widespread rape during the recent civil conflict raised public awareness of violence against women. Nongovernmental organizations, such as the International Rescue Committee, continued to draw attention to the issue and provided some counseling and assistance to victims.

The Fundamental Act provides for the equality of all citizens, prohibits discrimination based on sex, and stipulates that women have the right to equal pay for equal work. In practice women are underrepresented in the formal sector. Most women work in the informal sector and thus have little or no access to employment benefits. Women in rural areas are especially disadvantaged in terms of education and wage employment and are confined largely to family farm, petty commerce, and childrearing responsibilities. School attendance by women declines precipitously at the high school level and, especially, at the university level. In 1997 the literacy rate was 77 percent for the total adult population and 70 percent for women.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the Legal Code provides that 30 percent of the husband's estate goes to the wife, in practice the wife often loses all rights of inheritance. The symbolic nature of the dowry set in the Family Code often is not respected, and men are forced to pay excessive amounts to the woman's family. As a result, the right to divorce is circumscribed for some women because they lack the financial means to reimburse the brideprice to the husband and his family. This problem is more prevalent in rural areas than in urban centers.

There are a number of nongovernmental organizations that work on women's problems. However, their effectiveness varies widely. The Ministry of Public Service, Administrative Reform, and the Promotion of Women is responsible for coordinating government initiatives regarding the status of women.

Children.—The Fundamental Act affords children equal protection under law. Child labor is illegal and education is compulsory until the age of 16; however, in practice, these laws generally are not enforced, particularly in rural areas. There are indigent street children in Brazzaville, and their numbers appear to be growing as a result of civil conflict since 1997.

People With Disabilities.—The Fundamental Act prohibits discrimination based on physical condition. In practice, this prohibition generally was not enforced, because the ministry charged with implementation faced severe financial constraints. There was no overt discrimination against the disabled in employment and education. There were no laws mandating access for the disabled.

Indigenous People.—The Fundamental Act prohibits discrimination based on ethnicity. In practice the indigenous Pygmy people, who number in the tens of thousands and live primarily in the northern forest regions, do not enjoy equal treatment in the predominantly Bantu society. Pygmies were marginalized severely in the areas of employment, health, and education. They usually are considered social inferiors and have no political voice. Many have never heard of the concept of voting and have minimal ability to affect government decisions affecting their interests. Many Pygmies have a Bantu patron to whom they are obligated in perpetuity. These Pygmies are inherited by their patron's eldest son, an arrangement rooted in the ancestral tradition of Pygmy slavery. Many Pygmies, possibly including children, have been exploited by Bantus. The extent to which these practices continued during the year is not known.

National/Racial/Ethnic Minorities.—The Fundamental Act prohibits discrimination based on ethnicity; in practice, however, the Government did not enforce this prohibition effectively, and there were credible reports that the Government and its security forces discriminated against members of southern ethnic groups, and often used violence against them.

Four major ethnic groups make up about 95 percent of the country's population; these groups speak distinct primary languages, and are concentrated regionally outside of urban areas. The largest ethnic group is the Kongo, who constitute the main ethnic group in the southern part of the country and about half the country's population. Within the Kongo group are various subgroups, including the Lari and the Vili. Other major ethnic groups include the Teke of the central region, with about 13 percent of the population, and the Mbochi of the northern region, with about 12 percent of the population.

Societal ethnic discrimination is widely practiced among virtually all ethnic groups, and is evident in private sector hiring and buying patterns and de facto segregation of urban neighborhoods. The greatest interethnic tension is between the Kongo and other ethnic groups of the more prosperous and commercial south, near

the Atlantic coast, and the ethnic groups of the less developed and more sparsely populated northern region, which lies deep in the interior, at the heart of Africa's equatorial rain forest. Because southerners are more numerous and tend to have more commercial opportunities than northerners, both political and economic liberalization are widely perceived as likely to advance southern interests and jeopardize northern interests. There are also longstanding tensions among some northern ethnic groups, in particular between the Mbochi and Kouyou groups; however, these tensions, unlike north-south tensions, have not contributed materially to large-scale civil violence in recent years.

Ethnic overtones were apparent in the 1997 civil war fought in Brazzaville and other areas and 1998–99 conflict in the southern part of the country since 1997. These conflicts sometimes have been oversimplified as pitting northerners, who support President Sassou, against southerners, who support former president Lissouba and former prime minister Kolelas. There does tend to be heavy representation from each leader's ethnic group in his immediate entourage: Mbochi for Sassou, Lari for Kolelas, and the groups of the Niari, Bouenza, and Lekoumou regions for Lissouba. However, the correspondence between ethnic-regional and political cleavages is only approximate, and supporters of the current and recent governments have included persons from a broad range of ethnic and regional backgrounds. During the year, Sassou took steps to broaden his predominantly northern political base to include his wife's Vili ethnic group, which is concentrated in the coastal region of the south.

Section 6. Worker Rights

a. *The Right of Association.*—The Fundamental Act provides workers with the right to form unions, and the Government respects this right in practice. Any worker is free to join a union of his choice. The Labor Code affirms the right to associate freely and prohibits restrictions on the formation of trade unions. Most workers in the formal (wage) sector are union members, and unions have made efforts to organize informal sectors such as agriculture and retail trade.

The Fundamental Act also affirms workers' right to strike, subject to conditions established by Law. Unions are free to strike after filing a letter of intent with the Ministry of Labor, thereby starting a process of nonbinding arbitration under the auspices of a regional labor inspector from the Labor Ministry. The letter of intent must include the strike date, at which time the strike legally may begin, even if arbitration is not complete. Employers have the right to fire workers if they do not give advance notice of a strike. On several occasions during the year, groups of public servants protested delays in salary payment. In some cases, the relevant ministries offered partial payment to assuage these workers and persuade them to return to their jobs.

Unions are free to affiliate with international trade unions and they maintain cooperative accords with foreign trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code allows for collective bargaining, which is practiced freely. The Government sets industry-specific minimum wage scales, but unions usually are able to negotiate higher wages for their members. Employers are prohibited from discriminating against employees who join a union. There were no reported firings for union activities.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including that performed by children, but such practices occur. There have been credible reports that some Pygmies, possibly including children, have been exploited by Bantus, who inherit Pygmies and to whom Pygmies are obligated in perpetuity (see Section 5).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Ministry of Labor, which is responsible for enforcing child labor laws, concentrates its efforts only on the formal wage sector. Child labor is illegal, and education is compulsory until the age of 16. However, child labor persists. Children continue to work in rural areas and in the informal sector in cities without government supervision or monitoring. The law prohibits forced labor by children; however, there have been allegations of exploitation of Pygmy children (see Sections 5 and 6.c.).

e. *Acceptable Conditions of Work.*—The Fundamental Law provides that each citizen has the right to remuneration according to his work and merit. The Labor Code stipulates that overtime must be paid for all work in excess of 40 hours per week, and that regular days of leisure must be granted by employers. The minimum wage is $83 (50,00 CFA francs) per month. It is not sufficient to provide a worker and family with a decent standard of living. High urban prices and dependent extended families oblige many workers to seek opportunities beyond their principal employment.

Although health and safety regulations call for twice-yearly visits by inspectors from the Ministry of Labor, in practice such visits occur less regularly. While unions generally are vigilant in calling attention to dangerous working conditions, the observance of safety standards is often lax. Workers have no specific right to remove themselves from dangerous working conditions without risking loss of employment.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

COTE D'IVOIRE

Cote d'Ivoire is in transition following a bloodless military coup in December. Retired General Robert Guei took over the Government after a mutiny that began on December 23, evolved into a major military revolt on December 24, and culminated in the dismissal and forced departure of President Henri Konan Bedie. General Guei, who was Chief of Staff under Presidents Felix Houphouet-Boigny and Bedie, declared himself the new President, suspended the Constitution, dissolved the National Assembly and formed the National Committee for Public Salvation (CNSP), which consists of himself and eight military officers (including two soldiers who participated in the coup). Guei pledged to rewrite the Constitution, clean up government corruption, and hold fair and transparent elections in the year 2000. All of the country's political parties, including the former ruling Democratic Party of Cote d'Ivoire (PDCI) pledged to support Guei's transition government. Prior to the coup, Cote d'Ivoire was a centralized republic dominated by a strong presidency.

Members of a single political party, the PDCI, had occupied both the presidency and a majority of seats in the national legislature since independence in 1960, although other parties have been legal since 1990. Upon the death in 1993 of Houphouet-Boigny, who had been President since independence, National Assembly President Bedie became President by constitutional succession and served out the remainder of Houphouet's term. Due to concerns about 1994 changes to the candidacy requirements of the electoral code that excluded a leading opposition rival to Bedie, and about irregularities in voter registration, the major opposition parties staged an "active boycott" of the 1995 presidential election, both declining to participate and trying to interfere with the voting process; however, in 1995 President Bedie won 96 percent of the vote. The opposition parties and Bedie then reached an accord that allowed for full party participation in legislative elections later in 1995. These elections were marred by irregularities in voter registration; they were suspended in 3 of the 175 districts due to interethnic violence, and results in another 3 districts were invalidated, but make-up elections in 1996 were orderly and transparent. The PDCI continued to control more than the 80 percent of National Assembly votes needed to amend the Constitution. In June 1998, the National Assembly enacted amendments to the Constitution that further increased the already preponderant power of the presidency and were criticized widely. However, in December 1998, after negotiations with a major opposition party, the President signed an agreement obliging him to rescind some of these powers in a second round of constitutional amendments. In October these amendments were debated in the National Assembly, which eventually passed several pieces of legislation including the formation of an independent body to monitor elections. However, the Assembly did not do anything to curb presidential powers. The judiciary is subject to executive branch and other outside influence.

Following the coup d'etat, the structure of the security forces did not change. Security forces include the army, navy, and air force, all under the Ministry of Defense; the Republican Guard, a well-funded presidential security force; the national police (Surete); and the Gendarmerie, a branch of the armed forces with responsibility for general law enforcement, maintenance of public order, and internal security, including suppression of violent crime. The National Security Council, which was formed in 1996 coordinates security policy, both internal and external. The civilian Directorate of General Intelligence (DRG) is responsible for countering internal threats. A Security Staff (L'Etat Major de la Securite) collects and distributes information about crime and coordinates the activities of the security forces in times of crisis. The Special Anticrime Police Brigade (SAVAC) continued its operations. Before the December coup, the armed forces accepted the primacy of civilian authority. Seven of the 18 members of the military forces accused of plotting a coup in 1995 were dismissed from the military forces, then released from detention in 1996. Four other officers who had been suspended were reinstated in April 1998. Security forces, including the SAVAC, committed numerous human rights abuses.

The economy is largely market-based and heavily dependent on the commercial agricultural sector. Most of the rural population remains dependent on smallholder cash crop production. Principal exports are cocoa, coffee, and wood. Fewer than half of adults (52 percent of men and 30 percent of women) are literate. Recorded Gross National Product per capita in 1998 was about $700. Economic growth has resumed since a large currency devaluation in 1994, although income remains unevenly distributed. The Government increased funding for the always large share of its operating expenditures devoted to basic health services and education. However, economic growth continued to be impeded by widespread corruption rooted in a lack of transparent and accountable governance. The Government received only limited assistance from international financial institutions during the year, and the European Union stopped its assistance programs due to government corruption.

The Bedie Government's human rights record was poor, and there were serious problems in a number of areas. The Government limited citizens' right to change their government. Members of the security forces committed extrajudicial killings, and the security forces beat and abused detainees and used force to disperse protesters. Prison conditions remained harsh and life-threatening. The Government also used arbitrary arrest and detention, and prolonged detention remained a problem. Journalists and students, in particular, were detained without trial for long periods. The Government often failed to bring perpetrators of these abuses to justice. The judiciary did not ensure due process and was subject to executive branch influence, particularly in political cases. Security forces infringed on citizens' privacy rights. The Government restricted freedom of speech, the press, assembly, and movement. Despite some formal restrictions on freedom of association, the Government generally permitted it in practice. Between 30 and 40 percent of the country's adult population, including many lifelong residents of the country, remained politically disenfranchised noncitizens. Discrimination and violence against women, abuse of children, and female genital mutilation (FGM) remained problems (although FGM was made a crime in 1998). Prior to the coup, the minority Baoule ethnic group's longstanding domination of the ruling party and the State exacerbated sometimes violent ethnic tensions. Societal discrimination based on ethnicity remained a problem, as did child labor, forced child labor, and trafficking in children.

The CNSP's seizure of power led to a number of abuses. Citizens do not have the ability to change their government. CNSP forces and others were responsible for numerous robberies, carjackings, widespread looting, and acts of intimidation. The CNSP arrested 150 government ministers and military officers; however, it released all but 40 of them by year's end. The new Government ordered the Superior Islamic Council, a pro-Bedie religious organization, to disband and seized the computers of the pro-PDCI nongovernmental organization (NGO), Servir.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of politically motivated killings by government forces. As violent crime remained widespread, the security forces frequently resorted to lethal force and committed numerous extrajudicial killings. Credible media reports indicated that the Special Anticrime Police Brigade continued its shoot-to-kill policy when pursuing criminal suspects. According to the Ministry of Security, 64 persons were killed by the security forces during 1998. Statistics have not yet been published for the year; however, the number of persons killed by security forces was expected to be higher.

During the year, confrontations between the police and demonstrators resulted in at least 4 deaths and at least 15 serious injuries (see Sections 1.c. and 2.b.). Sixteen-year-old high school student Silue Lassina died on April 28, 2 days after a tear-gas canister thrown by police to disperse a protest in Yopougon broke his skull. Lassina had not been involved in the demonstration. No arrests were made.

On August 25, police broke up another Yopougon demonstration, killing Guy Mathias Koffi and seriously injuring three other persons. Minister of Security Marcel Dibonan Kone promised to investigate Koffi's death, but no charges were filed.

On November 8, police personnel killed Basouleymane Ouattarra by striking him on the head with a club during a demonstration protesting the arrest of several leaders of the opposition Republican Rally (RDR) party. The police officer was not arrested.

Following a September 16 demonstration by the opposition Republican Rally (RDR) in Adjame, 28-year-old Malian businessman Harouna Kanoute was dragged forcibly from a telephone booth and beaten to death by police in Adjame. In spite of numerous eyewitness accounts, the Minister of Security denied that the police were responsible for Kanoute's death.

Harsh prison conditions contributed to the death of a large number of prisoners (see Section 1.c.).

The transition government detained a number of police personnel who are believed to be responsible for deaths and injuries during the demonstrations that occurred between April and October.

The 15 trainee gendarmes who arrested Camara Yaya and several others in December 1998 for cocaine possession, and are accused of beating Camara to death, were arrested early in the year; however, they were not tried by year's end.

Police have made no arrests in the December 1998 death in police custody of Jean Claude Lama, a 16-year-old street child. The authorities continue to characterize the death as a suicide.

In July Police Sergeant Gohoun Gnapia was tried, convicted, and sentenced to 6 months' imprisonment, and fined $185 (100,000 CFA francs) for having shot and killed Riot Police Brigade (BAE) officer Coulibaly Yacouba, whom Gnapia had mistaken for a thief in October 1998. The court also ordered Gnapia and the Government to pay the family $65,000 (35 million CFA francs) in damages.

Other military personnel, SAVAC, and police personnel were also prosecuted for killings or beatings regarded by the government and citizens as blunders. On October 22, the Abidjan Military Court sentenced Sergeant Lambert Tia Kone to 6 months' imprisonment and fined him $185 (100,000 CFA francs) for killing taxi driver, Mamadou Diomande, at a checkpoint in 1997. In August 1998 three members of the Republican Guard, Jacques Agoua Aicho, Daniel Abriki Djoman, and Raymond Ayama Djoman, were given suspended sentences of 6 months in prison and fined a mere $148 (80,000 CFA francs) each for having beaten to death Hubert Dale in Yamoussoukro in August 1997.

There were no developments in the case of six "active boycott" detainees who died in prison in 1996. They had been held since the "active boycott" of the 1995 presidential election.

Since Abdoulaye Bakayoko, the owner of the opposition newspaper, Le Liberal, received death threats prior to a September 21 car-jacking in which he was killed, some human rights activists and politicians speculated that Bakayoko was the victim of a targeted political killing. An apparent September 26 attempt on the life of Liberation editor Lama Fofana abetted popular suspicions that Bakayoko's death was politically motivated as did an October break-in at the new premises of Liberation; the perpetrators killed a security guard and stole computer equipment. No arrests were made in these incidents.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Penal Code generally prohibits violence against persons, neither the Constitution nor the Penal Code specifically prohibits torture or other mistreatment, and police sometimes beat detainees and prisoners to punish them or to extract confessions. Press photographs regularly show criminal detainees with swollen or bruised faces and bodies.

In December 1998, the Government enacted legislation allowing lawyers to assist their clients at the stage of preliminary police hearings, that is, during the early stages of detention when abuse may be most likely. In spite of the new legislation, during the year police officers continued to mistreat suspects and other persons summoned to police and Gendarmerie stations (see Section 1.d.).

There were no public reports of government officials being arrested or tried for these abuses.

Jurists' union officials reported that police continue to beat suspects to obtain confessions and that suspects are afraid to press charges against the police officers involved. According to local human rights groups, police beat and also humiliate detainees or prisoners. Police also humiliate lawyers who try to assist their clients (see Section 1.d.).

In July Momble Roger Zemon, a driver for Sucrivoire, was shot and injured by two police officers in Abidjan's Yopougon district. Zemon had refused to stop for the police because he thought they were criminals. No arrests were made in the case.

Issa Traore, a 30-year-old member of the Truck Drivers and Truck Owners Trade Union, was beaten severely, arrested, and detained for 48 hours beginning on January 25 in Abidjan's Adjame district. The police suspected Traore of smuggling cellular telephones into the country. He was released only after reportedly paying a bribe of $222 (120,000 CFA francs). No police officers were arrested for these abuses.

Police frequently used violence to restrain demonstrators. Riot police used tear gas and truncheons against protesting students and other demonstrators on several occasions during the year. On at least four occasions police used lethal force against protesters and innocent bystanders (see Sections 1.a. and 2.b.).

On April 29, police in Bonoua shot and wounded Sammuel Dago, a 19-year-old student, as he participated in a student protest in that city. No police officers were arrested in the case.

Police used tear gas and truncheons to prevent a university student meeting in Abidjan's Cocody district on May 27. Eleven injured students were treated at the University Hospital. No arrests were made.

On October 16, police used tear gas and truncheons to break up an RDR sit-in in front of the national television station, Radiodiffusion Television Ivorienne (RTI). RDR leaders organized the sit-in to press demands for access to government-owned television and radio. Security personnel stated that they broke up the demonstration because it was not authorized; at least 10 persons were injured seriously. No police officers were arrested.

On October 27, the RDR held a follow-up demonstration. Police again used tear gas and truncheons to break up the demonstration, injuring numerous demonstrators. Following this protest, police personnel arrested 20 RDR leaders (see Section 2.b.).

Detainees often are denied food for many hours, as were 388 RDR supporters who were detained in Cocody on September 10. A journalist, detained in another part of Abidjan in September also was denied food (see Section 1.d).

Police routinely harassed and abused noncitizen Africans (see Section 5). On occasion police enter the homes and businesses of, and extort money from, Ivorian citizens, non-Ivorian Africans, and other non-Ivorians (see Section 1.f.). Police, gendarmes, and other officials extort money from motorists at roadblocks (see Section 2.d.).

CNSP and others forces were responsible for numerous robberies, carjackings, widespread looting, and acts of intimidation.

Prison conditions are harsh and life threatening. Problems include overcrowding, malnutrition, a high incidence of infectious disease, and lack of treatment facilities and medications. HIV/AIDS reportedly is also a significant cause of death. It was credibly reported that more than 700 prisoners died in 1997. Complete information for 1998 and 1999 is not available, but at least 60 prisoners died during 1998. The Director of Penitentiary Administration stated that the death rate at the Abidjan House of Arrest and Corrections (MACA) had dropped by 60 percent since October 1998 and was expected to remain low due to improvements made in June to the sanitation system, which were jointly financed by Doctors Without Borders and the Government. Several journalists released from prison in 1996 reported that white-collar prisoners are afforded better treatment than blue-collar prisoners.

According to the Ivorian Human Rights League (LIDHO), conditions at the MACA were especially hazardous for women, who were housed together with violent and nonviolent male criminals, as well as with minors. However, during 1998, the prison began to separate female and male prisoners and to maintain female guards for female prisoners and male guards for male prisoners. There still are no health facilities for women, and there continued to be credible reports of children born in prison. However, during the year there were no reports that guards raped female prisoners. Nevertheless, there were still reports that female prisoners engaged in sexual relations with their wardens in exchange for food and more privileges.

In late July, after 2 months as a prisoner in the MACA, Kouame Kouakou, deputy secretary general of the Federation of High School and University Students of Cote d'Ivoire (FESCI), sank into a coma (see Section 2.a.). He was hospitalized only after representatives of the LIDHO and the FESCI intervened with the authorities.

On September 28, FESCI secretary general Charles Ble Goude, who was detained at the MACA, was hospitalized, suffering from pain in his spinal column and thorax. At the hospital, prison authorities chained Ble Goude to his bed despite his doctor's protests that this was detrimental to his condition. After the opposition press published photos of Ble Goude chained to his bed, the Government released him from custody. None of the police officials involved in the incident was arrested.

Many unemployed and homeless detainees reported that they were beaten by authorities in prison (see Section 1.d.).

The Government has offered access to prisons to nongovernmental organizations (NGO's) that seek to provide food and medical care to prisoners. Unlike previous years, humanitarian NGO's did not report difficulty in gaining access to prisons. Several humanitarian NGO's, including the International Committee of the Red Cross (ICRC), Prisoners Without Borders, and Doctors Without Borders, had access to the prisons and visited them during the year to provide food and medical care to prisoners. However, none of these NGO's specifically were monitoring human rights conditions in the prisons. LIDHO, which monitors human rights conditions in prisons, did not visit prisons during the year because it was denied authorization to do so without giving advance notice. LIDHO applied twice for authorization to

visit prisons at any time without advance notice, but it has not received such authorization to date.

d. *Arbitrary Arrest, Detention, or Exile.*—The Government arbitrarily arrests and detains citizens. Under the Code of Penal Procedure, a public prosecutor may order the detention of a suspect for only 48 hours without bringing charges. A magistrate may order detention for up to 4 months but also must provide the Minister of Justice with a written justification for continued detention on a monthly basis. However, the law often is violated. Police and the CNSP have held persons for more than 48 hours without bringing charges. According to a member of a jurists' union, this practice is common, and magistrates often are not able to verify that those who are not charged are released.

Defendants do not have the right to a judicial determination of the legality of their detention. A judge may release pretrial detainees on provisional liberty, if the judge believes that the suspect is not likely to flee. In 1996 the Attorney General referred in public to the long detention periods suffered by prisoners awaiting trial in the country's principal prison, the MACA, listing a total prisoner population of 4,600, of whom l,741 were detainees who had yet to be tried. Of the detainees, 470 had been detained for more than 2 years, 60 for at least 4 years, and 39 others between 5 and 12 years. Based on these figures, pretrial detainees at that time made up about 35 percent of the prison population. On December 24, 6,693 persons were detained at the MACA, a prison built for 1,500. However, no breakdown was available. A law enacted in December 1998 limits pretrial detention to 10 months in civil cases and 22 months in criminal cases; if these limits are exceeded, the prisoner must be released on provisional liberty with no bail, and if the responsible judge takes no action, the prison director must act to free the suspect or face sanctions.

Between April and August the police detained at least 180 students across the country for their involvement in sometimes violent strikes and demonstrations. Of those 180, 120 were released; of the remaining 60, all the minors were tried and released to their parents; 6 of those who were 18 years or older were sentenced to 5 years in prison; and the remainder were sentenced to terms of less than 5 years.

During student strikes on May 27, police arrested student leaders Kouame Kouakou and Drigone Faya in Bouake on charges of inciting violence and destruction of property under the 1992 Antivandalism Law. Charles Ble Goude, the FESCI secretary general was arrested on August 17 and also was charged with inciting violence and destruction of property.

On September 30, police personnel arrested 51 persons for creating a public disturbance at the Sorbonne, a gathering place for public discussions about contemporary political or social issues. Police released all 51 of the detainees following identity checks; however, former president Bedie subsequently banned meetings at the Sorbonne (see Section 5).

On October 1, the Government granted pardons to the over 60 students awaiting trial, including those who had been convicted of crimes. The students all were released from custody.

On October 5, Debe Kouassi, a freelance journalist for pro-RDR newspapers reportedly was arrested, held in detention for 5 days, deprived of food, interrogated, and finally transferred to a hospital due to deteriorating health. He was released from custody by year's end.

On October 27, 20 RDR leaders and Ouattara supporters were arrested following a demonstration that was dispersed violently by police personnel (see Sections 1.c.and 2.b.). The leaders were charged with inciting the destruction of public property and organizing a prohibited public demonstration under the country's 1992 Antivandalism Law.

In a November trial the detainees were tried; 11 were sentenced to 2 years in prison, five were sentenced to 1 year in prison, and the remaining four were acquitted. During the December coup, rebel soldiers freed all of those convicted from prison and granted them amnesty.

Journalists Raphael Lakpe and Jean Khalil Sylla of Le Populaire were arrested in April and June respectively for publishing false stories of student deaths, disturbing public order, and offending the Head of State. They were tried in October and both were sentenced to 6 months' imprisonment and fined $185 (100,000 CFA francs).

On December 9, the Bedie Government issued a warrant for Alassane Ouattara's arrest for the alleged falsification of documents and their use. Newspaper accounts speculated that Bedie ordered the warrant issued to intimidate Ouattara and to prevent him from returning to the country.

During and following the coup, the mutineers arrested 150 ministers, military officers, and other officials known as supporters of the Bedie government; no formal

charges were filed. The new regime released the majority of these prisoners; however, approximately 40 remained in custody at year's end.

Although it is prohibited by law, police restrict access to some prisoners. Despite the frequency of arbitrary arrest, there is no accurate total of suspects held. In April 1998, police held over 800 unemployed persons and vagrants in investigative detention in Abidjan, after arresting many in an effort to identify criminals. Several reported that police beat them (also see Section 1.c.).

Souleymane T. Senn, a journalist for Notre Voie, was detained by police from September 13 to 16, after writing an article about his attempt to interview Togolese President Gnassingbe Eyadema. Senn reportedly was accused of embezzling funds from the trip to Togo, but he never saw a written complaint. He was deprived of food for the first 34 hours of his incarceration; during that time the police denied that he was in custody.

Lawyers who defended suspects in the preliminary hearings sometimes are harassed. In July, all of the lawyers in the country participated in a 1-week strike to protest the mistreatment and humiliation to which police officers subject them when they try to assist their clients. The lawyers' strike was prompted by the arrest of lawyer Kone Anna de Messe Zinzou by two officers at the Abidjan police prefecture at the behest of Dr. Sami Daher, one of her clients. Lawyers agreed to end the strike only after the two police officers were arrested, and after they met with Prime Minister Daniel Kablan Duncan to discuss improvements to the judicial system. Former president of the Bar Association Essy N'Gatta stressed that the lawyers' objective was to put an end to arbitrary detention .

Favide Innocent, a Beninese car importer arrested in 1994 pursuant to an extradition request by the Government of Togo, remained in detention in the MACA although various courts had ordered his release on several occasions, most recently in April 1998. In November 1998, Innocent staged a hunger strike to protest his continued detention; he finally was released from prison on December 24.

In September police detained 388 political demonstrators for 2 days without providing them with food on the first day (see Section 2.b.).

On October 17, 20 RDR leaders and Ouattara supporters were arrested for allegedly inciting violence and destroying property (See Section 2.b.).

Of the military personnel arrested on charges of coup plotting in 1995 and released 14 months later, four were reinstated.

The Government does not use forced exile as a means of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is subject to executive branch and other outside influences. Although the judiciary is independent in ordinary criminal cases, it follows the lead of the executive in national security or politically sensitive cases. Judges serve at the pleasure of the executive, and reports that they submit to political pressure are credible. During the year, a judge from the tribunal of Dimbokro annulled opposition candidate Alassane Ouattara's certificate of nationality, allegedly due to pressure from Ministry of Justice officials.

The formal judicial system is headed by a Supreme Court and includes the Court of Appeals and lower courts.

Military courts do not try civilians. Although there are no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

In rural areas, traditional institutions often administer justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution is by extended debate, with no known instance of resort to physical punishment. The formal court system increasingly is superseding these traditional mechanisms. In 1996 a Grand Mediator was appointed to settle disputes that cannot be resolved by traditional means. This office appears designed to bridge traditional and modern methods of dispute resolution. During the year, about 90 disputes, including land rights disputes, were submitted to it.

The law provides for the right to public trial, although key evidence sometimes is given secretly. The presumption of innocence and the right of defendants to be present at their trials often are not respected. Those convicted have the right of appeal, although higher courts rarely overturn verdicts. Defendants accused of felonies or capital crimes have the right to legal counsel, and the judicial system provides for court-appointed attorneys; however, no free legal assistance is available. In practice many defendants cannot afford private counsel, and court-appointed attorneys are not readily available.

In December 1998, the Government granted amnesty for all offenses committed by all persons in connection with the active boycott of the 1995 election. In September that amnesty was extended to military officers accused of involvement in the

October 1995 coup plot. This latter group included General Robert Guei. There were no other reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Code of Penal Procedure specifies that a police official or investigative magistrate may conduct searches of homes without a judicial warrant if there is reason to believe that there is evidence on the premises concerning a crime. The official must have the prosecutor's agreement to retain any evidence seized in the search and is required to have witnesses to the search, which may not take place between 9:00 p.m. and 4:00 a.m.

Desire Tanoe, an ambassador in the Ivorian Foreign Service and Elizabeth Kapet, the Treasurer of the International Movement of Female Democrats (MIFED), a women's NGO active on student issues, were suspected of being in contact with FESCI leaders (in particular Ble Goude), and arrested without warrants at 4:00 a.m. on June 5. After being questioned by police for a few hours, they were released from the National Security Council headquarters.

On August 31, presidential security guards seized and searched Alassane Ouattara's luggage at the Abidjan airport. On October 1, the PDCI newspaper, The Democrate, published the contents of some of the documents contained in Ouattara's luggage. Ouattara intends to pursue legal action against the Government for theft of private correspondence.

On November 1, plainclothes police officers detained and questioned Ousmane Sy Savane, an RDR deputy and mayor of Odienne. The police confiscated several documents, including the transcript of a press conference given by Alassane Ouattara's lawyers.

In practice police sometimes use a general search warrant without a name or address. On occasion police have entered homes of non-Ivorian Africans (or apprehended them at large), taken them to local police stations, and extorted small amounts of money for alleged minor offenses.

Security forces reportedly monitored some private telephone conversations, but the extent of the practice is unknown. Government authorities monitored letters and parcels at the post office for potential criminal activity, and are widely believed to monitor private correspondence, although no evidence of this has been produced. The Government used students as informants at the University of Abidjan (see Section 2.a.).

During the December coup, mutineers entered forcibly the homes of some former government officials. The soldiers conducted illegal searches and arrested some officials without warrants. Coup forces also were responsible for widespread looting.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although the Constitution provides for freedom of expression, and private newspapers frequently criticize government policies, the Government imposes significant restrictions on this right. The two government-owned daily newspapers, Fraternite Matin and Ivoir Soir, offer little criticism of government policy, while government-owned radio and television offer none at all. While private newspapers (12 daily, 26 weekly, 5 fortnightly, and 9 monthly), opposition leaders, and student groups voice their disapproval of government or presidential actions frequently and sometimes loudly, the Government does not tolerate what it considers insults or attacks on the honor of the country's highest officials. A law enacted in 1991, soon after the Government first allowed substantial numbers of private newspapers to operate, authorizes the State to initiate criminal libel prosecutions against persons who insult the President, the Prime Minister, foreign chiefs of state or government or their diplomatic representatives, or defame institutions of the State, or undermine the reputation of the nation. In addition, the State may criminalize a civil libel suit at its discretion and at the request of the plaintiff. Criminal libel is punishable by 3 months to 2 years in prison. Journalists exercise considerable self-censorship.

In an August 1998 letter to the publisher of Notre Voie, a private Abidjan-based daily newspaper affiliated with a major opposition party, the Minister of Communications cautioned that a series of then-planned articles on domestic political repression by the security forces "might harm national security" and might violate provisions of the 1991 press law that forbid the publication of national defense secrets. In October 1998, the Abidjan offices of Notre Voie and an affiliated daily newspaper, Actuel, were entered forcibly and burglarized by three armed and hooded persons. The perpetrators stripped and beat the night guard and removed files that documented corruption involving senior government officials and ethnic discrimination in the armed forces, but left telephones, computers, and facsimile machines untouched. In 1995 the offices of Notre Voie—then called La Voie—had been burned by persons unknown. No arrest warrants were issued in either case.

In October 1998, the Government announced that it would henceforth initiate criminal libel prosecutions only on behalf of the President and would punish criminal libel convictions by fines rather than imprisonment except in cases of libel against the President. The preponderance of state-initiated criminal libel prosecutions of journalists since 1991 have alleged libel against the President (see Section 1.d.).

In October 1998, a former minister filed a libel suit against the staff of Le Jour, a private Abidjan-based daily newspaper, which had reported allegations of the minister's involvement in a pedophilia scandal. In July in trials in the lower court and the appeals court, the newspaper and one of its journalists were found guilty. The publisher and the journalist were each given suspended sentences of 3 months in prison and were fined $185 (100,000 CFA francs); the paper was required to pay an additional $9,250 (5 million CFA francs) in damages and interest.

On April 28, police arrested Raphael Lakpe, editor in chief of the Abidjan daily Le Populaire, and four of the journalists working for the newspaper for publishing a false report concerning a student's death, allegedly at the hands of the authorities, and for offending the Head of State in several articles. Following intercession by the Ivorian Union of Journalists, the four journalists were released on June 3, and Lapke was tried and released in October.

On May 20, the courts found the editor in chief and a journalist from Argument guilty of libeling Minister of State for Interior and Decentralization Emile Constant Bombet and his family. The journalists were fined $925 (500,000 CFA francs) and given suspended sentences of 1 year; the court ordered the newspaper to pay Bombet an additional $37,000 (20 million CFA francs) in damages.

On July 9, the Public Prosecutor lodged a complaint against three Abidjan daily newspapers—Notre Voie, Liberation, and Le Patriote—for allegedly offending the Head of State and detained the editors in chief. All three had published articles alleging that President Bedie's doctoral thesis had been written by a French national whom he had paid to draft it. The arrests followed the publication of articles about President Bedie's reconstruction of President Houphouet-Boigny's residence and Prime Minister Duncan's alleged acquisition of an apartment in Paris for more than $5 million (3 billion CFA francs). The police released all three editors in chief after they made statements on July 12.

Beginning on July 27, police seized without a warrant at least 500 copies of the French publication Africa Golfe Eco, which contained highly critical stories about President Bedie and his Government. Subsequent issues have not been circulated.

Both because literacy is far from universal, and because newspapers and television are relatively expensive, radio is the most important medium of mass communication. The government-owned broadcast media company, Radiodiffusion Television Ivorienne (RTI), owns two major radio stations; only the primary government radio station is broadcast nationwide. There are also four major private domestic radio stations: Radio France Internationale (RFI), the British Broadcasting Corporation (BBC), Africa Number One, and Radio Nostalgie. They broadcast on FM in Abidjan only, except for RFI, which in November 1998 signed an agreement with RTI to allow it to broadcast via relay antennas to the north and center of the country. The RFI and BBC stations broadcast only internationally produced programming. The Africa Number One station, which is 51 percent domestically owned, broadcasts 6 hours a day of domestically produced programming; the rest of the time it broadcasts programming from Africa Number One's headquarters in Libreville, Gabon. Radio Nostalgie is 51 percent owned by Radio Nostalgie France. The RFI, BBC, and Africa Number One stations all broadcast news and political commentary about the country. The private stations have complete control over their editorial content. However, only Radio Nostalgie frequently has been critical of the Government in its editorials. On September 16, the Government ordered Radio Nostalgie to suspend its broadcasts for 72 hours because it had violated the terms of its license, which allows 3 to 5 minute news flashes, by making extended commentary on the September 14 events outside former Prime Minister Alassane Ouattara's home (see Section 2.b.) The Government forced Radio Yopougon to close for 24 hours in October for violating its license by broadcasting to a larger geographical range than was permitted. However, no journalist of any station is known to have been prosecuted by the Government for libel.

Radio station license applications are adjudicated by a commission under the Ministry of Information, which has accepted applications and awarded licenses only once, in 1993. On that occasion, the commission denied 7 of 12 applications on a variety of grounds, including, in one case, affiliation with a major opposition political party.

In 1998 the Government authorized 43 community radio stations with very limited broadcast strength, no foreign-language programming, no advertisements, and

public announcements limited to the local area. Roman Catholic church groups began to operate four community radio stations: Radio Espoir in Abidjan, Radio Paix Sanwi in Aboisso, Radio Notre Dame in Yamoussoukro, and Radio Dix-Huit Montagnes in Man. No Muslim station is broadcasting yet, because the Government required that all four major Muslim associations agree to share a single frequency; however, in February, the Muslim associations agreed to submit a joint proposal and received a license on April 21.

There are two television stations that broadcast domestically produced programs. Both are owned and operated by the Government. Only one is broadcast nationwide. The only private television station, Canal Horizon, is foreign owned and broadcasts no domestically produced programs. The Government has not accepted any applications to establish a privately owned domestic television station.

The National Council of Audiovisual Communication (NCAC), established in 1991 and formally organized in 1995, is responsible for regulating media access during the 2-week formal political campaign period and for resolving complaints about unfair media access. However, members of the PDCI constitute the majority of the membership of the council. Due to the conflict between the regulating body and the fact that the domestic television stations are state-owned, the NCAC is sometimes powerless. In October Henriette Dagri Diabate demanded that the RDR be granted equal time in the media. NCAC spokesmen responded that, according to law, the government television station should comply with the request, but that it did not have the means to enforce this law.

In October Levy Niamkey, an anchorman on the national television station's nightly news program, was suspended from his job for 2 months for broadcasting a report, which criticized the RDR and its leaders at the end of the news broadcast instead of the beginning. The Ministry of Information reduced Niamkey's suspension to 8 days following an outpouring of support from journalists and opposition members; however, Niamkey ultimately resigned from his post.

The Government does not restrict access to or distribution of electronic media. There are twelve domestic Internet service providers, of which four are major providers; the first began operations in 1996. All twelve are private. The licensing requirements imposed by the government telecommunications regulatory body, ATCI, reportedly are not unduly restrictive.

The Government continues to exercise considerable influence over the official media's program content, news coverage, and other matters, using these media to promote government policies. Much of the news programming during the year was devoted to the activities of the President, the Government, the PDCI, and pro-Bedie groups.

The case of 12 employees of the government broadcast media company, RTI, who had participated in an April 1997 strike that reportedly caused an interruption of RTI broadcasting, came to trial in November 1998. The RTI employees were tried on charges, filed in 1997, of disturbing public order, willful destruction of public property, and interfering with public services. The judge finally rendered a verdict in January, acquitting six and convicting the other six. Those convicted were given suspended 6-month sentences and fines of $92(50,000 CFA francs) each (see Section 6.a.).

There is no known law specifically concerning academic freedom, although academics have cited laws of French origin concerning the operations of universities to support their claims of academic freedom. In practice the Government tolerates much academic freedom, but also inhibits political expression through its proprietary control of most educational facilities, even at the post-secondary level. On April 27, the president of the University of Cocody banned all meetings and sit-ins on the campus; and 2 days later the Council of Ministers ratified and extended the President's action, banning all FESCI activities throughout the country.

Students at universities and secondary schools staged many demonstrations and protests about educational issues, resulting in hundreds of arrests and 63 prosecutions. In May the Government closed all schools at all levels, including primary school, for 17 days, following widespread demonstrations. The Government also forbade all student meetings and banned FESCI activities. On July 30, the universities declared the 1998–99 academic year "invalid" for students in most disciplines, meaning that no credit would be given and that the universities would be even more crowded beginning in October, underscoring FESCI complaints about overcrowding. In spite of religious and human rights groups' efforts to promote dialog between the student union, FESCI, and the Government, dialog effectively ended with the arrest of FECSI leaders (see Section 1.d.).

Many prominent scholars active in opposition politics have retained their positions at state educational facilities. However, some teachers and professors suggest that they have been transferred or fear that they may be transferred to less desir-

able positions because of their political activities. According to student union statements, government security forces continued to use students as informants to monitor political activities at the University of Abidjan.

There were numerous student protests during the year (see Section 2.b.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government sometimes restricted this right during the second half of the year.

Groups that wish to hold demonstrations or rallies are required by law to submit a notice of their intent to do so to the Ministry of Security or the Ministry of Interior 48 hours before the proposed event. No law expressly authorizes the Government to ban public meetings or events for which advance notice has been given in the required manner. Nevertheless, the Government sometimes has denied the opposition permission to meet in public outdoor locations. In September the Dabou city council banned a planned September 11 opposition RDR rally, stating that the rally could lead to a violent confrontation. On September 20, the mayor of the Abidjan's Koumassi district forbade all political meetings in the district.

However, the RDR did stage a large public demonstration in Abidjan on September 27. Although the Government warned of dire consequences in the event of violence, it did not ban that demonstration, and no violence occurred.

Police repeatedly used violence to break up demonstrations and gatherings even when organizers duly gave the advance notice required by law. Between April and August, police forcibly suppressed many demonstrations held by students and other citizens to protest overcrowded classrooms, high prices, increasing unemployment, and low standards of living (see Section 1.c.). Police generally used non-lethal force such as tear gas against demonstrators. However, in one case a student demonstrator was killed by a tear-gas canister that was thrown by police to disperse a protest (see Section 1.a.). No charges were filed against the police in regard to the 3 deaths and 15 serious injuries that resulted from those demonstrations (see Section 1.a.). Between April and August, police personnel detained at least 180 students and unemployed persons across the country for their involvement in sometimes violent strikes and demonstrations (see Section 1.d.) Police also arrested 13 persons in connection with the August 25 demonstration in Yopougon following which Guy Koffi was killed (see Section 1.a.).

Beginning on September 10, hundreds of RDR supporters staged a sit-in outside RDR leader Ouattara's house in Cocody to protest PDCI attempts to ban Ouattara from running in the 2000 presidential elections. On September 14, police removed 388 demonstrators after some participants in the demonstration attacked a police commissioner who had come to deliver a letter informing Ouattara that he was to be questioned by the police. On September 15, President Bedie pardoned the 388 detainees, who were denied food for several hours at the beginning and end of their detention. They returned to Ouattara's house the next day and remained there until September 19 (see Section 1.d.).

A 1992 Antivandalism Law holds organizers of a march or demonstration responsible if any of the participants engage in violence. A leading civil rights NGO, the LIDHO, and all major opposition parties criticized the law as unduly vague and as one that imposed punishment on some persons for the crimes of others.

In September police personnel arrested 51 persons at the Sorbonne, a gathering place for public discussions. All of the detainees were released following identity checks; however, the Bedie Government subsequently banned all meetings at the Sorbonne (see Section 1.d.).

On October 27, at least 20 RDR leaders and Ouattara supporters were arrested following a demonstration that was dispersed violently by police personnel (see Sections 1.c. and 1.d.). The leaders, including Henriette Dagri Diabate, four Members of Parliament, one mayor, and a journalist for the pro-RDR newspaper, Le Liberal, were charged with inciting the destruction of public property and organizing a prohibited public demonstration under the Antivandalism Law. In November the leaders were tried; 11 were sentenced to 2 years in prison (including Diabete), 5 were sentenced to 1 year in prison, and the remaining 4 were acquitted. During the December coup, rebel soldiers freed all of the RDR leaders from prison and granted them amnesty.

On November 26, President Bedie issued Presidential Decree Number 99–668, which eliminated the right to hold outdoor meetings and demonstrations during the workweek. The ban was to remain in effect until May 30, 2000. This decree eliminated a number of opposition demonstrations that were planned for December; however, the Government did allow an outdoor rally to take place on December 18. The decree remained in effect at year's end.

The Government restricts freedom of association formally, but generally respects it in practice. Opposition parties assert that the Constitution permits private asso-

ciations to form. The Government rejects this interpretation and requires all organizations to register before commencing activities. In order to obtain registration, political parties must provide information on their founding members and produce internal statutes and political platforms consistent with the Constitution. Before the coup, there were 102 legally recognized political parties, of which 3 were represented in the National Assembly. Although there were no reports in the past 5 years of denial of registration, an August decree implementing the 1993 political party registration law apparently was interpreted to be aimed at former Prime Minister Ouattara and his RDR. The law also prohibits the formation of political parties along ethnic or religious lines.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There are no known impediments to religious expression. There is no state religion; however, for historical as well as ethnic reasons, the Government informally favors Christianity, in particular the Roman Catholic Church. Catholic Church leaders often are the first on whom the high government officials call for advice and mediation in times of social or political discord. Members of the Catholic clergy take part in political debate, whereas Islamic leaders may be criticized by government figures and offical press organs if they engage in political debate. However, the Government permits the open practice of religion, and there are no restrictions on religious ceremonies or teaching.

According to a 1988 census, about 25 percent of citizens were Muslim, about 23 percent were animist, and 31 percent were Christian; 13 percent practiced no religion. However, because the country hosts a large population of noncitizens, many of whom are Muslim, Muslims make up substantially more than 25 of the population.

Some Muslims believe that their religious or ethnic affiliation makes them targets of discrimination by the Government with regard to both employment and the renewal of national identity cards (see Section 5).

The Catholic Church began to operate community radio stations in 1998; on April 21, the Government authorized Muslims to operate a similar station (see Section 2.a.).

The CNSP ordered the Superior Islamic Council, a pro-Bedie organization, to disband.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although neither the Constitution nor any law provides for freedom of movement, the Government generally does not restrict internal travel; however, uniformed police, gendarmes, and water, forestry, and customs officials commonly erect and operate roadblocks on major roads, where they demand that passing motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money or goods for contrived or minor infractions.

Citizens normally may travel abroad and emigrate freely and have the right of voluntary repatriation. However, in November airport security officials prevented Hamed Bakayoko, a friend of Alassane Ouattara and the director of Radio Nostalgie, from traveling to Paris for a business trip. Security officials similarly prevented Morifere Bamba, leader of the opposition Party for Progress and Socialism from traveling abroad.

There are no known cases of revocation of citizenship, although the Bedie Government challenged the citizenship of presidential candidate Alassane Ouattara, alleging that he is really a citizen of Burkina Faso.

The country has not enacted legislation to provide refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The only domestic statute in force is the 1990 immigration law, which includes refugees without specifying a separate legal status for them. Nevertheless, the Government respects the right to first asylum and does not deny recognition to refugees, either by law or custom. An estimated 65,000 Liberian refugees remain in the country; from 150,000 to 200,000 refugees have returned to Liberia either under United Nations auspices or independently. There are also several thousand refugees from Sierra Leone and the Great Lakes region, including Rwanda and Burundi. There were no reports that persons who had a valid claim to asylum or refugee status were involuntarily repatriated to a country where they feared persecution.

The Government cooperates with the U.N. High Commissioner for Refugees in health, education, and food distribution programs for refugees. In January International Rescue Committee staff identified sanitation problems and severe overcrowding in schools at the Nicla Camp.

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

The Constitution provides for the right of citizens to change their government peacefully through democratic means; however the Bedie Government limited this right in practice and the December coup effectively disenfranchised citizens, preventing them from exercising this right. General Guei pledged to rewrite the Constitution and hold fair and transparent elections in the year 2000.

Prior to the coup, the PDCI controlled both the presidency and the National Assembly continuously since independence in 1960, and no president has ever left office in consequence of an election. Between 30 and 40 percent of the country's adult population, including many lifelong residents, are politically disenfranchised noncitizens (see Section 5).

In 1994 the Government enacted changes to the Electoral Code that included more restrictive parentage and residency requirements. These changes had the effect of excluding from the 1995 presidential election Alassane Ouattara, then a major potential rival to President Bedie. Citing concern about these changes in the electoral code and about irregularities in the voter registration process, the major opposition parties boycotted and tried to disrupt the 1995 presidential election, in which Bedie was reelected with 96 percent of the vote.

Prior to the coup, legislative elections were scheduled to be held every 5 years, and presidential elections every 7 years, by balloting that authorities describe as secret, but that allows a voter to leave a polling place with tangible evidence of how he voted. At polling places on election day, registered citizens receive a package of color-coded cards, containing one card for each candidate. Each citizen votes, alone inside a closed booth, by depositing into a sealed ballot box an envelope containing one of these cards. However, the voter is free to carry the unused cards from his package out of the polling place. Consequently voters can and sometimes do present these unused ballots as proof of how they voted to agents of candidates who pay them for their votes. This balloting system tends to favor an incumbent party that can draw directly or indirectly on the resources of the State to reward those who vote for its candidates. During negotiations with the PDCI late in the year, a leading opposition party demanded unsuccessfully that single, fully secret ballots be used in future elections.

The number of registered voters in districts of the National Assembly, each of which elects one representative, varies by as much as a factor of 10; these inequalities systematically favor the ruling party. National Assembly elections held in 1995 were marred both by violent incidents and by flaws in the electoral process, which were noted by both international and domestic observers. In 1998 ONE, a domestic NGO that monitors elections, cited irregularities in election list compilation and voting card distribution; these irregularities favored ruling party candidates. On April 25, a legislative by-election in a nominally pro-opposition area was marred by the destruction of 15 ballot boxes, the invalidation of results from 7 polling stations, and the sequestration of 3 subprefects. Two opposition candidates objected and asked the Constitutional Council to invalidate the result. However, the Council confirmed the PDCI candidate's election in May.

In practice the presidency consistently has dominated the State. In the name of ruling party discipline, the PCDI-controlled National Assembly has enacted with very few modifications most bills submitted by the Government. Moreover, members of the National Assembly seldom have initiated legislation, and the National Assembly only rarely has enacted legislation introduced by a member rather than by the Government.

In June 1998, the National Assembly enacted amendments to the Constitution that diminished the authority of the Prime Minister relative to the President, authorized the President to annul elections or to postpone announcing election results, extended the presidential term from 5 to 7 years, mandated the creation of a second legislative chamber (senate), provided for the president of the senate to succeed the President in the event of his death or incapacitation, and wrote into the Constitution the presidential eligibility restrictions of the 1994 electoral code. Diverse domestic and international observers—including the LIDHO, an antitribalist NGO (Notre Nation), and the French Socialist Party—criticized these constitutional amendments publicly for tending both to limit the right of citizens to change their government and to increase the already preponderant power of the presidency. In December 1998, as part of a formal written accord between the ruling party and a major opposition party, then-President Bedie agreed to renounce in a second round of constitutional amendments some of the powers conferred on him by the constitutional amendments, including the power to postpone announcements of election results and the power to annul elections. However, all the constitutional amendments remained fully effective at year's end.

In November 1998, Roger Nasra, a businessman accused of defrauding the Government of nearly $2 million in 1995 (10,810,000 CFA francs), testified that he had given that money to a senior treasury official for diversion to Bedie's election campaign. The treasury official denied the charges; he was transferred in August.

Government and opposition observers both have indicated that almost half of citizens do not have national identity cards, without which they cannot vote. The Government enacted and began to implement a law that simplified the process and greatly reduced the cost of obtaining national identity cards. This was intended to increase voter eligibility and registration. However, the same law tripled the cost of residence permits required of noncitizens.

The major opposition parties continued to demand that elections be organized and supervised by an electoral commission independent of the Government, as domestic and international election-monitoring NGO's have recommended. On December 9, the National Assembly voted to allow the creation of a National Election Commission to supervise elections. This decision was enacted as one of several agreements between the PDCI and the opposition Ivorian Popular Front (FPI); however, at year's end the organization of elections remained in the hands of the Ministry of Interior.

Citizens' ability to elect subnational governments is limited. The State is highly centralized. Subnational government entities exist on several levels, including 16 regions, 58 departments, 230 subprefectures, and 196 communities. However, at all levels except for communities, which are headed by mayors elected for 5-year terms, and traditional chieftaincies, which are headed by elected chiefs, all subnational government officials are appointed by the central Government. Subnational governments generally must rely on the central Government for much of their revenue, but mayors have autonomy to hire and fire community administrative personnel.

Although there are no legal impediments to women assuming political leadership roles they are underrepresented in government and politics. Under the Bedie government, only 14 of the 175 National Assembly deputies were women. Women held 3 of the 17 leadership positions in the National Assembly. There were 3 women in the 35-member presidential Cabinet named in August, and 3 members of the Supreme Court are women. In January Henriette Dagri Diabete was elected to the post of secretary general of the opposition RDR; she became the first woman to lead a political party.

There are no legal impediments to the exercise of political rights by any of the more than 60 ethnic groups in the country. However, it is widely believed that the Baoule and other ethnic groups that have tended to support the ruling party are overrepresented in both mid-level and low-level appointed positions throughout the public sector. Prior to the coup, Baoules always had held the positions of President and Defense Minister. However, General Guei is Toura, a subgroup of the Yacouba, one of the main ethnic groups in the west of the country; many of his supporters are from historically underrepresented ethnic groups in the north and west.

Section 4. Governmental Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

The LIDHO, a domestic human rights NGO formed in 1987 and recognized by the Government in 1990, investigated alleged violations of human rights actively and issued press releases and reports, some critical of the Government. Other NGO's such as Amnesty International and the Ivorian MIFED also monitored government human rights abuses and published press releases critical of them.

The Government has cooperated with international inquiries into its human rights practices, which were chiefly in the area of prison conditions (see Section 1.c.).

The CNSP Government seized the computers of the pro-PDCI NGO Servir.

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

Discrimination based on race, ethnicity, national origin, sex, or religion is prohibited by law, but in practice women occupy a subordinate role in society. Muslims complain of governmental discrimination (see Section 2.c.), societal ethnic discrimination is a problem, and the Baoule ethnic group dominates the ruling party and through it, the Government.

Women.—Representatives of the Ivorian Association for the Defense of Women (AIDF) state that spousal abuse (usually wife beating) occurs frequently and often leads to divorce. A July 1998 AIDF survey found that many women refused to discuss their experience of domestic violence; of women who completed the AIDF interview process, nearly 90 percent had been beaten or struck on at least one occasion. Doctors state that they rarely see the victims of domestic violence. A severe social

stigma is attached to such violence, and neighbors often intervene in a domestic quarrel to protect a woman who is the known object of physical abuse. The courts and police view domestic violence as a family problem, unless serious bodily harm is inflicted, or the victim lodges a complaint, in which case they may initiate criminal proceedings. Women's advocacy groups have protested the indifference of authorities to female victims of violence and called attention to domestic violence and female genital mutilation (FGM). The groups also reported that women who are the victims of rape or domestic violence often are ignored when they attempt to bring the violence to the attention of the police. The Government does not collect statistics on the rape or other physical abuse of women. The Government has no clear policy regarding spousal abuse beyond the strictures against violence in the civil code. In December 1998, the National Assembly enacted the Law Concerning Crimes against Women, which forbids and provides criminal penalties for forced or early marriage and sexual harassment, but says nothing about spousal abuse. In July the AIDF launched a petition drive to pressure the authorities to enact and enforce laws against domestic violence, especially spousal abuse; 18,000 petitions were collected by year's end. The AIDF also is active in opposing forced marriage and advancing the rights of female domestic workers.

In rural areas, women and men divide the labor, with men clearing the land and attending to cash crops like cocoa and coffee, while women grow vegetables and other staples and perform most menial household tasks. Government policy encourages full participation by women in social and economic life, but there is considerable informal resistance among employers to hiring women, whom they consider less dependable because of their potential pregnancy. Women are underrepresented in some professions and in the managerial sector as a whole. Some women also encounter difficulty in obtaining loans, as they cannot meet the lending criteria mandated by banks. These criteria include such elements as title to a house and production of profitable cash crops, specifically coffee and cocoa. However, women in the formal sector are paid on an equal scale with men.

Children.—Primary education is compulsory, but this requirement is not enforced effectively. Many children leave school after only a few years. There is a parental preference for educating boys rather than girls, which is noticeable throughout the country but more pronounced in rural areas. The primary school enrollment rate for girls is increasing in the northern part of the country. In part to combat low enrollment rates for girls, in January 1998 the Government instituted new measures against statutory rape of students by school teachers. The Minister of National Education stated then that almost one-third of the 66 percent primary and secondary school dropout rate was attributable to pregnancies, and that many of the sexual partners of female students were teachers, to whom girls sometimes granted sexual favors in return for good grades or money. According to UNICEF statistics, 79 percent of males and 58 percent of females of primary school age reportedly were enrolled in the period between 1990 and 1996.

Cities, especially Abidjan, have large populations of street children. Some children are employed as domestics and are subject to sexual abuse, harassment, and other forms of mistreatment by their employers, according to the AIDF and press reports (see Section 6.d.).

In September 1998, an Abidjan daily newspaper reported allegations by a 14-year-old boy that he had been sodomized repeatedly over many months by a network of pedophiles that included former Minister of Economic Infrastructure Ezan Akele and a foreign ambassador. Leading human rights organizations, including the LIDHO, demanded that the alleged pedophiles not be shielded from prosecution. On January 4, judges released 6 of the 8 accused in this matter on provisional liberty. The case still is pending.

At least hundreds and perhaps thousands of Malian children were trafficked and sold into indentured servitude on Ivorian plantations (see Sections 6.c. and 6.f).

The Ministries of Public Health and of Employment, Public Service, and Social Security seek to safeguard the welfare of children, and the Government also has encouraged the formation of NGO's such as the Abidjan Legal Center for the Defense of Children. In 1996 the Government announced a series of measures aimed at reducing the population of street children. These steps include holding parents legally and financially responsible for their abandoned children and the development of training centers where children can learn a trade. One of these centers opened in Dabou on July 31.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is a serious problem. Until 1998 there was no law that specifically prohibited FGM, which was considered illegal only as a violation of general laws prohibiting crimes against persons. However, the Law Concerning Crimes against Women enacted in December 1998 specifi-

cally forbids FGM and makes those who perform it subject to criminal penalties of imprisonment for up to 5 years and a fine of from roughly $650 to $3,500 (360,000 to 2 million CFA francs); double penalties apply for medical practitioners. FGM is practiced particularly among the rural population in the north and west and to a lesser extent in the center. The procedure usually is performed on young girls or at puberty as part of a rite of passage; it is almost always done outside modern medical facilities, and techniques and hygiene do not meet modern medical standards. According to the World Health Organization and the AIDF, as many as 60 percent of women have undergone FGM. Since the law on FGM was enacted in December 1998, 6 girls in Abidjan's Port Bouet district were mutilated, and police and social workers neither acted to prevent the mutilation nor to arrest the girls' parents.

Women's advocacy organizations have sponsored campaigns against FGM, forced marriage, and marriage of minors, patterns of inheritance that exclude women, and other practices considered harmful to women and girls. In 1997 the Ministry of the Family and Women's Affairs organized a seminar on FGM. In some areas traditional authorities, who generally have upheld the practice, began to take part in public demonstrations against FGM.

People With Disabilities.—Until recently there were no laws mandating accessibility to buildings, transportation, or other public services by the disabled. However, in October 1998 the National Assembly enacted a law, sponsored by former President Bedie's wife, that requires the State to educate and train the disabled, to hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by the disabled. The law covers individuals with physical, mental, visual, auditory, and cerebral motor disabilities. Laws also exist that prohibit the abandonment of the mentally or physically disabled and enjoin acts of violence directed at them. Traditional practices, beliefs, and superstitions vary, but infanticide in cases of serious birth disabilities is less common than in the past. Disabled adults are not specific targets of abuse, but they encounter serious difficulties in competing with able-bodied workers. The Government supports special schools, associations, and artisans' cooperatives for the disabled, but physically disabled persons still beg on urban streets and in commercial zones.

National/Racial/Ethnic Minorities.—The country's population of about 15 million is ethnically diverse. The citizenry—which excludes the large noncitizen part of the population—is made up of five major families of ethnic groups. The Akan family made up more than 40 percent of the citizenry, according to the 1988 census; the largest Akan ethnic group, and the largest ethnic group in the country, was the Baoule, to which perhaps one-fourth of all citizens belong. About 25 percent of citizens belong to the Mande family, of which the Malinke are the largest group. About 15 percent of citizens belong to the Krou family, of which the Bete are the largest group. Slightly more than 15 percent also belong to the Voltaic family, of which the Senoufo are the largest group. Major ethnic groups generally have their own primary languages and their nonurban populations tend to be concentrated regionally.

Between 30 and 40 percent of the population are Africans, mostly from neighboring countries such as Mali and Burkina Faso, who may not claim citizenship legally. Birth in Ivorian national territory does not confer citizenship. The ethnic composition of the whole population including these noncitizens is quite different from that of the citizenry alone.

Societal discrimination on the basis of ethnicity sometimes is practiced by members of all ethnic groups. Urban neighborhoods still have identifiable ethnic characteristics, and major political parties tend to have identifiable ethnic and regional bases, although interethnic marriage is increasingly common in urban areas.

Some ethnic groups include many noncitizens, and their share of the electorate would be increased by enfranchising noncitizens. Other ethnic groups include few noncitizens, and their share of the electorate would be decreased by enfranchising noncitizens. There are societal and political tensions between these two sets of ethnic groups. This cleavage corresponds to some extent to regional differences; ethnic groups that include many non-citizens are found chiefly in the north. Members of northern ethnic groups that are found in neighboring countries as well as in the country often are required to document their citizenship, whereas members of politically powerful ethnic groups, such as the Baoule and the Agni, reportedly do not have this problem. Police routinely abuse and harass noncitizen Africans residing in the country. Official harassment reflects the frequently encountered conviction that foreigners are responsible for high local crime rates, as well as concern for Ivorian national identity.

Election law changes in 1994 limited presidential candidates to those who could prove that both parents had been born in Cote d'Ivoire. This restriction was incorporated into the Constitution in June 1998. It is due to this restriction that the

PDCI considered presidential hopeful Alassane Ouattara ineligible to run for president in the 2000 elections. In July 1998, the Government tripled the cost of the residence permits for noncitizens. The Government requires citizens of other West African countries to carry these cards, but simultaneously it greatly reduced the cost of national identification cards for citizens. This discriminatory law tended to perpetuate the political disenfranchisement of noncitizens by making it harder for them to become citizens. It also tended to entrench the electoral power of ethnic groups that include relatively few noncitizens, such as the Baoule.

Differences between members of the Baoule group and other ethnic groups, especially the Bete, are a major source of political tensions and have erupted repeatedly into violence, most recently in 1997. Many members of the Baoule group, which has long inhabited the east-central region, have settled in towns and on previously uncultivated land in other areas, especially in more westerly regions. In the past, the Government generally has viewed use of land as conferring de facto ownership of land. However, in December 1998, the National Assembly enacted the new Land Use Law, which establishes that land title does not transfer from the traditional owner to the user simply by virtue of use.

Members of the Baoule ethnic group dominate the PDCI and were widely believed to hold disproportionate numbers of positions in the public sector, including the security forces, the civil service, and state-owned businesses during the Bedie regime (see Section 3). In 1998, a serving non-Baoule army officer complained publicly in letters published in private newspapers about ethnic discrimination against non-Baoules in the armed forces, as did a former non-Baoule army officer in 1999; the serving officer was reprimanded by the Ministry of Defense.

Security forces were accused of favoring Baoules in 1997 violence between members of the Baoule and Guere ethnic groups.

In May 1998, the Government ordered the Dozos, a group of traditional hunters from the north and northwest regions, to cease activities "outside the geographic and cultural sphere of their origin," and to surrender any modern weapons. Some reports pointed out that the Government's order came shortly after Dozos, some of whom long had served as bodyguards for ruling party politicians, began to perform security functions for opposition party leaders and rallies. Government and Dozo spokespersons indicated that the Government's order responded to infiltration of the Dozos by "false Dozos" who had begun to use excessive force in their private security roles.

During the latter part of the year, tensions arose between Ivorian and non-Ivorian ethnic groups. In November a member of the native Krou ethnic group allegedly was killed by a Burkinabe in the southwestern region of Tabou. Following his death, a number of ethnic Krous attacked Burkinabe settlements, burning their homes and chasing more than 12,000 persons to Burkino Faso; they had not returned to the country by year's end. On November 17, members of the Baoule ethnic group attacked the Malian population in Tiebissou after the death of a Baoule during a land use conflict. After the attack, several hundred persons fled the area. On December 7, members of the Baoule ethnic group allegedly attacked members of the Burkinabe population in Tiebissou, which resulted in many Burkinabes fleeing the region.

In July 1998, members of the Agni ethnic group burned villages of descendants of Bozo immigrants in a fishing rights dispute and drove many Bozos back to their ancestral areas in Mali. Ghanaian Fanti fishermen similarly were driven out of parts of southwestern Cote d'Ivoire in December 1998.

Section 6. Worker Rights

a. *The Right of Association.*—The law provides workers with the right to form unions. Registration of a new union requires 3 months. For almost 30 years, the government-sponsored labor confederation, the General Union of Workers of Cote d'Ivoire (UGTCI), dominated most union activity. The UGTCI's hold on the labor movement loosened in 1991 when several formerly UGTCI-affiliated unions broke away and became independent. In 1992 11 formerly independent unions joined together to form the Federation of Autonomous Trade Unions of Cote d'Ivoire. There are now also two other registered labor federations not affiliated with the Government.

Although unions are legally free to leave the UGTCI and join another federation, in practice their choice is restricted by anticompetitive official discrimination in favor of the government-affiliated UGTCI. In September 1998, after a 3-year struggle and with the assistance of the International Labor Organization, labor inspectors were obliged to organize an election of union delegates at the Sip Cata company in San Pedro, and to allow Dignite, an independent labor federation, to compete with the UGTCI. Dignite's candidates won the election, and the union switched its affiliation to Dignite.

The right to strike is provided by the Constitution and by statute. The Labor Code requires a protracted series of negotiations and a 6-day notification period before a strike may take place, effectively making legal strikes difficult to organize. Although the UGTCI seldom has called strikes, it called a strike in June to protest continuing low wage increases and lack of funding for the social security and medical systems. Bailiffs and customs officers also struck. Non-UGTCI unions also called strikes of lawyers, garbage collectors, street cleaners, and taxi drivers.

Twelve employees of the government broadcast media company, RTI, who had participated in an April 1997 strike that reportedly caused an interruption of RTI broadcasting, were tried in November and December 1998 on charges, filed in May 1997, of disturbing public order, willful destruction of public property, and interfering with public services. They had been detained for 3 months in 1997. The judge finally rendered a verdict in January, acquitting six and convicting the other six. Those convicted were given suspended 6-month sentences and fines of $92 (50,000 CFA francs) each (See Section 2.b.).

Unions are free to join international bodies.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code grants all citizens, except members of the police and military services, the rights to join unions and to bargain collectively. Collective bargaining agreements are in effect in many major business enterprises and sectors of the civil service. In most cases in which wages are not established in direct negotiations between unions and employers, salaries are set by job categories by the Ministry of Employment and Civil Service. Labor inspectors have the responsibility to enforce a law that prohibits antiunion discrimination. There have been no known prosecutions or convictions under this law.

There were no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited by law; however, the International Labor Organization's Committee of Experts in its 1993 annual report questioned a decree that places certain categories of prisoners at the disposal of private enterprises for work assignments without their apparent consent. There has been no change in this decree.

The law prohibits forced and bonded child labor; however, the Government does not enforce this prohibition effectively, and children trafficked to the country were sold into forced labor (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—In most instances, the legal minimum working age is 16. However, the Ministry of Employment and Civil Service enforces this provision effectively only in the civil service and in large multinational companies. Labor law limits the hours of young workers, defined as those under the age of 18. However, children often work on family farms, and some children routinely act as vendors, shoe shiners, errand boys, car watchers, and washers of car windows in the informal sector in cities. There are reliable reports of some use of child labor in informal-sector mining and also of children working in "sweatshop" conditions in small workshops. Primary education is mandatory but far from universally enforced, particularly in rural areas. Many children leave the formal school system when they are between the ages of 12 and 14, having failed secondary school entrance exams.

Although the Government prohibits forced and bonded child labor, it does not enforce this prohibition effectively. There was widespread abuse of foreign children for forced labor on agricultural plantations (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work.*—The Government administratively determines monthly minimum wage rates, which were last adjusted in 1996. A slightly higher minimum wage rate applies for construction workers. The Government enforces the minimum wage rates only for salaried workers employed by the Government or registered with the social security office. Minimum wages vary according to occupation, with the lowest set at approximately $67.90 (36,607 CFA francs) per month, which is insufficient to provide a decent standard of living for a worker and family. The majority of the labor force works in agriculture or in the informal sector where the minimum wage does not apply.

Through the Ministry of Employment and the Civil Service, the Government enforces a comprehensive Labor Code that governs the terms and conditions of service for wage earners and salaried workers and provides for occupational safety and health standards. Those employed in the formal sector generally are protected against unjust compensation, excessive hours, and arbitrary discharge from employment. The standard legal workweek is 40 hours. The law requires overtime payment on a graduated scale for additional hours. The Labor Code provides for at least one 24-hour rest period per week.

Government labor inspectors can order employers to improve substandard conditions, and a labor court can levy fines if the employer fails to comply with the Labor

Code. However, in the large informal sector of the economy involving both urban and rural workers, the Government's occupational health and safety regulations are enforced erratically, if at all. Workers in the formal sector have the right, under the Labor Code, to remove themselves from dangerous work situations without jeopardy to continued employment by utilizing the Ministry of Labor's inspection system to document dangerous working conditions. However, workers in the informal sector ordinarily cannot remove themselves from such labor without risking the loss of their employment.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were credible reports that it occurs. In September 1998, a private Abidjan daily newspaper exposed the widespread practice of importing and indenturing Malian boys for field work on Ivorian plantations under abusive conditions. For example, children recruited by Malians in the border town of Sikasso were promised easy and lucrative jobs in Cote d'Ivoire, transported across the border, and then sold to other Malians who dispersed them throughout the plantations of the central region. These children were forced to work 12-hour days in the fields and were locked at night in crowded sheds, with their clothing confiscated. The Governments of Mali and Cote d'Ivoire confirmed the reports. The Government of Mali and the United Nations Children's Fund (UNICEF) took steps to halt this trafficking and repatriate the children to Mali. About 100 children from Mali were returned to their families in 1998. In 1998 the Government of Mali arrested 5 persons in Sikasso who were responsible for trafficking. The extent of this practice was difficult to estimate, because many Malian adults also worked on Ivorian plantations in the same area under difficult conditions.

Mali was not the only source of forced child labor used in the country. In January authorities repatriated 11 10- and 11-year old girls to Lagos, Nigeria from Abidjan.

On June 11, 13 girls from Benin ranging from 4 to 10 years old were intercepted at Cote d'Ivoire's border with Ghana, and Beninese child traffickers Marcelin Dagbegnon and Antoine Assogba were arrested. According to Soir Info, an Abidjan daily newspaper, in 1998 Beninese police intercepted almost 1,000 children who were being "sold into slavery" in Cote d'Ivoire, Nigeria, Togo, Cameroon, and Gabon. In July police in Divo broke up a ring of child traffickers which had brought children from Burkina Faso to work on farms and plantations in Cote d'Ivoire. Police released and arranged for the repatriation of six teenagers and were seeking 11 others who already had been placed with Ivorian families by trafficker Madeleine N'Da Adjoua. In March 1998, police in Togo arrested 4 Beninese traffickers taking 22 Beninese children to Cote d'Ivoire by way of Togo.

DJIBOUTI

On April 9, Djibouti elected its second president since gaining independence from France in 1977. Ismael Omar Guelleh, the candidate of the ruling party, the People's Rally for Progress (RPP), won the election with 74 percent of the vote. Opposition candidate Moussa Ahmed Idriss, of the Unified Djiboutian Opposition (ODU), received 26 percent of the vote. For the first time since multiparty elections began in 1992, no group boycotted the election. Moussa Ahmed Idriss and the ODU later challenged the results based on election "irregularities" and the assertion that "foreigners" had voted in various districts of the capital; however, international and locally-based observers considered the election to be generally fair, and cited only minor technical difficulties. Guelleh took the oath of office as President on May 8 with the support of an alliance between the RPP and the government-recognized Section of the Afar-led Front for the Restoration of Unity and Democracy (FRUD). Gouleh succeeded former President Hassan Gouled Aptidon, whom he had served as chief of staff and a key advisor for 20 years. The RPP, which has been in power since independence in 1977, continues to rule the country despite 1992 constitutional changes that permitted the creation of opposition political parties. Two main ethnic groups hold most political power: Somali Issas (the tribe of the President), and Afars. Citizens from other Somali clans (Issak, Gadabursi, and Darod), and those of Yemeni and other origins, are limited unofficially in their access to top government positions. In 1994 the Government and a faction of the FRUD signed a peace accord, ending 3 years of civil war. In the accord, the Government agreed to recognize the FRUD as a legitimate political party. The Government named two FRUD leaders to Cabinet positions in 1995; however, part of the FRUD rejected the peace accord and remains opposed to the Government. Two other legal political parties have existed since 1992, the National Democratic Party (NDP) and the Party for Democratic Renewal (PRD); neither holds a parliamentary seat or a cabinet level

post. In 1997 the ruling party coalition that includes the FRUD party won all 65 seats in legislative elections, which took place without international observers and amid opposition claims of massive fraud. The judiciary is not independent of the executive.

The 8,000-member National Police Force (FNP) is responsible for internal security and border control, and is overseen by the Ministry of Interior. The Ministry of Defense oversees the army. The Gendarmerie Nationale, a police force responsible for the President's security, which previously had reported to the Ministry of Defense, is an autonomous unit under the presidency. A small intelligence bureau also reports directly to the President. Civilian authorities generally maintain effective control of the security forces, but there were instances in which the security forces acted independently of the Government's authority. Some members of the security forces committed human rights abuses.

Djibouti has little industry and few natural resources. Services provide most of the national income. Minor mineral deposits remain mostly unexploited. Only a tenth of the land is arable and only 1 percent is forested. Outside the capital city, the primary economic activity is nomadic subsistence. Citizens are free to pursue private business interests and to hold personal and real property. The part of the annual gross domestic product not generated by and for the foreign community, which includes some 8,000 French citizens, is estimated at no more than $250 per capita annually.

The Government's human rights record remained poor. Although the April presidential elections were considered generally fair, the 1997 parliamentary elections took place amid claims of massive fraud, and the RPP continues to control the political system to suppress organized opposition. Members of the security forces committed at least three extrajudicial killings. There were credible reports that security forces beat, otherwise abused, and at times tortured detainees, and raped female inmates. There were credible reports that soldiers raped women in rural districts, and police beat protesters. Prison conditions remained harsh. The Government continued to harass, intimidate, and imprison political opponents and union leaders and to arrest and detain persons arbitrarily. Prolonged detention and incommunicado detention remained problems. The judiciary is not independent of the executive and does not ensure citizens' due process. The Government also infringed on citizens' privacy rights. The Government at times restricted freedom of speech and of the press. Police occasionally jailed or intimidated journalists. The Government limited freedom of assembly, and restricted freedom of association. The Government discouraged proselytizing. There were some limits on freedom of movement. Violence and discrimination against women persisted, and the practice of female genital mutilation (FGM) continued to be widespread. Discrimination on the basis of ethnic and clan background persisted. The Government imposed limits on unions and their leaders, and there were reports of instances of forced labor. Child labor persisted.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Security forces committed several extrajudicial killings. On April 27, government forces in the vicinity of Oroborou in the Obock district killed three civilians, Abdallah Ahmed Mohamed Rebeh, Moussa Abdallah, and Ahmed Yagouri. Two of the victims were shot, and the third was stabbed to death. A fourth individual, Ali Mohamed Ali "Derbi," was stabbed and left for dead. According to the Paris-based FRUD leader Ahmed Dini, the Government killed the civilians allegedly in retaliation for a series of landmine explosions that left several soldiers dead and many more wounded. On September 23, while attempting to arrest Moussa Ahmed Idriss, police officers fired shots after his supporters attempted to block the arrest, resulting in one death and two injuries. One of the injured included Moussa Ahmed Idriss's wife. (see Sections 1.d. and 1.e.).

On March 12, a political detainee died in the main prison under unexplained circumstances (see Section 1.c.).

On August 15, an army helicopter exploded in an area of the Tadjourah district known for insurgent FRUD rebel activity, killing eight persons including two nurses and a doctor on a medical mission. Although the FRUD claimed responsibility, the Government cited mechanical failure.

There continued to be numerous reports of fighting involving the army and Afar FRUD rebels. Landmine incidents related to the conflict resulted in a number of deaths during the year. On April 3, two civilians were killed and three were wounded in a landmine explosion on the road between Tadjourah and Obock. On April 14 and 15, landmines exploded in the Tadjourah district killing seven persons, including six policemen, and injuring seven others. On April 26, a landmine explosion

killed four soldiers and injured four others in Medeho. In May a civilian transport vehicle hit a landmine, killing two girls and injuring seven others. A landmine explosion in July killed one civilian and injured five others. In late September, a landmine explosion killed three persons and injured three others in Tadjourah district.

In 1998 gendarmes killed one man and injured another in downtown Djibouti when they shot into a crowd while attempting to make an arrest. The gendarmerie successfully prevented a police investigation into the incident, and no action has been taken against the gendarmes responsible.

In 1998 soldiers killed two Afar community elders near Assa Gueyla, reportedly in retaliation for a landmine explosion. Relatives of the victims filed legal complaints against three officers stationed in Tadjora District, but the case was still pending at year's end. There has been no investigation into the 1997 police killing of Hassan Aden Farah, who was shot following a car chase. Police claimed that Farah was plotting to kill a high-level official.

On March 4, the Paris-based Association for the Respect of Human Rights in Djibouti (ARHRD), and an unidentified citizen presented a complaint in a French court against former President Gouled and current President Guelleh alleging human rights violations, including summary executions. The complaint listed a series of human rights abuses and judicial abuses dating back to 1995.

Reportedly charges were dropped in the legal proceedings against six soldiers accused of the 1995 killings of Randa's religious leader, Ali Houmed Souleh, and an associate.

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

In May police detained an Ethiopian guard at a private residence, allegedly because he was an illegal immigrant. The guard's whereabouts were unknown at year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides that no one shall be subjected to torture or to other inhuman, cruel, degrading, or humiliating punishments, and torture is punishable by 15 years' imprisonment; however, there continued to be credible reports that police and gendarmes routinely beat, otherwise physically abused, and at times tortured prisoners and detainees.

On March 4, an unidentified citizen in conjunction with the ARHRD presented a claim in a French court (see Section 1.a.) against President Guelleh and former President Gouled, alleging that he had been detained arbitrarily and tortured, and had suffered physical and psychological damage as a result. In April the ARHRD reported that Saleh Mohamed Dini, who was arrested on April 10 (see Section 1.d.), was tortured while in custody. In April more than 20 Afars were arrested in the Obock district for expressing support for the FRUD, and there were unconfirmed reports that some of the detainees were subjected to physical violence (see Section 1.d.). In May there was an unconfirmed report from a Paris-based NGO that police beat a civilian after trying to force him to walk on a landmine.

On February 12, police used tear gas to break up a political rally and detained some of the participants for several hours (see Sections 1.d. and 2.b.). On March 28, while trying to prevent a political rally from marching on the presidential palace, police forces beat several participants severely, injuring up to 24 persons, at least three seriously (see Section 2.b.). The police also used tear gas, fired guns into the air, and arrested many of the participants (see Sections 1.d. and 2.b.). In August police used tear gas to disperse a crowd that had gathered outside the Ministry of Justice to protest the arrest of two opposition journalists (see Sections 2.a. and 2.b.).

There were unconfirmed reports that government security forces in the northern districts denied access to food and water to citizens who refused to declare loyalty to the Government and renounce the FRUD.

An Eritrean illegal immigrant woman, Zenaba Agoden, was raped by soldiers while in detention in Obock. As a result of the rape, she suffered paralysis over one side of her body and required several months of hospitalization. Reportedly no investigation was made into the incident and no action was taken against the officers responsible. In recent years there have been credible reports that security force personnel raped at least 120 Afar women in the northern districts of Obock and Tadjourah (see Section 5). In almost all cases the victims did not press charges due to shame and fear.

In February an unknown person threw a hand grenade into an Arabic class at Dikhil's junior high school, injuring five students.

On May 23, a hand grenade thrown from a passing vehicle exploded outside the house of Jean-Paul Noel Abdi, president of the newly-formed Djiboutian Human Rights League. A teenage boy walking past the compound was injured seriously; his injuries were exacerbated by the fact that he was left unattended while the police and the gendarmes argued over jurisdiction.

Landmine explosions during the year resulted in a number of deaths and injuries (see Section 1.a.).

There were reports of injuries in May as a result of clashes between unemployed citizens and Ethiopians in various parts of the capital. On May 26, a gang of approximately 30 unemployed youths, apparently upset that Ethiopians were hired for a construction project for a new Ethiopian Embassy compound, began attacking Ethiopians. The attacks continued for several days and resulted in numerous injuries on both sides. The great majority of those attacked were refugees.

Prison conditions are harsh and prisons are severely overcrowded. Gabode prison, built for 350 persons, at times housed nearly twice that number. The Government sometimes shortens prison terms to reduce overcrowding. The Ministry of Justice estimates that 60 percent of prisoners are illegal Ethiopian immigrants who have committed crimes in the country. Children under the age of 5 of female inmates sometimes are allowed to stay with their mothers; authorities say that milk is provided for them. Prisoners reportedly must pay authorities to obtain food. Health care sources reported that prison guards raped female inmates. Several prisoners were reported to be suffering from untreated illnesses or gunshot wounds received during arrest. Medical care is inadequate, and the prison infirmary lacks sufficient medication. In April approximately 40 prisoners at Gabode prison went on a hunger strike to protest the health conditions of prisoners in the prison. There are no educational or rehabilitation facilities within the prison. Ministry of Justice officials said that lack of funding hampers their ability to provide even minimal services. In principle, juveniles are housed separately from adult prisoners; however, in practice, this is not always the case.

On March 12, Abdi Houfaneh Liban, a 35-year old political prisoner arrested in April 1998, died under unexplained circumstances. Djiboutian human rights groups in France asserted that Abdi's death was caused by harsh living conditions in the Gabode prison. Some opposition supporters believe that Abdi's death might have been due to poisoning. A foreign journalist who visited the prison shortly after Abdi's death believes that Abdi died after taking incorrect medication. The journalist noted that the prison infirmary was poorly stocked and prisoners often were given incorrect medications.

Conditions at Nagad detention center, where Ethiopians are held prior to deportation, also are extremely harsh. Detainees at Nagad are held in unsanitary conditions and often are not fed for several days before their deportation.

An International Committee of the Red Cross (ICRC) delegate from Kenya made quarterly visits to the main prison; however, in May the Government denied access to the prison to an ICRC delegate and a doctor from Nairobi, Kenya. On May 4, in response to media criticism of prison conditions, the Government organized a prison visit by a delegation consisting of domestic human rights monitors, doctors, and attorneys. During the fall, human rights activists were permitted to visit several detainees, including Moussa Ahmed Idriss, General Wais, and Daher Ahmed Farah (see Section 1.d.).

d. *Arbitrary Arrest, Detention, or Exile.*—Despite legal protections, arbitrary arrest and detention remained problems. The 1995 Penal Code stipulates that the State may not detain a person beyond 48 hours without an examining magistrate's formal charge. Detainees may be held another 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within 8 months of arraignment. Nevertheless, the police often disregarded these procedures, typically arresting persons without warrants (see Section 1.f.), and sometimes detaining them for lengthy periods without charge. The penal code provides for bail and expeditious trial. Incommunicado detention is used.

In April more than 20 Afars were arrested in the Obock district for expressing support for the FRUD. After 4 days of detention in a military camp at Medeho, five men were released, one was detained further, and nine were transferred to a police prison near the capital. There were unconfirmed reports that some of the detainees were subjected to physical violence. On February 12, police detained three ODU party leaders and six busloads of ODU supporters, including human rights attorney Aref Mohamed Aref, for several hours after dispersing a political rally with tear gas (see Section 1.c. and 3). Some ODU members were detained for more than 7 hours.

On February 15, Aref was arrested again and imprisoned on charges of fraud stemming from a 1994 commercial transaction. After a 2-hour trial marred by legal irregularities, Aref was sentenced to 2 years in prison (see Section 1.e.). He was released from prison on May 11 as part of a presidential amnesty program (see Section 1.e.).

On March 28, police arrested 17 supporters of opposition presidential candidate Moussa Ahmed Idriss who were attempting to march on the presidential palace,

charged them with disturbing the peace, fined them, and released them after a few days (see Sections 1.c. and 2.b.).

On April 10, police arrested Saleh Mohamed Dini, the chief of Mabla, allegedly because he insulted President Guelleh. On May 23, after a hand grenade exploded in front of the house of Djiboutian Human Rights League President Jean-Paul Noel Abdi (see Section 1.c.), police arrested Abdi and several others who were in the residence at the time of the attack. Some members of the League, as well as several women and children who lived in rented rooms within Abdi's house, were detained for up to 6 hours. Three of the women and a 4-year-old girl were held for more than a day. Abdi and two other members of the League who were inside the house at the time of the attack were rearrested 4 days after the attack, and held in protective custody for 2 days.

On June 16, police arrested and detained Abdoulfatah Moussa Ahmed, the son of opposition leader Moussa Ahmed Idriss. He was released on June 20, rearrested on June 21, and charged with an economic crime; his case was still pending at year's end.

On August 28, police arrested two opposition newspaper editors, Daher Ahmed Farah and Ali Meidal Waiss, and charged them with distributing false information after their newspapers reprinted a letter from Ahmed Dini, claiming responsibility for the downing of an army helicopter (see Sections 1.a. and 2.a.). On September 2, a court sentenced both journalists to 1 year in prison and a fine of approximately $5,650 (1 million DF). In December they were released as part of a presidential amnesty (see Section 1.e.). On September 23, police arrested Moussa Ahmed Idriss on charges of behavior inciting sedition. The police also arrested 19 of his supporters who attempted to prevent his arrest (see Section 1.e.). Moussa Idriss was sentenced to 8 months' imprisonment, subsequently reduced to 4 months, and fined; however, he was released in December as part of a presidential amnesty (see Section 1.e.). Mousssa Idriss's 19 supporters were also among those released in the December amnesty.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is not independent of the executive. Constitutional provisions for a fair trial are not respected universally, even in nonpolitical cases, because of interference from the executive branch. Since ministerial changes in December 1997, the Justice Minister is officially responsible for human rights.

The judiciary, based on the French Napoleonic code, comprises a lower court, appeals courts, and a Supreme Court. There are no longer "special courts" to try cases outside normal judiciary channels. The Supreme Court can overrule decisions of the lower courts. Magistrates are appointed for life terms. The Constitutional Council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings are not always respected.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Shari'a law, and nomadic traditions. Urban crime is dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. Shari'a law is restricted to civil and family matters.

Traditional law (Xeer) often is used in conflict resolution and victim compensation. For example, traditional law often stipulates that a blood price be paid to the victim's clan for crimes such as murder and rape.

The Constitution states that the accused is innocent until proven guilty and has the right to legal counsel and to be examined by a doctor if imprisoned. Although trials are public officially, in politically sensitive cases security measures effectively prevent public access. Legal counsel is supposed to be available to the indigent in criminal and civil matters; however, defendants often do not have representation. Court cases are heard in public before a presiding judge and two accompanying judges. The latter receive assistance from two persons—assessors—who are not members of the bench, but who are thought to possess sufficient legal sophistication to comprehend court proceedings. The Government chooses assessors from the public at large, but credible reports indicate that political and ethnic affiliations play a role in the selection.

On February 15, human rights attorney Aref Mohamed Aref was arrested and imprisoned for fraud stemming from a 1994 commercial transaction. Aref's 2-hour trial was marked by legal irregularities and may have been influenced by Aref's longtime stance as a critic of the Government's record on human rights. The Government repeatedly refused to allow Aref to be represented by a French attorney despite a bilateral accord permitting such representation. After 5 minutes of deliberation, the judge sentenced Aref to 2 years in prison. He was transferred immediately

to Gabode prison and placed in a small solitary cell normally used for the most dangerous criminals. Aref was released from prison on May 11 as part of a presidential amnesty program; however, by year's end his passport was not returned. In 1997 the Djiboutian Bar Association had disbarred Aref and his colleague Djama Amareh Meidal for alleged irregularities in their representation of a client in a 1994 commercial transaction. Aref and Meidal remained disbarred at year's end.

On September 16, the National Assembly lifted the parliamentary immunity of Moussa Ahmed Idriss. He was arrested on September 23 on charges of behavior inciting sedition. Nineteen of his supporters who tried to block the arresting police were arrested at the same time (see Section 1.d.). Moussa Idriss was sentenced to 8 months' imprisonment, subsequently reduced to 4 months, and fined. Several dates to hear his appeal of the sentence were deferred; however, he was released on December 7 as part of a presidential amnesty.

On May 11, the President granted amnesty to and released Aref Mohamed Aref and 40 common criminals. Of the more than 40 political prisoners held in Gabode prison, only Aref was released at that time. None of the imprisoned FRUD supporters, who are considered terrorists by the Government, received amnesty. On December 7, the Government announced that, in honor of Ramadan, the President had signed a decree approved by the Council of Ministers that granted a general amnesty to all prisoners serving sentences of 2 years or less, and reducing the sentences by 6 months of all prisoners serving sentences of more than 2 years. Recipients of the amnesty included Moussa Ahmed Idriss, Daher Ahmed Farah, Ali Meidal Wais, and other persons imprisoned on political grounds during the year. The creation of the Committee for the Support of Political Prisoners (CSPP) was announced in February 1998 (see Section 4). The CSPP reported that the Government held 52 political prisoners, including 12 relatives of former cabinet director Ismael Guedi Hared who were arrested in October 1998, allegedly for hoarding weapons, and 40 FRUD dissidents who had been handed over by Ethiopian authorities or were FRUD rebels captured in clashes with the army.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the family, home, correspondence, and communications; however, the Government infringed on these rights. The law also requires that the authorities obtain a warrant before conducting searches on private property; however, in practice the Government does not always obtain warrants before conducting such searches, and it reportedly monitors and sometimes disrupts the communications of some regime opponents. Authorities harassed the family members of opposition leaders (see Section 3).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of the press; however, at times the Government restricted this right in practice. The law prohibits the dissemination of false information and regulates the publication of newspapers. The Constitution prohibits slander.

The Government owns the principal newspaper, La Nation, which in April expanded publication from weekly to biweekly printings. There are several opposition-run weekly and monthly publications that circulate freely and openly criticize the Government. However, journalists, and even vendors of opposition newspapers, occasionally are jailed or intimidated by police.

The Government also owns the radio and television stations. The official media generally are uncritical of government leaders and government policy.

In April the Government banned for a period of several weeks a local FM station from broadcasting Radio France International (RFI) after RFI reported on a group of hunger strikers in Paris protesting Djiboutian prison conditions.

On August 28, two opposition newspaper editors, General Ali Meidal Wais and Daher Ahmed Farah (also known as DAF), were arrested and held on charges of distributing false information. Wais, the former head of the armed forces, is a high-ranking member of the ODU, and editor of the ODU newsletter Le Temps. DAF is President of the PRD and editor of the opposition newspaper Le Renouveau. Wais and DAF were arrested after Le Temps and Le Renouveau reprinted a letter in which the Paris-based FRUD leader Ahmed Dini claimed responsibility for the downing of an army helicopter (see Section 1.a.). Police forces detained the two men overnight before charging them and transferring them to Gabode prison. On September 2, a court sentenced both journalists to 1 year in prison without parole and fined them approximately $5,650 (1 million DF). Both were released in December as part of a presidential amnesty (see Section 1.e.). The court also banned publication of Le Temps and Le Renouveau for six months. With the release of their editors in the December amnesty, the ban lapsed; however, no issues were published between December 8 and December 31.

On October 22, the Government detained two foreign journalists whom it accused of attempting to "tarnish the image" of the country.

There are no specific laws or criminal sanctions that threaten academic freedom. In general, teachers may speak and conduct research without restriction, provided that they do not violate sedition laws.

b. *Freedom of Peaceful Assembly and Association.*—The right to free assembly is provided for in the Constitution; however, the Government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. While permits generally are approved, the Government commonly uses a show of police force and threatening tactics to intimidate and discourage would-be demonstrators. Some opposition leaders effectively practiced self-censorship and, rather than provoke a Government crackdown, refrained from organizing popular demonstrations.

On February 12, police detained three ODU party leaders and six busloads of ODU supporters, including human rights attorney Aref Mohamed Aref, for several hours after dispersing a political rally with tear gas (see Sections 1.c. and 1.d.). On March 28, police used tear gas and fired guns into the air to prevent approximately a thousand supporters of opposition presidential candidate Moussa Ahmed Idriss from marching on the presidential palace. Police broke up the crowd and arrested 17 persons after participants threw rocks at them. The opposition asserted that several more supporters were injured, some seriously, and witnesses to the incident saw police beating protesters. In August police used tear gas to disperse a crowd of approximately 200 persons who gathered outside the Ministry of Justice to protest the arrest of two opposition journalists (see Sections 1.c. and 2.a.).

The Constitution provides for freedom of association provided that certain legal requirements are met; however, the Government restricts this right in practice. A referendum held in 1993 approved limiting the number of political parties to four. This result has not yet been codified into law. The Government took advantage of an absence of leadership in the main opposition party, the PRD, following the late 1996 death of its leader, and conferred legal recognition on what appeared to be the weaker half of the party. In 1997 police detained the leader of the unrecognized PRD faction, DAF, and charged him in a closed hearing with illegally operating a political party, illegally publishing a newspaper, disseminating false information, forgery (for the use of party seals), usurping a title, and organizing an illegal demonstration. In 1997 DAF was given "provisional liberty," which granted him freedom while his case was pending. His case was dropped in early 1999; however, on August 28, DAF was arrested again and charged with disseminating false information (see Section 2.a.).

Nonpolitical associations must register and be approved by the Ministry of Interior.

c. *Freedom of Religion.*—The Constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the Government generally respects this right in practice; however, proselytizing is discouraged. In May, the President declared that Islam would be a central tenet of his Government, and named the Qadi, the country's senior judge of Islamic law, as Minister of State for Charitable and Religious Affairs, reporting to the Minister of Justice, whose functions include "fostering tolerance." Although Islam is the state religion, the Government imposes no sanctions on those who choose to ignore Islamic teachings, or practice other faiths. Virtually the entire population is Sunni Muslim.

The Government requires that religious groups be registered. There were no reports that the Government refused to register any religious groups.

On several occasions, groups of Ethiopian Pentecostal Christians were detained during prayer meetings, but were released after a few days. These arrests reportedly were due to loud singing that disturbed neighbors or to a general crackdown on illegal residents, rather than to the Ethiopians' religious faith.

There is no legal prohibition against proselytizing, but proselytizing is discouraged. Foreign clergy and missionaries are permitted to perform charitable works and to sell their religious books. A small number of foreign Christian missionary groups operate in the country. The groups, which focus on humanitarian services in the education and health sectors, reportedly faced no harassment during the year. Foreign missionary groups are licensed by the Government to run schools.

Islamic law based on the Koran is used only with regard to family matters, and is administered by the Qadi. Civil marriage is permitted only to non-Muslim foreigners. Muslims are required to marry in a religious ceremony, and non-Muslim men can only marry a Muslim woman after converting to Islam.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution allows freedom of movement; however, there were instances in which authorities limited this right. In general citizens may travel or

emigrate without restriction or interference. However, a judge may order a passport seized for those under judicial surveillance or awaiting trial. In October 1998, the passport of GDR leader Moumin Bahdon Farah was seized despite the fact that a court had ordered that his passport be returned to him to enable him to leave the country. In December 1998, authorities seized the passport of human rights attorney Aref Mohamed Aref. Neither Moumin's nor Aref's passports were returned by year's end.

Up to 18,000 Afars sought asylum in Ethiopia during the 1991–94 civil war. At least 10,000 are believed to have repatriated themselves since the 1994 peace accord. According to Ethiopian authorities, no Djiboutian Afars remain in Ethiopia; however, because the displaced Afars were not in refugee camps, and because Afars are indigenous to Ethiopia and Eritrea as well, it is difficult to estimate their number.

The law provides for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government offers first asylum; however, the government committee responsible for determining refugees' status has not met since 1995, and the Government does not recognize those refugees under the protection of the U.N. High Commission for Refugees (UNHCR) absent this approval.

The country hosts up to 100,000 refugees and illegal immigrants from neighboring countries, equal to about one-fifth of the population. These numbers have increased since May 1998 due to the still unresolved border conflict between Eritrea and Ethiopia. The UNHCR assists 21,000 Somali and 1,000 Ethiopian residents of the two remaining refugee camps. Some 2,500 Ethiopian and Somali urban refugees are registered with the UNHCR office in Djibouti City.

There has been no major repatriation effort since the UNHCR's 1994–96 repatriation of 35,000 Ethiopian refugees and migrants from the capital. The Djiboutian National Office for the Assistance of Refugees and Displaced Persons reported that it deports up to a thousand Ethiopians each week.

In May clashes between unemployed citizens and Ethiopians led to a number of injuries (see Section 1.c.).

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

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

The Constitution provides citizens with the right to change their Government, and citizens exercised this right through a democratic process in presidential elections held in April. RPP candidate Ismael Omar Guelleh, the designated successor of former President Hassan Gouled Aptidon, won the April 9 election with 74 percent of the vote. ODU candidate Moussa Ahmed Idriss received 26 percent of the vote. For the first time since multiparty elections began in 1992, no group boycotted the vote. Although Moussa Ahmed Idriss and the ODU challenged the results, alleging election "irregularities" and asserting that "foreigners" voted in various districts of the capital, international and domestic observers considered the election to be generally fair, citing only minor irregularities. All five of the districts were visited by at least 1 of the 22 international observers on election day. Observers representing the Arab League, the International Organization of Francophone States (La Francophonie), and the Organization of African Unity (OAU) issued a joint communique that expressed satisfaction with the transparency of the election, citing only minor technical problems. Representatives of both candidates were present in virtually all voting stations and there was no ethnic strife among Afars, Yemenis, and Somalis. Large numbers of persons of all communities supported both candidates. However, in the December 1997 legislative elections the RPP alliance with the legal FRUD party won all 65 seats. The elections took place without international observers amid opposition claims of fraud.

The RPP, which has been in power since independence in 1977, continues to rule the country. The RPP also continues to control carefully the implementation of the four-party system to suppress any organized opposition. There is no independent election commission. Previous efforts by both the legal and unrecognized opposition parties to unify also floundered due to disagreements among their leaders over who should lead a unified opposition.

The 1994 peace agreement between the Government and the FRUD required that FRUD members be included in senior government positions. Two FRUD members were named to the Cabinet in June 1995, and in May 1999, two new FRUD members were appointed to the Cabinet. A former FRUD military commander was appointed to the Defense portfolio and another FRUD member assumed the Health portfolio. The government-recognized faction of the FRUD was registered as a polit-

ical party in 1996. The unrecognized FRUD faction includes members who refused to accept the terms of the peace accord, as well as Afars extradited from Ethiopia in 1997 (see Section 2.d.).

Government harassment of opposition leaders was a problem. On August 28, police arrested Daher Ahmed Farah, the president of the PRD, along with General Wais, a high ranking member of the ODU, for distributing false information (see Sections 1.d. and 2.a.). On September 23, Moussa Ahmed Idriss, the opposition presidential candidate, and some of his followers were arrested (see Sections 1.d. and 1.e.). In May 1998, Moumin Bahdon, the President of the GDR, was questioned about his links with FRUD rebels and in October 1998, his passport was taken from him despite the fact that a court had ordered that his passport be returned to him to enable him to leave the country (see Section 2.d.). Bahdon's family members claimed that they faced constant harassment from the Government, for example, with respect to access to schooling for children.

On February 12, police used tear gas to break up a political rally and detained some of the participants for several hours (see Sections 1.d. and 2.b.). In March while trying to prevent a political rally from marching on the presidential palace, police forces beat several participants severely, used tear gas, fired guns into the air, and arrested many participants (see Sections 1.d. and 2.b.).

Although legally entitled to participate in the political process, women largely have been excluded from senior positions in government and in the political parties, and are underrepresented in government and politics. On May 18, the new President announced the appointment of the first female minister to his cabinet. Hawa Ahmed Youssouf was designated as Minister of State for the Promotion of Women's, Family, and Social Affairs, and reports to the Prime Minister. Khadija Abeba, President of the Supreme Court, is the highest-ranking female official and, according to the Constitution, would become interim President should that position become vacant.

The President's subclan, the Issa Mamassans, wields disproportionate power in affairs of state. Afars hold a number of high Ministerial posts, but are not well represented at lower levels. Somali clans other than the Issa and Djiboutians of Yemeni origin are limited unofficially to one ministerial post each. There are also informal limits on the number of seats for each group in the Parliament.

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

The Government remains antagonistic to the formation of local human rights groups. The Association for the Defense of Human Rights and Liberties (ADDHL), which ceased operations in 1997, briefly resumed activity as a progovernment organization in 1998 but did not resume its investigations into, or criticisms of, human right abuses. The ADDHL was inactive during the year.

The formation of the Committee in Support of Political Prisoners (CSPP) was announced in February 1998. The Committee's goal is to publicize the plight of political prisoners and mobilize support for the improvement of prison conditions and for the release of political prisoners. The leader of the newly-formed Djiboutian Human Rights League, Jean-Paul Noel Abdi, was detained without charges twice during the year. In May, a hand grenade was thrown into his compound by unknown persons (see Section 1.c.).

The Union of Djiboutian Women (UNFD) and the Djiboutian Association for the Promotion of the Family (ADEPF) promote the rights of women and children.

The ICRC maintains a small office that is staffed locally. The ICRC regional representative who is based in Nairobi makes quarterly visits.

A post of government ombudsman was created by presidential decree in October and the first incumbent took office in November.

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

The Constitution prohibits discrimination on the basis of language, race, sex, or religion; however, discrimination against women and ethnic minorities persists. In particular, the Government's enforcement of laws to protect women and children is weak.

Women.—Violence against women exists but reported cases are few. The Government has been concerned about the problem of rape, and the 1995 revised Penal Code includes sentences of up to 20 years' imprisonment for rapists. More than 80 such cases were tried during the year, but only a few led to conviction. Violence against women normally is dealt with within the family or clan structure rather than in the courts. The police rarely intervene in domestic violence incidents, and the media report only the most extreme examples, such as murder. In almost all

the cases of the rape of Afar women by soldiers in recent years, the victims did not press charges due to shame and fear (see Section 1.c.).

Women legally possess full civil rights, but custom and traditional societal discrimination in education dictate that they play a secondary role in public life and have fewer employment opportunities than men. Few women work in managerial and professional positions; women largely are confined to trade and secretarial fields. Customary law, which is based on Shari'a (Islamic law), discriminates against women in such areas as inheritance, divorce, and travel (see Section 2.d.). Male children inherit larger percentages of an estate than do female children. Women are not permitted to travel without the permission of an adult male relative. The few educated women increasingly turn to the regular courts to defend their interests.

Children.—The Government devotes almost no public funds to the advancement of children's rights and welfare. A few charitable organizations work with children. Primary education is compulsory; however, the Government does not monitor compliance. Many schools are in poor condition and need upgrading. The number of classrooms for secondary students is inadequate, and only approximately 20 percent of children who start secondary school complete their education. More than 53 percent of the population is illiterate: only 32 percent of girls are literate compared with 60 percent of boys. Only 62 percent of girls attend primary school compared with 73 percent of boys, and only 23 percent of girls attend secondary school compared with 33 percent of boys. Girls made up only 36 percent of all secondary students. The Government in November reaffirmed its 1998 commitment to increase the number of female students in the educational system to 50 percent, and significant progress was made toward this goal in the primary grades. The new Government announced its intention to revitalize the education sector during the course of a national week-long symposium on education policy held in December with the support of the Ministry of Education. Participants included representatives of the education profession, parents, students, and other interested parties.

According to a recent report, as many as 98 percent of females age 7 or older have undergone female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health. FGM traditionally is performed on girls between the ages of 7 and 10. In 1988 the Union of Djiboutian Women (UNFD) began an educational campaign against infibulation, the most extensive and dangerous form of FGM. The campaign has had only a limited impact on the prevalence of this custom, particularly in rural areas, where it is pervasive. After the 1995 U.N. Women's Conference in Cairo, Egypt, the UNFD declared that all forms of mutilation should be forbidden. The revised Penal Code that went into effect in 1995 states that "violence causing genital mutilation" is punishable by 5 years' imprisonment and a fine of over $5,650 (1 million DF). However, the Government has not yet convicted anyone under this statute. The efforts of the UNFD and other groups appeared to be having some effect, at least in the capital city. In 1997 some health workers reported a precipitous drop in the number of hospitalizations related to FGM in Djibouti City. Many believe that the incidence of the most extreme procedure, infibulation, has decreased, although no systematic data was available on the problem. U.N. and other experts believe that lesser forms of FGM still were widely practiced and that infibulation still was common in rural areas.

Child abuse exists, but is not thought to be common. The Government has not addressed child abuse, which often is punished lightly; for example, when a child is raped or abused, the perpetrator usually is fined an amount sufficient to cover the child's medical care. The Government has not used applicable existing provisions of the Penal Code to deal with child abuse more severely.

People with Disabilities.—The Government does not mandate accessibility to buildings or government services for the disabled. Although disabled persons have access to education and public health facilities, there is no specific legislation that addresses the needs of the disabled, and there are no laws or regulations that prevent job discrimination against disabled persons. The disabled have difficulty finding employment in an economy where at least 60 percent of the able-bodied adult male population is underemployed or jobless.

National/Racial/Ethnic Minorities.—The Government continued to discriminate against citizens on the basis of ethnicity in employment and job advancement. Somali Issas are the majority ethnic group and control the ruling party, the civil and security services, and the military forces. Discrimination based on ethnic and clan affiliation limited the role of members of minority groups and clans, particularly the Afar minority ethnic group, in government and politics.

Section 6. Worker Rights

a. *The Right of Association*.—Under the Constitution, workers are free to join unions and to strike provided that they comply with legally prescribed requirements; however, the Government limits these rights. Since 1992 unions have been free to join or form other confederations. The state body, the General Union of Djiboutian Workers (UGTD), and the Union of Djiboutian Workers (UDT) formed a confederation in 1995 and have gained increasing support despite government harassment. In 1996 the Government sealed the headquarters of the UDT/UGTD confederation, and UDT/UGTD confederation bank accounts remained frozen at year's end. Nevertheless, in the small formal economy, about 70 percent of workers are members of the combined UDT/UGTD confederation. Previously the Government controlled individual unions by making membership mandatory in the state-organized labor confederation. To counter the UDT/UGTD, the Government created the Djiboutian Labor Congress composed of Ministry of Labor officials. At its June 1997 meeting, the International Labor Organization (ILO) determined that the Government had violated the ILO constitution by not allowing a member of the UDT/UGTD confederation to join the workers' delegation at the meeting.

In 1998 after a visit from an ILO delegation, the Government agreed to begin a dialog with the UDT/UGTD regarding the creation of a tripartite labor commission consisting of unions, government, and business representatives. The Government also accepted an invitation to the ILO June 1998 meeting in Geneva; however, the Government did not send representatives to Geneva and did not begin the promised dialog. As a result of the ILO visit, the UDT/UGTD were able to reclaim their headquarters in 1998, which had been taken from them in 1996. However, their bank accounts remained frozen at year's end. During the year, a rival UDT/UGTD was created with government support. The new faction of the UDT/UGTD remains unrecognized by the original union leaders.

The law requires representatives of employees who plan to strike to contact the Interior Ministry 48 hours in advance. Teachers' strikes continued during the year, primarily to protest delays in salary payments and a lack of equipment and teaching materials. Kamil Hassan, a schoolteacher, who previously had been detained in February 1997 as a leader of a teacher's strike, still was not permitted to teach in public schools.

Unions are free to maintain relations and exchanges with labor organizations abroad. The UDT has been a member of the International Confederation of Free Trade Unions (ICFTU) since 1994.

b. *The Right to Organize and Bargain Collectively*.—Although labor has the legal right to organize and bargain collectively, collective bargaining rarely occurs. Relations between employers and workers are informal and paternalistic. Wage rates generally are established unilaterally by employers on the basis of Ministry of Labor guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encourages direct resolution by labor representatives and employers. Workers or employers may request formal administrative hearings before the Ministry's inspection service, but critics claim that the service suffers from poor enforcement, due to its low priority and inadequate funding. The law prohibits antiunion discrimination, and employers found legally guilty are required to reinstate workers fired for union activities. However, the Government does not appear to enforce the law.

An export processing zone (EPZ) was established in 1994. Firms in the EPZ are exempt from the Government's social security and medical insurance programs. Instead, they must provide either government or private accident insurance. The minimum wage in the EPZ is approximately $1 (176 DF) per hour. Although the regular workweek is 40 hours, in the EPZ it is 45 hours. An employee who works for the same firm in the EPZ for at least 1 year has the right to 15 days' annual leave, compared with 30 days in the rest of the country (see Section 6.e.). Discussions took place during the year on the creation of a "free trade zone" that would offer certain benefits and exemptions to foreign investors.

c. *Prohibition of Forced or Compulsory Labor*.—The law prohibits all forced or compulsory labor, including by children; however, while the law generally is observed, there are reports that members of the security forces sometimes compel illegal immigrants to work for them under the threat of deportation. There were no reports of forced child labor.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The law prohibits all labor by children under the age of 14, but the Government does not always enforce this prohibition effectively, and a shortage of labor inspectors reduces the likelihood of investigation. Children generally are not employed for hazardous work. Children may and do work in family-owned businesses, such as restaurants and small shops, at all hours. The law prohibits forced or compulsory

labor, including by children, and there were no reports of forced child labor (see Section 6.c.)

e. *Acceptable Conditions of Work*.—Only a small minority of the population is engaged in wage employment. The Government administratively sets minimum wage rates according to occupational categories, and the Ministry of Labor is charged with enforcement. The monthly wage rate for unskilled labor, set in 1976, is approximately $90 (15,840 DF). Most employers pay more than the minimum wage. Some workers also receive housing and transportation allowances. The minimum wage for unskilled labor does not provide adequate compensation for a worker and family to maintain a decent standard of living.

By law the workweek is 40 hours, often spread over 6 days. Some employers ask employees to work up to 12 hours per day and pay them an additional wage. Workers are provided daily and weekly rest periods and paid annual leave. The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement is ineffective, workers sometimes face hazardous working conditions, particularly at the port. Workers rarely protest, mainly due to fear that they may be replaced by others willing to accept the risks. There are no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardy to continued employment.

f. *Trafficking in Persons*.—The law prohibits trafficking in persons, and there were no reports of persons being trafficked in, to, or from the country.

EQUATORIAL GUINEA

Equatorial Guinea is nominally a multiparty constitutional republic; however, in reality power is exercised by President Teodoro Obiang Nguema and the small Mongomo subclan of the majority Fang tribe, which has ruled since the country's independence in 1968. President Obiang, who has ruled since seizing power in a military coup d'etat in 1979, was elected to a 7-year term in February 1996 in elections that were marred by extensive fraud and intimidation. The President's Democratic Party of Equatorial Guinea (PDGE) controls the judiciary and the legislature, the latter also through elections in March that were widely criticized as seriously flawed by the international community. The judiciary is not independent.

President Obiang exercises control over the police and security forces through the Minister of the Interior, who serves as President of the National Electoral Board as well. The Director General of National Security is the President's brother, Armengol Ondo Nguema. The security forces committed numerous, serious human rights abuses.

The majority of the population of approximately 470,000 lives by subsistence agriculture, supplemented by hunting and fishing. Barter is a major aspect of the economy, and the monetary sector is based on exports of petroleum, cocoa, and timber. Most foreign economic assistance has been suspended due to the lack of economic reform and the Government's poor human rights record. However, in October the Government of Spain, which suspended aid 6 years ago, signed a new cooperation agreement with the Government. Substantial oil deposits were first discovered in 1995, and exploitation began in 1996. However, the investment and other use of oil revenues lacks transparency despite repeated calls from international financial institutions and citizens for greater financial openness. Poor fiscal management and a lack of public accounting transparency in national finances undermine the country's economic potential. Little evidence is apparent that the country's oil wealth is being devoted to the public good.

The Government's human rights record remained poor. Serious and systematic human rights abuses continued, and the security forces committed a number of abuses. Citizens do not have the right to change their government in fair elections. There were reports of extrajudicial killings, both of prisoners in detention and of individuals in rural areas. Other principal abuses by security forces included: Torture; beating and other physical abuse of prisoners; arbitrary arrest and detention; incommunicado detention; extortion from prisoners; searches without warrants; the looting of private homes; and the confiscation of property without due process. Members of the security forces generally commit abuses with impunity. Prison conditions remained life threatening. Prisoners often are subjected to torture in order to extract confessions. The judicial system continued to fail to ensure due process and remained subject to executive pressures. The Government severely restricted freedom of speech and of the press. It continued to restrict the right of assembly and did not always respect the right of association. The Government continued to limit freedom of religion and freedom of movement. The Government encouraged the ille-

gal capture and involuntary repatriation of its political opponents living abroad. There are no effective domestic human rights nongovernmental organizations (NGO's), and in April the Government promulgated a new law that further restricted NGO's and appears to preclude them from functioning in the area of human rights. Violence and discrimination against women and foreigners remain serious problems. Discrimination against minorities, particularly the Bubi ethnic group continued. The Government continued to restrict labor rights; no labor unions exist, and strikes are prohibited. The abuse of workers' rights is a particular problem in the oil industry. Child labor persists, and forced prison labor is used.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There were unconfirmed reports of extrajudicial killings by security forces both of prisoners in detention and of individuals in rural areas.

During the year, the Government did not prosecute for extrajudicial killings any members of the security forces, including those considered responsible for extrajudicial killings in prior years.

b. *Disappearance*.—There were reports of disappearances; however, these were difficult to confirm.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Fundamental Law (Constitution) mandates respect for the liberty and dignity of persons, but does not specifically prohibit torture or cruel or inhuman punishment, and members of the security forces tortured, beat, and otherwise abused prisoners. The level of these abuses is serious and, in the wake of the 1998 revolt, increased over previous years. A number of prisoners are still under sentence from the revolt, and reports of their abuse and torture continue to circulate. The Government does little to prevent excesses and routinely attributes any reported instances of torture to allegedly rogue elements.

Officials reportedly detained, interrogated, beat, and tortured opposition political activists (see Section 1.d.).

Police routinely stop citizens and members of the opposition at roadblocks and subject known members of the opposition in particular to searches and extortion. Local authorities also singled out foreigners from neighboring countries for harassment, intimidation, and extortion. Prison conditions are primitive and life threatening. Rations are inadequate, and sanitary conditions practically nonexistent. Prisoners sentenced following the 1998 revolt reported being fed bread and water only once every 2 days. Initially no food was allowed in from outside as is the custom. During the year both family visits and provisions reportedly were allowed.

Prison conditions ostensibly are monitored by the International Committee of the Red Cross (ICRC), which normally makes recommendations to the Government. However, the head of the regional ICRC office, despite repeated attempts, was not granted access to any prisons or detention centers during the first 11 months of the year; he was granted access in December.

d. *Arbitrary Arrest, Detention, or Exile*.—There are nominal legal procedural safeguards regarding detention, the requirement for search warrants, and other protection of citizens' rights; however, these safeguards are ignored systematically by security forces, which continued to arrest and detain persons arbitrarily.

Police routinely hold prisoners in incommunicado detention. Foreigners from neighboring countries sometimes are targeted for arbitrary mistreatment and random arrest. These included visitors and residents from Nigeria, Ghana, Togo, and Benin. Members of the security forces often resorted to such activities in order to extort money prior to national holidays.

Political detentions seldom lasted more than a few months. Following the 1998 revolt, approximately 500 ethnic Bubis reportedly were arrested and interrogated. Reliable information on the number and identities of detainees was not readily available. The majority of them were released, although 15 who were tried and sentenced to death had their sentences commuted to life imprisonment by President Obiang later in 1998. It is difficult to estimate the exact number of political detainees, although it is believed to be less than 100 persons.

During the year, the Government arrested opposition political activists on a number of occasions, especially around the time of the legislative elections and detained them without charge for periods up to several weeks. Officials reportedly interrogated, beat, and tortured them. In June three activists of the Republican Democratic Force (FDR) were arrested in Mongomo, supposedly for holding an unauthorized meeting, and were jailed in Bata. In September the Government arrested Placido Miko, secretary general of the opposition Convergence for Social Democracy (CPDS)

party in Bata and confiscated his computer and files. Although he was released a week later, he was given provisional liberty and told to report twice a month to the authorities in Bata. No formal charges were brought. It is estimated that some 90 opposition party members were arrested during the year and held for short periods. The Government uses the psychological effects of arrest, along with the fear of beatings and harassment, to intimidate opposition party officials and members.

During the year, government security forces on one occasion detained an employee of a foreign oil company for a short period for alleged irregularities in processing the import of equipment.

The Government does not force its citizens into exile; however, some persons have fled the country for political reasons.

e. *Denial of Fair Public Trial*.—The judiciary is not independent; judges serve at the pleasure of the President and are appointed, transferred, and dismissed for political reasons. Corruption is widespread.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and a Supreme Court. The President appoints members of the Supreme Court, who report to him. Tribal elders adjudicate civil claims and minor criminal matters in traditional courts in the countryside.

The Fundamental Law and laws passed by the chamber of deputies provide for legal representation in trials and the right to appeal. In practice the authorities often do not respect these provisions. Civil cases rarely come to public trial. Cases involving national security are tried by the military tribunal.

The Government holds a number of political prisoners. In May 1998 the Government conducted a public trial before a military tribunal of 116 persons allegedly involved in the January 21, 1998, revolt on Bioko island. The defendants were charged with terrorism, undermining state security, and illegal possession of weapons. Many defendants claimed that the Government had obtained confessions from them by torture. However, the president of the military tribunal refused to allow defense lawyers to raise the question of torture, although a number of the accused bore unmistakable marks of recent physical abuse. The conduct of the trials drew universal criticism, although observers noted that some defendants might have been guilty of the offenses with which they were charged. The tribunal found 63 persons guilty on at least one charge, but acquitted 53 of all charges. It sentenced 15 convicted defendants to death, and sentenced the 48 others to terms ranging from 6 to 26 years in prison. The 15 condemned to death were the only defendants absent from the court when the sentences were announced. They were not executed, and President Obiang later commuted their sentences to life imprisonment, following petitions for clemency from foreign governments and nongovernmental organizations (NGO's).

Two members of the ruling Mongomo clan and of the banned Democratic Republican Forces (FDR) party, former Education Minister Felipe Ondo and former Planning Minister Guillermo Nguema remained in prison. They were convicted of libeling the State and sentenced to 30 months' imprisonment in 1998, after Equatoguinean security forces repatriated them involuntarily from Gabon with the consent of the Government of Gabon (see Section 2.d.).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—The Government infringes on these rights. It does not enforce the law requiring judicial warrants for searches. Security forces regularly search homes and arrest occupants, and generally do so with impunity.

On several occasions the Government reportedly attempted to force opposition members or officials to join the ruling PDGE party. Moreover, the arrests of opposition members appeared to be a coordinated government campaign spread out over a wide area and designed to intimidate the opposition prior to the legislative elections and dissuade voters from voting for opposition parties. Detainees included members of the CPDS, the Union Popular, and the banned Partido Del Progresso. All were jailed in violation of the national pact signed between the Government and oppositions parties in Malabo in 1997.

For lawyers, government employees, and some others, PDGE party membership is necessary for employment and promotion. Even in the private sector, many citizens claim that party membership is required in order to be hired. The party banner is displayed prominently with the national flag in government offices, and many officials wear PDGE lapel pins.

There is reportedly surveillance of members of the opposition parties and foreign diplomats.

According to credible sources, citizens living in rural areas are hesitant to associate with or even be seen with foreigners, due to the fear of repercussions from the authorities.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and the Press*.—The Constitution provides for freedom of speech and of the press; however, the Government severely restricted these rights in practice. Journalists practice self-censorship.

In April shortly before a national symposium on press liberty was scheduled, the Minister of the interior ordered the removal of the democratically elected president of the Press Association (ASOPGE), Manuel Nze Nzogo, even though the ASOPGE was a legally recognized NGO. The reason given was that its president was supposedly not properly qualified for the position.

The Government allows mild criticism of infrastructure, public institutions, and public sector mismanagement and permitted some increased criticism of minor administrative decisions. However, it permits no criticism of the President or the security forces. All journalists must be registered with the Ministry of Information. According to press sources, there are about a dozen independent reporters registered with the Ministry of Information. Between 30 and 40 reporters employed by the official party or government publications also are registered. Visiting foreign reporters must be accompanied by guides from the Ministry of Information.

Two general-interest newspapers appear regularly: La Gaceta, a Malabo-based publications with connections to the Government is published monthly. Human-interest stories dominate its domestic news coverage. Ebano, a publication of the Ministry of Information, appears about twice a month. Two new newspapers, El Tiempo and La Opinion were approved in September by the Ministry of Information and were authorized to begin publication in 2000.

The current press law, enacted in 1992, reportedly is based on Spain's 1967 Franco-era press law and authorizes government censorship of all publications. The Ministry of Information sometimes requires publishers to submit copy for approval prior to publication. All local publications exercise self-censorship and are subject to prior restraint. Few foreign publications are available for sale, and security forces reportedly peruse the contents of publications from Spain and confiscate literature critical of the Government.

Radio is the most important medium of mass communication. The Government continued effectively to monopolize domestic radio broadcasting. It owns and operates Radio Malabo. In 1998 the Government permitted the establishment of the country's first private domestic radio station, the FM station Radio Asonga. However, that station reportedly is owned by the Minister of Forestry, Environment, and Fisheries, Teodoro Obiang Nguema, the son of the President. The Government has not approved other applications to operate private radio stations, although several applications are pending.

The domestic television station is government controlled and broadcasts only a few hours a day. Foreign cable television is available, and offers the Cable News Network, French news, movies, sports events, and cartoons, but relatively few citizens can afford it. Satellite reception is increasingly available.

The Government generally withholds access to domestic broadcasting from prodemocracy opposition parties and rarely refers to what it calls the "radical" opposition in anything but negative terms when broadcasting the news.

Radio Exterior, the international short-wave service from Spain, often broadcasts news about the country and interviews with opposition politicians. It is virtually the only means for the opposition to widely disseminate its views and positions. Its editorials, like those of most of the Spanish media, are often highly critical of the Government. The Government regularly accused Radio Exterior of misrepresenting the situation in the country and in 1998 asked the Spanish Government to halt broadcasts that "may provoke problems."

Internet service is available, although access is expensive, and computer ownership is not widespread.

During the year the Government opened a National University, the country's only institution of higher learning.

b. *Freedom of Peaceful Assembly and Association*.—The Fundamental Law provides for the right of assembly; however, the Government restricts this right in practice. Government authorization must be obtained for meetings of more than 10 persons in private homes for discussions that the regime considers political. Although the Government formally has abolished permit requirements for party meetings within party buildings, in practice opposition parties must inform the authorities in order to hold gatherings of any kind, regardless of location.

Security forces generally observe gatherings in public places, even small gatherings. The Government requires notification for public events and routinely denies permission to meet, effectively restricting the right of assembly.

The Fundamental Law provides for the right of association; however, the Government does not always respect this right in practice. Police routinely and systemati-

cally harass and jail members of opposition parties. Opposition party members complained of disruption of meetings and of roadblocks at which they are forced to pay soldiers in order to proceed.

c. *Freedom of Religion.*—The Fundamental Law provides for freedom of religion; however, the Government limits this right in practice. There is no state religion, and the Government does not discriminate against any faith. However, the Ministry of Justice and Religion must approve a religious organization before its religious activities are allowed formally. The Government continued to restrict the freedom of expression of the clergy, particularly regarding any open criticism of the regime. The Government requires permission for any activities outside church walls, but in practice this nominal requirement does not appear to be a hindrance to organized religious groups.

The Government restricted the activities of the Catholic Church, of which most citizens are at least nominally members. The Government continued to detain throughout the year Father Eduardo Losha Belope, who is a priest, a Bubi, and the president of the Malabo chapter of the Catholic NGO, Caritas; security forces arrested him in February 1998 in connection with the January 1998 revolt. In July 1998, the Archbishop of Malabo, Laureano Ekua Obama, stated publicly that the Government now requires Catholic priests to obtain government permission before celebrating mass and commented that the Government does this because the church repeatedly criticized human rights violations, social injustice, and corruption in the country. The Archbishop also stated that government harassment made it very difficult to be a Catholic priest.

The Government relaxed some restrictions on religious activities by foreign missionaries in 1996. Missionaries in Bata and Malabo reported little government interference in their work, although there were increasing problems bringing in materials and equipment duty-free, which they had been allowed to do in the past.

There appears to be a marked official preference towards the Catholic Church. Religious study is required in schools and is usually, but not exclusively, Catholic.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—In principle freedom of movement and travel throughout the country is provided for by law; however, the Government limits these rights in practice. Local police routinely demand bribes from occupants of cars, taxis, and other vehicles traveling outside the capital. The police routinely stop citizens and in particular known members of the opposition at roadblocks, subject them to searches, and extort money from them. Members of the Bubi ethnic group on the island of Bioko are unable to move about freely, according to credible sources. Roadblocks throughout the island prevent Bubis from traveling easily between villages.

All citizens are required to have permission to travel abroad, and members of opposition parties regularly are denied this permission and sometimes are interrogated or detained upon their return.

Government officials attempt to control the movements of all citizens by requiring exit visas or denying or confiscating passports. Those who depart Malabo without an exit visa must travel by canoe across 40 miles of open ocean to reach mainland Africa, and then they face possible immigration charges upon their return. However, several prominent members of opposition parties were able to travel abroad without hindrance. Prior to the legislative elections, resident diplomats were not allowed to travel around the country freely until the day before the voting.

During recent years, an average of one or two foreigners a year, from Mauritania, Nigeria, or the Congo, requested refugee or asylee status in the country. The Government provides first asylum and generally grants asylum requests, although security forces reportedly have harassed asylum seekers, few of whom have remained long in the country. There were no reports of the forced return of any foreigners to a country where they feared persecution.

The Government continued to attempt to neutralize opposition groups outside its borders by kidnaping its citizens living in other countries (see Section 1.e.).

Since September 1997, 12 Equatoguineans and their families, now in opposition to the Government, have been detained by Cameroonian security forces—ostensibly for their own protection—at a military base in Yaounde. The majority are former military officers, and all have refugee status granted by the U.N. High Commissioner for Refugees. In October the Cameroonian press reported that two of the refugees escaped from the base and met with others to plot a coup attempt against the Equatorial Guinea regime. They subsequently were arrested in Douala and returned to the capital. In mid-October a number of senior-level visitors from Malabo to Cameroon reportedly requested their extradition to Equatorial Guinea, which the Cameroonian Government did not grant. All 12 refugees remain under loose detention at the military base.

The Government continued to demand that the Spanish Government repatriate Severo Moto, leader of the now-banned Popular Party, who led an attempt to overthrow the government by armed force in 1997 and whom the Government of Spain had granted asylum.

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

The Constitution nominally provides citizens with the right to change their government peacefully; however, in practice there have been no free, fair, and transparent elections since independence in 1968. The President exercises complete power as head of state, commander of the armed forces, and leader of the government party, the PDGE. With the main exception of the Prime Minister, a Bubi, leadership positions within the Government in general are restricted to the President's Mongomo clan of the Fang ethnic group and its closest supporters. While there is an elected Chamber of Deputies, it is not representative and is dominated completely by the Government. The Minister of the Interior also acts as President of the National Electoral Board.

The February 1996 presidential election, in which President Obiang claimed reelection with 98 percent of the vote, was considered openly fraudulent by international observers. Some opposition politicians who campaigned were beaten and jailed. Voting was done in the open and without secrecy, with opposition parties allegedly being barred from access to polling areas. There were credible reports of widespread arrests and violence against opposition party members before the elections, as well as of beatings, roadblocks, stuffed ballot boxes, and the presence of security forces. Most opposition parties, claiming that it was futile to run amidst such blatant corruption, boycotted the election.

In 1997 the Government and 13 political parties promulgated a revised national pact following 3 months of debate. The pact calls for the creation of a multiparty electoral commission and an observance commission to monitor compliance with the agreement. The pact also stipulated an end to various political and electoral abuses and the extension of voting rights already nominally provided for in the Constitution. However, the Government has not abided by most of the pact's provisions. Opposition activists report that the Government has made virtually no effort to implement the pact. The Government's refusal to issue exit visas to opposition figures violates the pact's principle of freedom of travel. The continued arrests of CPDS, UP, and FDR activists further undermined the Government's claims that it abides by the pact, as did its continued restrictions on freedom of movement and the continued lack of access to government media by the opposition.

In 1998 the Government enacted a new electoral law that mandates the replacement of open voting by secret ballots in future elections but prohibits coalitions between political parties, which weakens the opposition by preventing the formation of any opposition umbrella groups.

The legislative elections that should have been held in the fall of 1998 were postponed until March 7. The new electoral census was completed in December 1998, but not all of the opposition parties agreed to sign it. International observers considered the election process to be seriously flawed. The UP and CPDS opposition parties won only 5 of the 80 seats, refused to take their seats in the new legislature, and called for the results to be annulled and new elections held.

Although there are no legal restrictions on the participation of women in politics; however, women remain seriously underrepresented in government positions. There are 4 women in the 41-member Cabinet, and 5 in the 80-member legislature.

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

There are no effective domestic human rights nongovernmental organizations. No international human rights NGO has permanent presence in the country. The Government does not recognize their reports or acknowledge their credibility.

The U.N. Special Rapporteur for Human Rights visited in March and December 1998 and ostensibly received the Government's cooperation. The Government made strenuous efforts to have the Rapporteur replaced and was successful early in the year. A new Rapporteur visited the country in November.

In April the Government promulgated a new law governing NGO's that is restrictive and identifies those specific areas in which they may operate: human rights is not one of these areas.

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

While the Constitution condemns all forms of discrimination, both governmental and societal discrimination continued. These are reflected in traditional constraints

on women's education and in restricted opportunities for professional and occupational achievement by ethnic minorities. The Government deliberately limits potential opportunities for ethnic minorities, and the Fang actively discriminate against the Bubi and other ethnic minorities.

Women.—Societal violence against women, particularly wife beating, is common. The public beating of wives is forbidden by government decree, but violence in the home generally is tolerated. The Government does not prosecute perpetrators of domestic violence.

Although the Constitution provides for equal rights, women largely are confined by custom to traditional roles, particularly in agriculture. Polygyny, which is widespread among the Fang, contributes to women's secondary status, as does limited educational opportunity. On average women receive only one-fifth as much schooling as men do.

There is no discrimination against women with regard to inheritance and family laws, but there is discrimination in traditional practice. For an estimated 90 percent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife must return the dowry given her family by the bridegroom at the time of marriage, while the husband automatically receives custody of all children born after the marriage. The mother maintains custody of all children born prior to the marriage.

Similarly, in the Fang, Ndowe, and Bisio cultures, primogeniture is practiced, and as women become members of their husband's family upon marriage, they usually are not accorded inheritance rights. According to the law, women have the right to buy and sell property and goods, but in practice the male-dominated society permits few women access to sufficient funds to engage in more than petty trading or to purchase real property beyond a garden plot or modest home.

Children.—No provisions for the welfare of children are legislated. The Government devotes little attention to children's rights or their welfare and has no set policy in this area. Education is compulsory up to the age of 18, but the law is not enforced.

People with Disabilities.—There is no constitutional or legal provision for the physically disabled with respect to discrimination in employment or education. No legislation mandates access for the disabled to buildings or government services.

National/Racial/Ethnic Minorities.—There is no legal discrimination against ethnic or racial minorities, and the Government does not overtly limit their participation; however, the monopolization of political power by the President's Mongomo clan of the Fang ethnic group persists. In practice some members of minorities face discrimination because they are not members of the Fang ethnic group, or belong to a Fang subclan other than the President's. Minorities do not face discrimination in inheritance, marriage, or family laws.

Differences between the majority Fang ethnic group and the Bubi ethnic minority are a major source of political tension and often have erupted into violence. Bubis led the January 21, 1998, separatist revolt on Bioko, after which the Fang-dominated Government and the security forces intensified their longstanding institutionalized repression of the Bubis and allowed Fang vigilante groups to abuse Bubi citizens with impunity. Before independence the Bubis were a majority of the population on the island of Bioko (then Fernando Po), which was both administratively distinct from and more economically developed than the larger and more populous mainland (then Rio Muni), where the Fang were a majority. The two Spanish colonies were united 9 years before independence, after which many Fang migrated to Bioko, where Malabo, the capital, is located. The Fang dominated the united independent state; during the first decade after independence, misrule by Obiang's uncle, Macias Nguema, reduced the country's population by about one-third and devastated the economy.

Differences among clans of the Fang ethnic group, in particular resentment of the political dominance of the Mongomo clan, are also sources of significant political tensions and occasional violence; however, there were no reports of such violence during the year.

Several thousand citizens of Nigeria, Ghana, and Francophone Africa continue to reside in the country. Most are small traders and businesspersons. The police reportedly continued to harass them (see Section 1.d.).

Section 6. Worker Rights

a. *The Right of Association.*—Although the Constitution provides for the right to organize unions, the Government has not passed enabling legislation. In the small wage economy, no labor unions exist, although there are a few cooperatives with limited power. The law prohibits strikes. The Labor Code contains provisions to uphold worker rights, but the Government generally does not enforce them.

It generally is acknowledged that membership in the PDGE, the President's party, is a prerequisite for hiring and promotion, both in the public and private sectors (see Section 1.f.). Membership in a rival political organization is considered grounds for dismissal from any position, public or private. Opposition politicians who are not participating in the Government often claim to have been dismissed from their jobs after joining alternate political groups.

The country's major private employer, the oil industry, which is dominated by foreign firms, took steps to reduce government control of hiring in the industry. In previous years, international oil companies operating in the country hired Equatoguinean employees exclusively through a government agency, APEGESA, which screened applicants for positions and reportedly excluded those whom it considered unfriendly or indifferent to the PDGE. During the year, the oil companies ceased to use an exclusive contractor and hired primarily on the basis of testing designed to identify the best candidates for further training.

APEGESA in the past reportedly kept nearly two-thirds of employees' wages. Recent legislation mandates that oil workers receive at least 60 percent of their wages. Oil sector workers receive a much higher scale than elsewhere in the national economy, often 10 times the minimum wage. The Minister of Mines and Energy allegedly manages APEGESA. In the past, when several employees signed a petition complaining of ill treatment, they were fired.

The Government does not allow unions to affiliate internationally.

b. *The Right to Organize and Bargain Collectively.*—There is no legislation regarding these rights or prohibiting antiunion discrimination. There is little evidence of collective bargaining by any group. The Government and employers set wages, with little or no participation by the workers. Employers must pay the minimum wages set by the Government, and most companies pay more than the government-established minimum.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law forbids forced or bonded labor (including that performed by children) and slavery, and there generally were no reports of these practices; however, convicted felons perform extensive labor outside prison without compensation, which is provided for by the law.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for the employment of children is 18 years, but the Ministry of Labor does not enforce this law. The Government also does not enforce the law that stipulates mandatory education up to the age of 18. Underage youth perform both family farm work and street vending. The Labor Code prohibits forced or bonded labor by children, and there were no reports that it exists (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum monthly wage was approximately $41 (27,000 CFA francs). The minimum wage is not sufficient to provide a decent standard of living for a worker and family.

The law prescribes a standard 35-hour workweek and a 48-hour rest period, which are observed in practice in the formal economy.

The Labor Code provides for comprehensive protection for workers from occupational hazards; however, the Government does not enforce this in practice. Employees who protest unhealthy or dangerous working conditions risk losing their jobs.

f. *Trafficking in Persons.*—No law was known to prohibit trafficking in persons; however there were no reports that persons were trafficked in, to, or from the country.

ERITREA

Eritrea became an independent state in 1993, following an internationally monitored referendum in which citizens voted overwhelmingly for independence from Ethiopia. The Eritrean People's Liberation Front (EPLF), which led the 30-year war for independence, has controlled the country since it defeated Ethiopian armed forces in 1991; its leader, Isaias Afwerki, serves as the President. The EPLF became the People's Front for Democracy and Justice (PFDJ), and redefined itself as a political party in 1994; it is the sole political party. The Government continues to delay its stated program to hold elections: elections originally scheduled for 1998 were postponed indefinitely due to the outbreak of an armed border conflict with Ethiopia that began in May 1998. The Constitution provides for democratic freedoms; however, while it entered into force in May 1998, its provisions have not been implemented fully yet. The judiciary is formally independent, but it is weak and subject to executive interference.

The police are responsible for maintaining internal security, although the Government may call on the 200,000 member armed forces, the reserves, and demobilized soldiers in response to both domestic and external security requirements. In May 1998, fighting broke out between Eritrean armed forces and Ethiopian militia along the border. Eritrea responded to an escalating military conflict by calling up reserves and increasing its armed forces to approximately 200,000 soldiers. In addition to the border conflict, the army has been forced to deal with the Eritrean Islamic Salvation (EIS), a small, Sudan-based insurgent group that has mounted terrorist attacks in the north and west since 1993. Some members of the security forces committed human rights abuses.

The border conflict with Ethiopia has interfered with Eritrea's transition from a deteriorating centrally planned economy to a market-based economy through the privatization of formerly state-owned enterprises and the liberalization of investment and trade. The local currency was devalued by 34 percent, economic growth virtually ceased, and private foreign investment was halted. The termination of trade relations with Ethiopia, the country's largest trade partner prior to the conflict, has created serious disruptions in export markets. The integration of more than 67,000 ethnic Eritrean deportees from Ethiopia and the large number of internally displaced persons have strained resources, and there is a shortage of skilled labor in many areas as a result of increased military conscription. While trade, services, and manufacturing provide the greatest portion of gross domestic product, the rural economy is based largely on subsistence agriculture, with more than 70 percent of the population of 3.6 million involved in farming and herding. The small industrial sector consists mainly of light industries, many using outmoded technologies. International economic assistance has accounted for a significant portion of external revenues, with loans replacing grants. Citizens who live abroad also provide a significant source of external revenues. The country is extremely poor, with an annual per capita income of less than $238.

The Government's human rights record was poor, and serious problems remain; however, there were improvements in some areas. Citizens did not have the ability to change their Government, which is dominated by the PFDJ. Although a constituent assembly ratified a new Constitution, the Government has not yet fulfilled its stated program for a transition to democracy. Security forces laid thousands of landmines; landmines resulted in the deaths of a number of persons. There were reports that police at times treated ethnic Ethiopians roughly. The Government generally does not permit prison visits by local or international human rights groups, although the Government permitted some independent monitoring of conditions in detention facilities after the conflict with Ethiopia began. Arbitrary arrest and detention are problems. An unknown number of persons suspected of association with the Ethiopian Mengistu regime, radical Islamic elements, or terrorist organizations remain in prolonged detention. However, after the outbreak of conflict with Ethiopia, the Government began to grant representatives of the International Committee for the Red Cross (ICRC) broad access to prisoners and detainees, but not to Ethiopian prisoners of war (POW's). The Government's actions were prompted in large measure by Ethiopian allegations of substantial human rights violations against Ethiopians resident in Eritrea. The provision of speedy trials is limited by a lack of trained personnel, inadequate funding, and poor infrastructure, and the use of a special court system limits due process. There were some infringements on the right to privacy. The Government restricts press freedom, including the rights of the religious media, and there are some limits on the freedom of association. The Government restricts religious freedom and freedom of movement. Societal discrimination against women is a problem, and female genital mutilation (FGM) remains widespread despite official government discouragement of the practice. Jehovah's Witnesses face some societal discrimination. The Government supported armed opposition groups whose attacks in Ethiopia resulted in some civilian deaths.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Extrajudicial Killing.*—Ethiopian media alleged that the Government was responsible for the extrajudical killing of Ethiopians in Eritrea; however, investigation of these allegations by international human rights groups, and local and foreign officials revealed no evidence to substantiate the charges.

There were unconfirmed reports that in November soldiers killed 17 Ethiopian Afar civilians during a cross-border attack.

During the year, the Government provided support to armed groups that had long-opposed the Ethiopian Government and, as a result, there was an increase in armed attacks within Ethiopian territory by these opposition groups operating most-

ly out of Somalia and Kenya. These attacks took the form of landmine incidents and hit-and-run attacks by guerrillas armed with small arms and grenades. Some civilians and combatants were killed as a result of these attacks and in confrontations between Ethiopian government forces and the guerrillas, although the total number of deaths could not be confirmed.

According to U.N. officials, government forces laid approximately 50,000 to 60,000 landmines in the Badme area during their 8-month occupation of this disputed territory. There were reports that at least 10 Ethiopian civilians were killed by landmines while attempting to return to their farms in the Badme area.

There are an estimated 150,000 to 200,000 landmines in the country, mostly laid by Ethiopia during the 1961–91 war in which Eritrea fought for independence. On occasion, new mines were laid by the EIS. There were reports that at least 18 civilians were killed by landmines during the year; however, this figure is considered to be very low since many such incidents in isolated rural areas are never reported.

In February as part of the border conflict, an Ethiopian plane bombed the Eritrean village of Laili Dada, killing at least five persons and wounding several others.

There were reports that Ethiopian forces shelled the border town of Adi Keyih in April, killing at least eight civilians and wounding dozens of others.

b. *Disappearance.*—There were no reports of politically motivated disappearances. During the border conflict with Ethiopia, Ethiopian media alleged that Ethiopians in Eritrea had disappeared. Investigation of the Ethiopian allegations by international human rights groups, and local and foreign officials revealed no evidence to substantiate the charges.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Ethiopian Penal Code, as modified by the transitional Penal Code of Eritrea, prohibits torture, and, unlike the previous year, there were no reports of torture or serious physical abuse; however, there were credible reports that on occasion police used rough physical treatment when dealing with army deserters and with homeless ethnic Ethiopians sleeping on the streets in Asmara. Ethiopian media alleged that Ethiopians in Eritrea were tortured. Investigation of the Ethiopian allegations by international human rights groups, and local and foreign officials revealed no evidence that the Government had tortured, beaten, or abused Ethiopians.

There were a number of instances in which private individuals threatened and beat Ethiopians. The Government and the police generally took action to prevent such abuse; for example, in Adi Keyih in March, the chief of police was able to halt the beatings of a number of Ethiopians. However, there were credible reports of several incidents in which police allowed citizens to abuse ethnic Ethiopians, intervened too late to prevent abuse, or were unable to control such abuse.

There have been a number of civilians injured as a result of the conflict with Ethiopia. In February Ethiopian planes bombed Laili Dada, injuring several persons. There were reports that on April 15, Ethiopian forces attacked the Eritrean town of Adi Keyih, injuring 10 school children and an elderly man. In May Ethiopian forces bombed the port of Massawa reportedly wounding three persons (see Section 1.a.).

Prison conditions are Spartan. The Government permits three visits per week by family members. There were no confirmed reports that any prisoners died due to lack of proper medical care. Although in previous years, there were occasional reports that authorities beat or abused prisoners, there were no such reports during the year. Juvenile offenders are often incarcerated with adults. There are no juvenile detention centers or correction facilities.

The Government generally does not permit prison visits by local or international human rights groups; however, in 1998 the Government began to permit some independent monitoring of conditions in detention facilities after the conflict with Ethiopia began. The Government continued to deny the ICRC access to Ethiopian POW's.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention is a problem. The Penal Code stipulates that detainees may be held for a maximum of 30 days without being charged with a crime. In practice the authorities sometimes hold persons suspected of crimes for much longer periods. In May 1998, the Government arrested approximately 1,000 Ethiopians suspected of supporting Ethiopia in the border conflict. By year's end, almost all of these individuals had been released and many chose to be repatriated to Ethiopia. Fewer than 20 Ethiopians remained in detention at year's end.

There were reports that many Ethiopians were detained in February and March, apparently to protect them from being beaten by private citizens. In March in Adi Keyih, police held approximately 20 Ethiopians in jail for 3 days. According to the

chief of police, they "could not control the townspeople" and were holding the Ethiopians in protective custody.

In 1995 on the second anniversary of independence, the Government pardoned and released 91 detainees who had been held for up to 4 years for collaboration with the Mengistu regime. An unknown number of additional suspected collaborators remain in detention without charge, despite a statement by President Isaias in 1995 that their cases would be considered soon. An unspecified number of persons associated with radical Islamic elements or suspected terrorist organizations also remained in detention without charge. There were unconfirmed reports that the Government arbitrarily holds several Eritrean Liberation Front members. Authorities sometimes arbitrarily arrest and detain former combatants or members of the PFDJ who violate an unwritten code of conduct (see Section 1.e.).

In March representatives of Jehovah's Witnesses reported that three members of Jehovah's Witnesses have been detained without trial or charge for more than 4 years, allegedly for failing to participate in national service (see Section 2.c.).

There were unconfirmed reports that the Government continued to hold approximately 30 Muslims arrested in 1994 after the Government severed relations with Sudan.

The Government generally does not use exile as a means of political control; however, immediately following the outbreak of hostilities with Ethiopia in 1998, the Government expelled approximately 1,000 Ethiopians from Eritrea, many for alleged security concerns. Since that time, several thousand Ethiopians have left Eritrea, although the large majority chose to leave voluntarily, in many cases because of the negative economic impact of the conflict. Following the renewal of fighting in February, the Government moved approximately 1,500 ethnic Ethiopians and some Eritreans away from the combat zone and temporarily resettled them in a camp in Hawasheit. The Government then deported the ethnic Ethiopian women and children from Eritrea to Ethiopia without notification to the ICRC or the Ethiopian authorities. Approximately 500 ethnic Ethiopian men of military age were sent to a second camp in Forto, and eventually were released in the cities of Agordat, Keren, and Asmara with warnings not to return to the border area.

e. *Denial of Fair Public Trial.*—The judiciary is formally independent but is weak and subject to executive interference. The continued use of an executive special court system allowed ongoing executive interference with the judiciary. In addition, the judicial branch is administered as part of the Ministry of Justice and relies on the Ministry for logistical and salary support, thereby further limiting the judiciary's independence.

The judicial system has three parts: civilian, military, and special courts. The civilian court system consists of village courts, subregional courts, regional courts, and a High Court that serves as an appellate court. The still developing judicial system suffers from a lack of trained personnel, inadequate funding, and poor infrastructure that in practice limits the State's ability to grant accused persons a speedy trial. Although 16 new courthouses were completed in 1998, further development of the judicial infrastucture was constrained due to the conflict with Ethiopia. At independence the Government chose to retain the Ethiopian legal system. Under this Code, simple crimes are brought to village courts and subregional courts. More serious offenses are argued before regional courts, and cases involving murder, rape, and other serious felonies are heard by the High Court. All cases except those argued before the High Court are heard by a single judge: on the High Court, panels of three judges hear cases. Defendants have access to legal counsel, usually at their own expense. Although there is no formal public defender's office, the Government has requested successfully that attorneys work without fee to represent defendants accused of serious crimes punishable by more than 10 years in prison who are unable to afford legal counsel. Defendants may appeal verdicts to the High Court, which is composed of a president and five judges.

Since the population is largely rural, most citizens only have contact with the legal system through the traditional village courts. Village judges, appointed by a panel of government magistrates, provide justice in civil matters. Criminal cases are transferred to magistrates versed in criminal law. Many local issues—for example, property disputes and most petty crimes—are adjudicated by local elders according to custom or, in the case of Muslims, Shari'a law. The traditional courts cannot impose sentences involving physical punishment. The Ministry of Justice also is offering seminars in alternative dispute resolution for handling petty criminal and civil cases.

The drafting of many civilians, including court administrators, defendants, judges, lawyers, and others involved in the legal system, into the National Service due to the border conflict with Ethiopia had a significant negative impact on the judiciary. The High Court was reduced from seven benches to three benches and provincial,

zone, and village court personnel were reduced by 40 percent. Most of the 21 University of Asmara law school graduates who were hired by the Ministry of Justice in 1998 were drafted for national service as a result of the border conflict as well. As a result of these personnel constraints, there were lengthy delays in the processing of cases.

In February 1997, in order to reduce the growing backlog in the civilian court system, the Defense Minister created the special court system. Judges in the special courts are senior military officers, most of whom have little or no legal experience. The special courts have jurisdiction over criminal cases, including capital offenses, felonies, misdemeanors, cases of tax evasion involving large sums and cases of embezzlement by senior officials. The special courts may also retry civilian court cases, including those decided by the High Court. In 1997 the press reported that 2,431 civilians had been tried by these special courts. Approximately half were fined and imprisoned, while 360 were found not guilty. There was no information available on the remaining 850 civilians. In the special courts there are no defense lawyers and no right of appeal. The continued handling of civilian cases by these special courts raised problems of due process because of the absence of defense counsel and denial of the right to appeal. In past years, the denial of due process has been a problem on occasion for critics of the Government (see Section 2.a.).

Crimes involving corruption, theft, and misuse of government authority allegedly committed by former members of the EPLF during the war for independence are handled by the special courts. Senior former fighters often are held to a stringent unwritten code of conduct, and violations of this code are handled by special courts outside the normal judicial process. Former fighters accused of violating this circle of trust have been arrested and held without formal charge.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Under the law, warrants are required in routine searches and seizures, except in cases where authorities believe individuals may attempt to escape or destroy evidence. Warrants also are required before the Government can monitor mail, telephones, or other means of private communication. There is no evidence that the Government monitored private mail service, but there is evidence that the Government monitored some international telephone calls. In July the Government began the process of implementing Internet access through its telecommunications system. The Government has the authority to ban the import of any foreign publication; however, it has not yet done so (see Section 2.a.).

There were numerous reports that on April 16, officials of the Capital Area Administrative Zone and the police rounded up hundreds of evening secondary school students during the mid-term exam period to examine their identification documents to determine eligibility for military service. While many students were released by the following morning because they were too young for military service, were not Eritrean, or were able to demonstrate that their financial support of other family members was critical, approximately 350 students were sent directly to military training.

There were reports that a small number of Ethiopians were expelled from their homes in Eritrea near the Ethiopian border. There were also reports that police harassed or intimidated some Ethiopians. A significant but unknown number of Ethiopians were fired or lost their jobs due to their nationality. However, in some cases, this was due to the fact that Ethiopians were working for Ethiopian businessmen who left the country or who found that their enterprises were no longer viable because they had lost their Eritrean clients. An estimated 1,000 Ethiopians in the Asmara region, who no longer can pay rent, are homeless and destitute.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, in practice, the Government restricts these rights, although it did so to a lesser extent than in the previous year. In late October, the Government arrested an editor who refused to disclose the address of a reader whose "letter to the editor" criticized the commercial practices associated with Saudi Airlines operations in the country. The editor was arraigned, charged with slander, and released pending a trial scheduled for February 2000. He was rearrested briefly in late November for additional questioning. While the Government has tolerated increased public debate over government decisions since the outbreak of the conflict with Ethiopia, the media continued to practice self-censorship.

The Government controls almost all media, including three newspapers, one radio station, one television station, and the only newspaper printing press. There are no private radio or television stations; however, the independent print media flourished during the year. The Government has the authority to ban the import of any foreign

publication, although it has not yet done so. The press proclamation issued in 1996 forbids the local reprinting of articles from banned publications. The Government continued to restrict the right of the religious media to comment on politics or government policies. In theory nonreligious print media are free to criticize the Government. Nonetheless, criticism tends to be limited and fairly mild, and the media practices self-censorship.

The Government's press proclamation allows individuals to publish newspapers, and private newspapers and magazines began publishing at the end of 1997. There were 11 independent newspapers and magazines operating at year's end and 1 of these, Setit, had the largest circulation. The success of Setit marked a step towards the development of a free press. However, the press proclamation does not allow private ownership of any broadcast media or foreign ownership of any media. The Proclamation requires that all newspapers obtain a license from the Ministry of Information before publication and that all reporters register with the Ministry. The Government also may punish "whosoever insults, abuses, defames, or slanders the Government or one of the constituted legislative, executive, or judicial authorities," and forbids the publication of any matter that contravenes general morality. In November independent journalists were informed that copy submitted for printing would be required to have the signature of several Ministry of Information censors. In response to threats to publicize this information, the Ministry of Information stated that, henceforth, all independent weeklies would be advised if content was objectionable and would be warned when a piece ought not be published, but that they would be free to print despite those cautions. There were no reports of arrests or prosecutions under this authority; however, this authority has hindered the development of print or broadcast media critical of the Government.

There were no restrictions on academic freedom. In April police reportedly rounded up hundreds of evening secondary school students for military service while they were taking exams (see Section 1.f.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respected this right in practice. The Government requires a permit from the Ministry of Local Government for a public meeting or demonstration. In general, permits are granted freely for nonpolitical meetings or gatherings, and there were no reports that permits for political demonstrations were denied.

The Constitution provides for freedom of association and states that every citizen shall have the right to form organizations for political, social, economic, and cultural ends; however, the PFDJ has stated its opposition to the formation of any religiously or ethnically based parties on the grounds that such parties could exacerbate ethnic and religious differences.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricts this right in practice. The Constitution provides for the "freedom to practice any religion and to manifest such practice" and Islam and Christianity are practiced and tolerated widely throughout the country with persons free to worship at the church or mosque of their choice. However, the Government continued to harass, arrest, detain, and discriminate against members of the small community of Jehovah's Witnesses.

Members of Jehovah's Witnesses have refused universally on religious grounds to participate in national service or vote in a referendum. This spurred widespread criticism that members of Jehovah's Witnesses collectively were shirking their civic duty. Some Muslims have also objected to universal national service with regard to the requirement that women perform military duty. The Government does not excuse individuals who object to national service for religious reasons, nor does the Government allow alternative service. Although other individuals reportedly have been punished for failure to participate, only members of Jehovah's Witnesses have been subject to dismissal from the civil service, had their trading licenses revoked, and been denied passports due to their refusal to participate in national service. In addition to these measures, members of Jehovah's Witnesses also are denied identification cards, exit visas, trading licenses, and government housing universally, unless they fulfill their civic obligations, some of which are prohibited by their religious beliefs. In 1998 several members of Jehovah's Witnesses were arrested for failure to comply with the National Service Law and some were tried, although there is no information available regarding the verdicts or sentences in these cases. In March representatives of Jehovah's Witnesses reported that three members of Jehovah's Witnesses have been detained without trial or charge for more than 4 years, allegedly for failing to participate in national service. The maximum penalty for refusing to perform national service is only 3 years' imprisonment. Ministry of Justice officials deny that any members of Jehovah's Witnesses were held without charge, although they acknowledge that some members of Jehovah's Witnesses, and a num-

ber of Muslims, are in jail serving sentences for convictions on charges of evading national service.

The Government has banned religious organizations from involvement in politics and restricts the right of the religious media to comment on politics or government policies (see Section 2.a.).

The Government discouraged proselytizing by members of one faith among adherents of another, and also discouraged foreign religious groups and nongovernmental organizations (NGO's) from proselytizing, as it believes that this could create unnecessary friction in the delicate balance between the Muslim and Christian populations. In a 1995 proclamation, it described specific guidelines on the role of religion and religion-affiliated NGO's in development and government, stating that development, politics, and public administration are the sole responsibility of the Government and citizens. Pursuant to the 1995 proclamation, religious organizations are permitted to fund, but not initiate or implement, development projects; however, this proclamation was not enforced in practice—several religious organizations executed small-scale development projects without government interference. The 1995 proclamation also sets out rules governing relations between religious organizations and foreign sponsors.

Authorities informed all religious organizations in April 1998 that religiously funded schools providing general education would be incorporated into the public school system. At the time, it was not made clear whether the clerical authorities would continue to administer the curriculum with government oversight or whether the school faculty would be absorbed into the Ministry of Education. However, no action was taken to implement this initiative because of the outbreak of the border conflict with Ethiopia. In January 1998, the Government decreed that religiously affiliated organizations were prohibited from running kindergartens; however, this decree has not been implemented yet.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the rights of movement and emigration. In general citizens may live where they choose and travel freely throughout the country. However, some areas are restricted for security reasons. The border with Ethiopia was closed in May 1998, due to the outbreak of conflict, although Eritreans deported from Ethiopia crossed the border and were allowed to resettle in Eritrea. More than 67,000 ethnic Eritreans have been deported from Ethiopia. The deportees were provided with a $200 (1500 nakfa) grant from the Eritrean Relief and Refugee Commission, and, if they wished, were placed in villages with friends or family. Those who no longer had connections in Eritrea were placed temporarily in camps with other deportees and internally displaced persons before being PERSONAL COMPUTER^J063935-A935A*-197-*****-*****-Payroll No.: -Name: -Folios: -Date: April 28, 2000 -Subformat: settled in the general population. In order to facilitate the deportees' integration into society, the Government has provided deportees with documentation of Eritrean citizenry. Some of the deportees that have assumed Eritrean citizenry were ordered to report for military service. The Government significantly improved the process for the granting of exit visas to Ethiopians who wish to leave Eritrea.

Clashes between government forces and EIS members in 1997 led the Government to restrict travel along much of the border with Sudan. Some areas remain heavily mined, a legacy of the war for independence, and occasionally new mines are set by the EIS, leading to additional travel restrictions (see Section 1.a.).

Citizens largely are free to travel outside the country, although members of Jehovah's Witnesses (see Section 2.c.), officials of the former Ethiopian military regime, and those who have not completed national service have been denied passports or exit visas. In addition, as a result of the conflict with Ethiopia, the Government increasingly denied exit visas to some young men and women, apparently on the ground that they were approaching the age of eligibility for national service. In general citizens have the right to return. Instances in which citizens living abroad have run afoul of the law, have contracted a serious contagious disease, or have been declared ineligible for political asylum by other governments are considered on a case-by-case basis.

Approximately 250,000 Eritreans have been displaced internally as a result of the conflict with Ethiopia. Many internally displaced persons have been settled temporarily in camps that also shelter deportees from Ethiopia. According to the ICRC, the conditions in the camps are Spartan but generally adequate.

Following the renewal of fighting in February, the Government moved approximately 1,500 ethnic Ethiopians and some Eritreans away from the combat zone to a camp in Hawasheit. The Government then deported the ethnic Ethiopian women and children from Eritrea to Ethiopia, but released the men with warnings not to return to the border areas (see Section 1.d.).

The law includes provisions for the granting of refugee or asylee status in accordance with the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum and provided it to Sudanese refugees from the conflict in Sudan during the year. There were also approximately 2,200 Somalian refugees in the country. The Eritrean Relief and Refugee Commission, a government agency, is the principal organization for refugee issues.

A pilot refugee return program sponsored by the UNHCR resulted in the repatriation of 25,000 Eritrean refugees from Sudan in 1995. However, the estimated 136,000 Eritrean refugees remaining in Sudan were not repatriated under the program because of the failure of the governments of Eritrea and Sudan to conclude an agreement on the modalities of such a repatriation. In December the Government and the UNHCR reached agreement on a repatriation program scheduled to begin in the year 2000 for the remaining Eritrean refugees in Sudan.

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

Although the Constitution provides for this right, citizens have not yet been able to change their government in multiparty elections. Credible reports suggest that authority within the Government is held very narrowly. The Government is dominated by the PFDJ, which came to power in the 1993 popular referendum in which over 98 percent of voters chose an independent Eritrea managed by a transitional government run by the PFDJ rather than electing to remain part of Ethiopia. The PFDJ still has not fulfilled the ambitious program that it initially outlined for a transition to a democratically elected government in 1997. Elections originally scheduled for 1997 were postponed until 1998. An electoral commission was established in 1997 to draft an electoral code for 1998 elections, but accomplished little because of the outbreak of the border conflict with Ethiopia, and elections again were postponed, this time indefinitely. There are no opposition parties. The government leadership stated that public education and institutional structures were needed before multiparty democracy would be established.

Women are underrepresented in government and politics. In an effort to encourage broader participation by women in politics, the PFDJ named 3 women to the party's Executive Council and 12 women to the Central Committee in 1997. Women participated in the Constitutional Commission (filling almost half of the positions on the 50-person Committee) and hold senior government positions, including the positions of Minister of Justice, and Minister of Labor.

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

The Ministry of Foreign Affairs and the Ministry of Local Government jointly are responsible for handling human rights inquiries. All NGO's also must register with the Eritrean Relief and Refugee Commission. There are no domestic or international human rights organizations. In 1997 the Government proclaimed a policy restricting NGO activities to supporting the Government in the sectors of health and education. One human rights group, Citizens for Peace, was formed during 1998 to investigate and publicize Ethiopia's deportation of Eritreans. Journalists from the country's 11 independent newspapers met late in the year and formed an organizing committee to establish an independent journalists' organization. In October they filed for a license with the Ministry of Local Government, but had not received it by year's end.

In 1995 the Government proclaimed that religious organizations, including religious-based NGO's, could not engage in development activities; however, this proclamation has not been enforced in practice (see Section 2.c.). In addition, in the latter part of the year, the four main religious groups (Orthodox, Catholic, Muslim, and Protestant) created a committee to coordinate the provision of relief services to ethnic Eritrean deportees from Ethiopia in conjunction with the Eritrean Refugee and Relief Organization. A 1998 decree prohibiting religiously affiliated organizations from running kindergartens has not been implemented yet (see Section 2.c.). In May 1998, the Government announced that all religiously funded schools providing a general education were to be incorporated into the state system, although no schools had been incorporated into the state system by year's end (see Section 2.c.).

A governmental proclamation issued in 1996 required that all private NGO's hire only those who have completed their national service; however, this proclamation was not enforced in practice. This proclamation was part of the Government's effort to provide benefits to citizens who have served in the military.

In January 1998, the Government ordered remaining NGO's to close down their programs, allegedly because they wasted too much money on administrative costs.

Most NGO's left by mid-year, although several remained at year's end including Dutch Interchurch Aid, Lutheran World Federation, and Africare. However, several NGO's returned during the year when the Government sought to encourage greater NGO participation in development and humanitarian aid. Oxfam and Save the Children/UK established offices in the country during the year.

In July 1998, the ICRC opened an office in the country. The ICRC was granted full access to assist those Ethiopians who wished to depart Eritrea and coordinated with its counterpart office in Addis Ababa to supervise cross-border exchanges. The ICRC expanded its programs during the year and provided shelter and supplemental food to approximately 250,000 persons displaced by the conflict with Ethiopia. The ICRC also was permitted access to the few Ethiopians who remained in detention. However, the ICRC was not permitted to visit Ethiopian POW's (see Section 1.c.).

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

The Constitution and the transitional Civil Code prohibit discrimination against women, children, and the disabled, and the Government generally enforces these provisions.

Women.—The Government has taken a firm public stance against domestic violence. Health, police, and judicial authorities report that no serious domestic violence problem exists.

The Government consistently advocated improving the status of women, many of whom played a significant role as fighters in the struggle for independence. Since independence women have enjoyed a legal right to equal educational opportunities, equal pay for equal work, and legal sanctions against domestic violence. In 1994 the Third Party Congress advocated more rights for women, including parity in the right to land and other property. However, much of society remains traditional and patriarchal, and most women have an inferior status to men in their homes and communities. The law provides a framework for improving the status of women, but laws are implemented unevenly, because of a lack of capacity in the legal system and ingrained cultural attitudes. In practice, males retain privileged access to education, employment, and control of economic resources, with more disparities in rural areas than in cities.

The law requires that women between the ages of 18 and 40 participate in the national service program, and during the year women were engaged in fighting in the conflict with Ethiopia. During the year, the Government began removing women from direct combat and assigning them other responsibilities, including training and heavy equipment operations.

Children.—The Ministry of Labor and Human Welfare is responsible for government policies concerning the rights and welfare of children. In 1996 the Government created the Children's Affairs Division under the Ministry of Labor and Human Welfare. The Children's Affairs Division covers childcare, counseling, and probation. Education through grade 7 is compulsory and free; however, while the situation improved, there is a shortage of schools and teachers, and only about 60 percent of primary-school-aged children attend school. School attendance above grade 7, which is neither free nor compulsory, is 53 percent. Approximately 75 percent of the population are illiterate.

A small number of children under the age of 18 entered military service, usually as the result of the absence of a proper birth certificate or other identification. When soldiers were found to be under the age of 18, they were removed from service.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is widespread, with estimates placing the number of women and girls who have been subjected to FGM at 95 percent. FGM is practiced by almost all ethnic and religious groups. There is no law prohibiting FGM. The Government, through education programs sponsored by the Ministry of Health and the National Union of Eritrean Women, a government organization, discourages this practice.

People With Disabilities.—The long war for independence left thousands of men and women physically disabled from injuries they received as guerrillas and as civilian victims. The Government spends a large share of its resources to support and train these war disabled citizens, who are regarded as heroes, and does not discriminate against them in training, education, or employment. There are no laws mandating access for the disabled to public thoroughfares or public or private buildings; however, many newly constructed buildings provide access for disabled persons.

Religious Minorities.—Members of Jehovah's Witnesses generally are disliked and face some societal discrimination because of their refusal to participate in the inde-

pendence referendum in 1993 and to perform national service, a refusal that is seen widely as unpatriotic.

Section 6. Worker Rights

a. *The Right of Association.*—There are no government restrictions regarding the formation of unions, including within the military, the police, and other essential services. Labor association is encouraged by the Government, which promulgated Proclamation 8 in 1991 providing workers with the legal right to form unions and to strike to protect their interests. The National Confederation of Eritrean Workers (NCEW), which was part of the EPLF during the war, is independent of both the Government and the PFDJ. It represents over 23,000 workers from 129 unions and receives some assistance from the ILO and foreign union organizations. The largest union is the Textile, Leather, and Shoe Federation. There were no strikes reported during the year.

During the year, the Government ratified seven basic ILO conventions on forced labor, freedom of association, the right to organize and bargain collectively, equal remuneration, abolition of forced labor, non-discrimination in employment, and minimum age for employment.

Unions may affiliate internationally, and all five workers' federations within the NCEW affiliated with international unions during the year.

b. *The Right to Organize and Bargain Collectively.*—The International Labor Organization (ILO) provided assistance in 1993 to prepare the draft labor code, which prohibits antiunion discrimination by employers and establishes a mechanism for resolving complaints of discrimination. Wages are determined by the market.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including that performed by children, and it is not known to occur. All citizens between the ages of 18 and 40 are required to participate in the National Service Program, which includes military training as well as civic action programs. High school students also are required to participate in a summer work program, for which they are paid.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment is 18 years, although apprentices may be hired at age 14. Labor inspectors in the Ministry of Labor and Human Welfare are responsible for the enforcement of laws pertaining to the employment of children. According to labor officials, 50 percent of children are not able to attend school due to a shortage of schools and teachers. It is common for rural children who do not attend classes to work on their family farms, and in urban areas, some children are street vendors of cigarettes, newspapers, or chewing gum. The Constitution prohibits forced or bonded labor, including that performed by children, and there were no reports that it occurred (see section 6.c.). There were reports that the Government inadvertently employed children under the age of 18 as soldiers (see Section 5).

e. *Acceptable Conditions of Work.*—There are two systems regulating employment conditions—the civil service system and the labor law system. There is no legally mandated minimum wage in the private sector. In the civil service sector, wages vary from $34 to $400 (320 to 3,800 nakfa) per month, with factory workers in government-owned enterprises earning the highest wages. The minimum wage does not provide the average worker and family with a decent standard of living.

The standard workweek is 44½ hours, but many persons work fewer hours. Under the Labor Law, workers are entitled to 1 day of rest per week, and most workers are allowed 1 to 1½ days off per week. The Government has instituted occupational health and safety standards, but inspection and enforcement vary widely among factories. Workers are permitted to remove themselves from dangerous work sites without retaliation.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

ETHIOPIA

Ethiopia continued its transition from a unitary to a federal system of government. Prime Minister Meles Zenawi leads the Government of the Federal Democratic Republic of Ethiopia (GFDRE), which was elected in 1995 to replace a transitional government established in the aftermath of a long and brutal civil war. Most opposition groups boycotted the elections. Candidates affiliated with the dominant party within the transitional government, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), won a landslide victory in national and regional elec-

tions. Although observers judged the elections to be generally free and fair, they cited irregularities. Officials affiliated with the dominant coalition, the EPRDF, control the Government, and the principal faction within the EPRDF remains Prime Minister Meles' Tigray Peoples' Liberation Front (TPLF). Federal regions, largely organized along ethnic lines, increasingly are autonomous and have a large degree of local control over fiscal and political issues. However, the relationship between the central Government and local officials and among various judiciaries lacks consistent coordination and occasionally actions are taken at the local level that conflict with stated federal policy. A long history of highly centralized authority, great poverty, civil conflict, and unfamiliarity with democratic concepts combine to complicate the implementation of federalism. The federal Government's ability to protect constitutional rights at the local level is limited and uneven. Local administrative, police, and judicial systems remain weak throughout the country. The judiciary is weak and overburdened, but continued to show signs of independence.

Military forces that had been assigned to help police and local militia in the Gambella and Benishangul-Gomuz regions establish order, control banditry, and curtail rebel activities were redeployed to areas bordering Eritrea. Without the military's assistance, these areas once again have experienced a breakdown in law and order. There was increased internal military presence in some parts of the Somali region and Oromiya. Armed conflict between the military forces of Ethiopia and Eritrea along contested border areas resumed in February. In addition, military forces conducted an increased number of low-level operations against the Oromo Liberation Front (OLF), the Somalia-based Al'Ittihad terrorist organization, and elements of the Ogaden National Liberation Front (ONLF) both in the country and in southern Somalia and northern Kenya. The national police organization is subordinate to the Ministry of Justice. Some local officials and members of the security forces committed human rights abuses.

The economy is based on smallholder agriculture, with more than 85 percent of the estimated population of 61.7 million living in rural areas under very basic conditions. Agriculture accounts for approximately 80 percent of total employment. Per capita gross national product (GNP) is estimated at $130 per year. Real GNP growth was 2 to 3 percent. Total exports declined 18 percent to $494 million. The decline was due to a drop in the export value of coffee. Coffee accounted for 70 percent of the value of 1998 exports and 60 percent of 1999 exports. The conflict with Eritrea has led to increased military spending. Military spending during the year was estimated to be $350 million. The Government continued to implement an economic reform program designed to stabilize the country's financial position, promote private sector participation in the economy, and attract foreign investment. In December the customs authority introduced a 10 percent surtax on most imports to raise funds for the war effort.

The Government's human rights record generally was poor; although there were improvements in a few areas, serious problems remain. Security forces committed a number of extrajudicial killings. In November security forces killed up to 10 persons in Sodo while suppressing widespread riots and demonstrations in protest of the imposition of a new language as a medium of instruction in schools. Security forces at times beat and mistreated detainees, and arbitrarily arrested and detained citizens. Prison conditions are poor, and prolonged pretrial detention remains a problem. The Government continued to detain persons suspected of sympathizing with or being involved with the OLF. The Government continued to detain and deport without due process Eritreans and Ethiopians of Eritrean origin. Since the outbreak of the border conflict in May 1998, more than 67,000 such persons have left Ethiopia for Eritrea; the vast majority were deported, although a small number left voluntarily. Another 1,200 male Eritreans and Ethiopians of Eritrean origin are being held in internment camps. Although prompted by national security considerations, the expulsions and detentions raised fundamental concerns regarding arbitrary arrest and detention, forced exile, the forcible separation of families, and nationality issues, as well as the hardships and financial losses suffered by those who were detained or expelled. The judiciary lacks sufficient trained staff and funds, which limits its ability to provide citizens the full protection provided for in the Constitution. The Government continued to train additional civil and criminal judges and assigned them to regional courts. The Supreme Court reduced the number of judges required to hear a simple civil proceeding from three to one, thereby speeding up the provision of justice. The Government infringes on citizen's privacy rights, and the law regarding search warrants is widely ignored.

The Government restricts freedom of the press and continued to detain or imprison members of the press; however, fewer journalists were detained than in previous years. At year's end, eight journalists remained in detention, three of whom where charged with alleged involvement with terrorist activities. Approximately 45

journalists obtained bail during the year but still are subject to trial. Most were accused or convicted of inciting ethnic hatred, committing libel, or publishing false information in violation of the 1992 Press Law. Nevertheless, the private press is active and flourishing. Although the Government has not banned formally any newspaper or publication, the publication of some journals remains suspended due to the detention of editorial staff, and journalists continued to practice self-censorship. The Government at times restricted freedom of assembly. Despite Ministry of Education assurances to the contrary, the independent Ethiopian Teachers' Association (ETA) was not permitted to organize seminars in the regions. The Government limits freedom of association; however, the nongovernmental organization (NGO) registration process, which is slow and tedious, continued to improve. The Ethiopian Human Rights Council (EHRCO) was registered after a 7-year effort, and the organization won a suit against the Government for blocking its bank accounts; however, the Government continues to refuse the registration of some NGO's. The Human Rights League (HRL), which was founded in 1997 by prominent Oromo civic leaders, has not been permitted to register, and its office records and equipment, confiscated by the Government in 1998, have not been returned. In June ETA secretary general Dr. Taye Woldesemayat was convicted and sentenced to 15 years imprisonment for treason. Four codefendants were given prison sentences ranging from 8 to 13 years. The sentences were much more severe than expected.

While in general the Government respects freedom of religion, on occasion local authorities infringed on this right. The Government restricted freedom of movement. In August Eritreans residing in Ethiopia and those Ethiopians of Eritrean origin who voted in the 1993 referendum on Eritrean independence were required to register with the SIRAA and issued 6-month residence permits. There were reports of the forced return of Djiboutian Afars who were not permitted to register as refugees. The border conflict with Eritrea, along with drought conditions in some areas, have displaced a large number of persons internally.

Violence and societal discrimination against women, and abuse of children remained problems, and female genital mutilation (FGM) is widespread. The National Committee on Traditional Practices in Ethiopia (NCTPE) reported in September 1998 that FGM occurs in 72.7 percent of the female population, down from 90 percent in 1990. The Government supports efforts to eliminate FGM and other harmful traditional practices; however, such practices are widespread. The exploitation of children for economic and sexual purposes remained a problem. There are approximately 150,000 street children in urban areas, and their number is growing daily. Societal discrimination against disabled persons was a problem. Discrimination against religious and ethnic minorities persists. Child labor was a pervasive problem. Forced labor was also a problem, and there were some reports of trafficking in persons.

The Government's Special Prosecutor's Office (SPO) continued conducting the trials of persons accused of committing crimes under the brutal Marxist regime (1974–91) of Colonel Mengistu Haile Mariam. Charges have been brought against 5,198 persons. All have been indicted and arraigned, and the testimony of victims continues to be heard in open court. However, more than half of those accused are not in custody and were charged in absentia. Most SPO detainees have been held in custody for 7 or 8 years awaiting trial and judgment.

After extensive public consultations the House of People's Representatives (HPR) in October passed enabling legislation to meet the constitutional requirement to create a human rights commission and office of the ombudsman. The commission has full powers to receive and investigate all complaints of human rights violations made against any person. Neither entity was operational by year's end.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The security forces committed a number of extrajudicial killings. In June a youth attending the funeral of All Amhara People's Organization (AAPO) founder Dr. Asrat Woldeyes was shot and killed by an undercover security officer who subsequently was arrested and charged for the crime. There were reports that in August security forces fired on a group of Somalis who were protesting the military's occupation of a Somali border town, killing two persons. There also were unconfirmed reports of extrajudicial killings by Government security forces from Oromiya and the Somali region.

Actions taken by the Government as part of the border conflict resulted in some civilian deaths. In February an Ethiopian plane bombed the Eritrean village of Laili Deda, killing at least five Eritrean civilians and wounding several others. There

were reports that in April Ethiopian forces shelled the border town of Adi Keyih, killing at least eight Eritrean civilians and wounding dozens of others.

The Government announced a no-fly zone along its northern border soon after its military conflict with Eritrea began in May 1998. In August air defense forces shot down an unarmed civilian Learjet en route to South Africa from Italy when it violated the no-fly zone, killing two European nationals.

In November student protests against the arrest of two teachers who criticized new textbooks in the Welayita speaking sections of the Southern Nations, Nationalities, and Peoples' Region State (SNNPRS) led to widespread demonstrations and riots (see Sections 1.d. and 5). Special police units called in to suppress the riot killed up to 10 persons and wounded many others.

In March a 70-year old man accused of involvement with OLF terrorist activities died in prison (see Section 1.c.). In June Kebede Desta, a defendant charged along with 127 others for genocide (see Section 1.d.), died in prison of multiple chronic illnesses. Also in June, ETA acting secretary general Shimelis Zewidie died the same month of tuberculosis. Many international labor observers and ETA officials claim that Shimelis Zewdie's medical condition was exacerbated by a 75-day detention in late 1998.

The Government provided financial support to a coalition of Eritrean opposition groups based in Sudan, which laid landmines in Eritrea that resulted in several civilian deaths.

The outbreak of hostilities with Eritrea has led to Eritrean support of armed opposition groups that have been attempting to overthrow the Ethiopian Government. This has led to an increase during the year in armed attacks within Ethiopian territory by these groups operating mostly out of Somalia and Kenya. These attacks took the form of landmine incidents and hit-and-run attacks by guerrillas armed with small arms and grenades. In response the Government conducted military incursions into Somalia and around Kenya against these armed opposition groups. Some civilians and combatants were killed as a result of these attacks and in confrontations between government forces and the guerrillas, although the total number of deaths could not be confirmed.

In 1997 the federal High Court in Addis Ababa began the arraignment and prosecution of 5,198 persons formally charged with genocide and other war crimes, including extrajudicial killings, under the previous regime. Of the 5,198 persons charged, 2,246 were in detention, while the remaining 2,952 were charged in absentia. At year's end, witnesses still were being heard and evidence taken in the ongoing trials. In November the federal High Court handed down a death sentence in absentia to Getachew Tebeka, a former district governor and army lieutenant. Terba was convicted of ordering the detention, torture, and execution of five alleged opponents of the Derg Government, and is the first SPO defendant to receive the death penalty.

According to U.N. officials, Eritrean forces planted more than 50,000 landmines in the Badme area during their occupation of the territory. At least 10 civilians were killed by landmine explosions while attempting to return to their homes in the area.

In August and November, landmines derailed railroad engines pulling passenger trains outside Dira Dawa, killing at least four persons and injuring several others. Observers believe that the landmines were set by the radical Islamic group Al'Ittihad.

Banditry remained a serious problem in parts of the country. Bandits, often heavily armed, killed civilians, police, and soldiers during robberies and attempted robberies. Most evidence suggests that their motives primarily were economic.

There were unconfirmed reports that in November Eritrean forces killed 17 Ethiopian Afar civilians during a cross border attack.

b. *Disappearance.*—There were no confirmed reports of disappearances perpetrated by the Government, although both domestic and international human rights groups claim that there were many politically motivated disappearances.

In 1997 the federal High Court in Addis Ababa began the arraignment and prosecution of 5,198 persons charged with genocide and other war crimes under the previous regime, including the disappearance of 14,209 persons (see Section 1.a.).

In January a foreign aid worker was kidnaped in the Somali region by unknown persons and taken to Somalia where he was released unharmed. In April unknown gunmen reportedly kidnaped three persons, including a foreign aid worker, in the Ogaden region.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture and mistreatment; however, there were credible reports that security officials sometimes beat or mistreated detainees. Government media published occasional reports of officials who were jailed or dismissed for abuse of authority and violations of human rights.

In November police injured many persons and killed up to 10 others while suppressing riots in the SNNPRS (see Sections 1.a., 1.d. and 5).

There was an increase during the year in armed attacks within Ethiopian territory by Eritrean-supported opposition groups operating mostly out of Somalia and Kenya (see Section 1.a.). These attacks have taken the form of landmine incidents and hit-and-run attacks by guerrillas armed with small arms weapons and grenades.

Prison conditions are poor and overcrowding remains a serious problem. Prisoners often are allocated fewer than 21.5 square feet of sleeping space in a room that may contain up to 200 persons. Prison food is inadequate, and many prisoners have food delivered to them every day by family members or use their own funds to purchase food from local vendors. Prison conditions are unsanitary, and access to medical care is not reliable. Prisoners typically are permitted daily access to prison yards, which often include working farms, mechanical shops, and rudimentary libraries. Visitors are permitted. Prison letters all must be written in Amharic, making outside contact difficult for non-Amharic speakers; however, this restriction is not enforced. Female prisoners are housed separately from men, and rape does not appear to be a problem.

Several prisoners and detainees died during the year due to illness and disease (see Sections 1.a. and 1.d.).

In May six detainees suspected of involvement in terrorist activities staged a 10-day hunger strike to protest the prison policy of keeping them in handcuffs 24 hours a day (see Section 1.d.). Another 3-day prison wide hunger strike in protest of prolonged court proceedings took place in Kaliti prison in June.

The army used military camps located near Zewaye Goba in Bale zone, Oromiya for the temporary detention and interrogation of OLF fighters and alleged supporters.

In June approximately 1,200 internees of Eritrean origin and 172 prisoners of war were moved from the Bilate detention camp to the Dedesa internment camp in western Oromiya. The new camp is in an area less prone to malaria. In July approximately 350 Eritrean prisoners of war (POW's) were moved from the Tigray region to the Dedesa internment camp.

The Government permits independent monitoring of prison conditions and police stations by the ICRC and by diplomatic missions. The ICRC, in general, had access to federal and regional prisons, civilian detention facilities, and police stations throughout the country; however, after a July visit, the Government refused to allow the ICRC access to the Central Investigation Division (CID) detention facility in Addis Ababa, which holds upwards of 200 persons whose cases are under investigation. Furthermore, the ICRC was unable to gain access to police stations in Addis Ababa where ethnic Eritreans are believed to be detained. The ICRC had restricted access to military detention facilities in the east and the southeast, where suspected OLF fighters are held.

The Government generally permitted the International Committee of the Red Cross (ICRC) access to detention facilities holding Eritrean POW's. The ICRC also regularly visited civilian Eritrean nationals and Ethiopians of Eritrean origin being detained on national security grounds. However, in February the Government instructed ICRC staff to leave the Tigray region. In April ICRC staff were permitted to visit POW's held in Tigray; however, the ICRC was not permitted to resume its program in Tigray until August.

Government authorities permitted diplomats to visit prominent detainees held by the SPO for alleged involvement in war crimes and terrorist activities. These detainees include former Derg housing ministry official and governor of Sidamo, Abera Yemane-Ab, 1968 Olympic marathon winner Mamo Wolde, and former Addis Ababa University President Dr. Alemayehu Tefera. ETA secretary general Dr. Taye Woldesemayat, now serving a 15-year sentence for plotting violent insurrection, also is permitted visitors from the diplomatic community.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and both the criminal and civil codes prohibit arbitrary arrest and detention; however, the Government does not always respect these rights in practice.

Under the Criminal Procedure Code, any person detained must be charged and informed of the charges within 48 hours and, in most cases, be offered release on bail. Those persons believed to have committed serious offenses may be detained for 15 days while police conduct an investigation, and for additional 15-day periods while the investigation continues. Some offenses, such as murder and treason, are not bailable. In practice, and especially in the outlying regions, authorities regularly detain persons without a warrant, do not charge them within 48 hours, and—if persons are released on bail—never recall them to court. Thousands of criminal suspects remained in detention without charge, most of whom were accused of involve-

ment in OLF terrorist activities. Often these lengthy detentions are due to the severe shortage and limited training of judges, prosecutors, and attorneys.

Federal and regional authorities arrested and detained persons without charge or trial for activities allegedly in support of armed opposition groups. The vast majority of these incidents took place in the Oromiya and Somali regional states. More than 7,500 persons allegedly associated with armed opposition groups remain in detention. Most detainees were accused of participating in armed actions by the OLF or the ONLF. In typical cases, security forces arrested and held these persons incommunicado for several days or weeks before eventually releasing them.

The closed trial of 65 Oromos suspected of involvement in OLF terrorist acts continued. In March one of the Oromo defendants who was 70 years of age died while in jail. In April three other defendants were granted bail. Six of the defendants staged a 10-day hunger strike in May to protest the prison policy of keeping them in handcuffs 24 hours a day.

Thirty-one AAPO officials and supporters, most detained since 1994, were convicted on treason charges in March. They were convicted of inciting an armed uprising and promoting civil war. Four of the individuals, an elderly defendant, two women, and a youth, received 4-year sentences and were released for time served. The remaining 27 received sentences ranging from 5 to 20 years.

In response to attacks by armed opposition groups operating out of Somalia and Kenya (see Sections 1.a. and 1.c.), the Ethiopian military has conducted operations in and around the areas bordering Somalia and Kenya. These operations have resulted in the capture and detention of hundreds of opposition fighters and their suspected supporters on both sides of these borders during the year.

A total of nine journalists were detained during the year, of whom, two remained in prison at year's end because they could not meet bail requirements (see Sections 1.e. and 2.a.). In April Samson Seyoum, the former editor in chief of two now defunct weekly independent newspapers who had been detained since December 1995, was sentenced to 4½ years' imprisonment on charges of incitement to war and attempting to spread Islamic fundamentalism (see Section 2.a.). In May another editor in chief was sentenced to 1 year and 1 month in prison for libel but was released in July for time served (see Section 2.a.).

In December 1997, the trials began of three of the five journalists and editors associated with the opposition newspaper Urjii, who were arrested in October and November 1997 for violating the press law and for alleged involvement in OLF terrorist activists. The arrests of the journalists occurred without warrants, and the detainees were held incommunicado for up to a month. One of the detainees, charged only with violating the press law, was released on bail in December 1998; his trial was pending at year's end. The fifth detainee was convicted of violating the press law and sentenced to a year in prison, but five other charges still are pending against him (see Section 2.a.).

In December the Government arrested up to 26 Nuer tribal political activists associated with the Gambella People's Democratic Congress (GPDC) (see Sections 3 and 5). Some of the activists were arrested for inciting Nuer students in November to demonstrate for the use of the Nuer language in school (see Section 2.b.), while others were arrested on suspicion of supporting the OLF. All of the activists remained in detention at year's end.

On November 6, police arrested two teachers in Sodo in the SNNPRS for objecting to the use of a new language in student textbooks (see Section 5). Student demonstrations against the arrests led to widespread week-long demonstrations and riots. Special police units brought in to suppress the demonstrations killed up to 10 persons, injured hundreds and arrested up to 1,000 others (see Sections 1.a, 1.c., and 5). A former Young Men's Christian Association camp in Sodo was used as a temporary detention facility for hundreds of demonstrators. At year's end, between 70 and 120 persons remained in detention in prisons in the Sodo area, including several elders from the Welayita community.

In March 1997, the SPO formally charged 128 defendants with politically motivated genocide dating back to the 1976 "red terror." In December 1998, the SPO began presenting prosecution testimony in the case of former Addis Ababa University President Alemayehu Tefera, imprisoned since 1993, although the charges on which he originally had been detained were dropped the same year. His petition to separate his case from the 127 other defendants was denied (see Section 1.a.). The court also started hearing testimony in December 1998 on the case of former Olympic marathon champion Mamo Wolde, who was charged with genocide for the state-sponsored killing of 14 teenagers during the prior regime. Wolde has been detained since 1992.

In June the trial of ETA secretary general Dr. Taye Woldesemayet concluded with a conviction for treason and alleged involvement in an underground terrorist organi-

zation. He was sentenced to 15 years in jail. In handing down the sentence the court referenced two alleged terrorist acts that had been dropped from the list of charges against Dr. Woldesemayet during the trial. Four other SPO defendants also were convicted and given sentences ranging from 8 to 13 years. The sentences were much more severe than expected. In June another SPO defendant, Kebede Desta, died in prison of multiple chronic illnesses, and ETA acting secretary general Shimelis Zewidie died the same month of tuberculosis (see Sections 1.a. and 1.c.).

Opposition groups allege that some of the persons detained by the SPO, as well as some others, are held for political reasons. The Government denies that it holds persons for political reasons.

In February 39 Eritrean exchange students held in Bilate detention camp since July 1998 were released and flown by chartered aircraft to Asmara, Eritrea.

Civilian residents of Eritrean origin have been detained since the outbreak of hostilities between Ethiopia and Eritrea. The Government justified these detentions on grounds of security. Approximately 1,200 civilian residents of Eritrean origin remained detained in internment camps at year's end. There were credible reports that hundreds of others were held in police stations for months prior to being deported. The ICRC was not granted access to detainees allegedly held in police stations. A total of 512 Eritrean POW's captured in fighting between Ethiopia and Eritrea remained detained at year's end. Beginning in April, authorities began releasing Eritrean detainees if they could obtain visas to a country other than Eritrea. Approximately 90 detainees have left Ethiopia, mostly to other African countries, particularly Uganda and Malawi. In early August, 25 Eritrean detainees obtained fraudulent travel documents and left Ethiopia to Malawi on a scheduled airline flight. They were detained in Malawi where they refused an offer of transit to Eritrea. The Malawian authorities then forcibly returned the former detainees to Ethiopia. One former detainee was killed and at least six were wounded in a confrontation with Malawi authorities (see Section 2.d.).

Exile is illegal, and the Constitution provides that citizens shall not be deprived of their nationality against their wills; however, since the outbreak of conflict with Eritrea in May 1998, the Government has detained and deported more than 67,000 Eritreans and Ethiopians of Eritrean origin on national security grounds. Some of the deportees were voluntary returnees who had requested return to Eritrea; however, the vast majority were deported forcibly. Deportation orders originated from the Security, Immigration, and Refugee Affairs Authority in Addis Ababa. The Government's actions raised serious issues of due process since there were no preliminary hearings to determine the merits of the deportations, no right to counsel was provided to detainees, and detainees only had a very circumscribed opportunity to register protests. In addition, the issue of the nationality of Eritrean-origin Ethiopians has not been settled yet. Heads of households were taken without warning, detained, and often deported via overland routes within 48 hours. Remaining family members were given arbitrary deadlines to sell property and sometimes were subjected to departure taxes based on estimated annual income and unpaid balances on government bank loans. The ICRC monitored most border crossings until September when government notification to the ICRC ceased. Since September 4,000 Eritreans and Ethiopians of Eritrean origin were deported, reportedly without provision for their safety, hygiene, sanitation, or food. Some of these deportees were hospitalized upon reaching Eritrea. In August all Eritreans and Ethiopians of Eritrean origin over 18 years of age who had taken part in the 1993 referendum on Eritrean independence were required to register with the Security, Immigration, and Refugee Affairs Authority (SIRAA) and complete residence application forms. After registration, applicants received identity cards and residence permits valid for 6 months (see Section 2.d.).

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is weak and overburdened. Although the federal and regional courts continued to show signs of judicial independence, in practice severe shortages of adequately trained personnel in many regions, as well as serious financial constraints, combined to deny many citizens the full protections provided for in the Constitution.

Consistent with the Constitution, the Government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the district, zonal, and regional levels. The federal High Court and federal Supreme Court hear and adjudicate original and appeal cases involving federal law, transregional issues, and national security. The regional judiciary is increasingly autonomous, with district (woreda), zonal, high, and supreme courts mirroring the structure of the federal judiciary. The Government has delegated some of the war crimes trials to the supreme courts in the regions where the crimes allegedly were committed.

The Constitution provides legal standing to some preexisting religious and customary courts and gives federal and regional legislatures the authority to recognize other courts. By law, both parties to a dispute must agree before a customary or religious court may hear a case. Shari'a (Islamic) courts may hear religious and family cases involving Muslims. In addition, some traditional courts still function. Although not sanctioned by law, these courts resolve disputes for the majority of citizens who live in rural areas and who generally have little access to formal judicial systems.

The outbreak of hostilities between Ethiopia and Eritrea adversely impacted the military justice system. Most foreign assistance to train officers and noncommissioned officers was suspended at the same time that the rapid expansion of the military greatly increased the need for trained military lawyers and judges. The military's involvement in the detention of opposition fighters and their suspected supporters has constrained further its badly overburdened justice system.

The Constitution provides that persons arrested have the right to be released on bail. In most cases, bail is set between approximately $125 (1,000 birr) and approximately $1,250 (10,000 birr). At year's end, two journalists were being held in prison, since they could not meet these bail requirements. Certain offenses such as capital crimes are not bailable.

Authorities detained hundreds of persons without charge for supposed involvement with the OLF and the ONLF (see Section 1.d.). Such cases often reflect arbitrary actions on the part of local officials but also result from an overburdened and cumbersome judicial system marked by a shortage of trained and competent prosecutors and judges.

Regional offices of the federal Ministry of Justice monitor local judicial developments, but the federal judicial presence in the regions is limited. Anecdotal evidence suggests that some local officials interpret decentralization to mean that they no longer are accountable to any higher authority, even within their own regions. For example, local government officials throughout the country ignored instructions from the National Electoral Board (NEB) on the acceptance of candidate endorsement signatures from opposition party candidates.

To remedy the severe lack of experienced staff in the judicial system, the Government continued to identify and train lower court judges and prosecutors, although officials acknowledge that the pay scale offered must be increased significantly to attract the required numbers of competent professionals. Senior government officials charged with judicial oversight estimate that the creation of a truly independent and skilled judicial apparatus would take decades. The Government has welcomed foreign financial and technical assistance to accelerate this process.

Pending passage by regional legislatures of laws particular to their region, all judges are guided exclusively by the federal procedural and substantive codes.

According to the Constitution, accused persons have the right to a public trial by an ordinary court of law within a reasonable time after having been charged. Accused persons have the right to be represented by legal counsel of their choice. However, in practice, lengthy pretrial detention was common, closed proceedings occurred, and at times, detainees were allowed little or no contact with their legal counsel. The Public Defender's Office provides legal counsel to indigent defendants, although its scope remains severely limited, especially with respect to SPO trials. The law does not allow the defense access to prosecutorial evidence before the trial.

The SPO was established in 1992 to create a historical record of the abuses committed during the Mengistu Government and to bring to justice those criminally responsible for human rights violations. The federal High Court has considered the cases of 2,658 defendants accused of genocide, war crimes, and aggravated homicide. Trials began in 1994 and continue; however, the process is subject to frequent and lengthy adjournments. Court appointed attorneys, sometimes with inadequate skills and experience, represent many of the defendants, following claims that they could not afford an adequate defense. Of the 5,198 defendants, the Government is trying 2,952 in absentia, including former dictator Colonel Mengistu Haile Mariam, who returned to exile in Zimbabwe after a brief visit during the year to South Africa for medical treatment. All the defendants in custody appeared before the court during the year with many defendants charged and tried collectively in each instance. Most cases still were in progress at year's end. No SPO defendant has been released on bail, although 33 defendants have been released for lack of evidence. A number of defendants have been convicted, including Lieutenant Getachew Tekeba, who was sentenced to death in absentia (see Section 1.a.), and Colonel Zeleke Zerihun, who received a 15-year sentence for genocide and crimes against humanity. In July the Minister of Agriculture of the prior regime, Dr. Geremew Debele, received an 8-year sentence on charges related to abusing employees of the central slaughterhouse. The

court cleared him of murder charges. He was released for time served but his political rights reportedly are limited for the next 3 years.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law requires judicial search warrants; however, they seldom are obtained outside of Addis Ababa in practice.

There were credible but unconfirmed reports that in certain rural areas local officials used threats of land redistribution to enforce support for the ruling coalition. There also were credible reports that teachers and other government workers have had their employment terminated if they were not of the dominant ethnic group in their region (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution and the 1992 Press Law provide for the freedom of free speech and of the press; however, the Government used legal and other mechanisms to restrict these rights in practice. The Government continued to prosecute journalists and editors for publishing articles that violated the Press Law, and some journalists practiced self-censorship. Nonetheless, the private press was very active and often published articles extremely critical of the Government.

The Government uses provisions of the Press Law concerning publishing false information, inciting ethnic hatred, and libel to justify the arrest of journalists. The number of journalists in prison dropped from 15 at the beginning of the year to 8 at year's end: a total of 9 journalists were detained during the year, including 2 who remained in detention at year's end. Most of the journalists detained were accused of violating the Press Law.

Five journalists of the Oromo-oriented private weekly "Urjii", arrested in October and December 1997, are among the group of 65 Oromos indicted for involvement in OLF terrorist activities (see Section 1.d.). Three of these journalists remain in prison and also are on trial for press law violations. In March the acting editor in chief of Urjii, Alemu Tolossa, was released after paying bail of approximately $125 (1,000 birr). Former Urjii publisher and secretary general of the Human Rights League, Garoma Bekele, was convicted on one count of violating the press law and, in May, was sentenced to 1-year's imprisonment. Five other Press Law charges are pending against him.

Two journalists detained for violating the Press Law remain in jail because they cannot meet bail (see Section 1.e.). Approximately 45 journalists who obtained bail still are subject to trial for violations of the Press Law.

In April Samson Seyoum, former editor in chief of Agere and Tequami, now defunct weekly independent newspapers, was sentenced to 4½ years' imprisonment on charges of incitement to war and attempting to spread Islamic fundamentalism. This is the longest sentence handed down to any journalist in the country. Seyoum had been detained since December 1995. In August the court released Samson Seyoum pending appeal of his conviction. In May Fisseha Alemu, editor in chief of the newspaper Tarik, was sentenced to 1 year and 1 month in prison for libel. In July he was released for time served.

In December the editor in chief of the Amharic-language newspaper Tobia was given a 6-month suspended sentence for publishing an article allegedly inciting ethnic animosities against Tigrayans.

In May and June, three newspaper editors, Abonesh Aberra and Sisay Agena of Ethop, and Dawit Taye, former editor in chief of Aemero, both independent weekly newspapers, were found not guilty and acquitted of Press Law violations. The charges related to news reports and editorials on the assassination attempt against Egyptian President Hosni Mubarak in Addis Ababa in June 1996 that were critical of Ethiopian security.

However, despite the overhanging threat of legal action, the private press is still very active. Many private newspapers continue to publish false information, unsubstantiated stories, and harsh antigovernment articles without any official sanction. The Government has not banned any newspaper or publication. The office of the government spokesperson was created in 1998 as a temporary entity responsible for distributing press releases on the border conflict with Eritrea to the Ethiopian news agency, foreign news agencies, foreign embassies, and international organizations. The Government continued to bar some private newspapers and news organizations from attending government briefings and press conferences, and most government officials still refuse to meet with private journalists.

The Ethiopian Free Press Journalist's Association (EFPJA), which consists of 80 members from the private press, has been trying for 5 years to gain Ministry of Justice approval for its registration as a professional association, without success (see Section 2.b.).

Although most independent newspapers have supported the Government's position on the conflict with Eritrea, the private press remained confrontational and continued to publish articles extremely critical of the Government and continued to report on human rights abuses.

According to the Constitution, citizens generally are free to discuss publicly any topic they choose; however, on occasion the Government restricted this right in practice. The Government opposed the activities and operations of groups critical of the Government such as the ETA and the HRL (see Sections 2.b. and 4), and arrested two teachers who criticized a new government education policy (see Sections 1.d. and Section 5). Nevertheless, several groups critical of the Government held press conferences and public meetings without retribution. For example, in June EHRCO held a news conference that was covered by both government and private news media, and in November Parliament invited opposition political parties to appear on a political panel with EPRDF leadership, during which opposition criticism of government policy was reported on national radio and television.

Because of a high illiteracy rate and extreme poverty, only about 1 percent of citizens regularly read any newspaper or magazine. While the literacy rate for persons over 10 years of age in Addis Ababa is 82.5 percent, the overall literacy rate is only 23.4 percent. Furthermore, private newspapers are not circulated widely outside the capital and, as a result, citizens outside of Addis Ababa have extremely limited access to the print media.

There are 27 independent Amharic language weekly newspapers and 6 independent English language weekly newspapers with an estimated total circulation of 144,000. There are 5 EPRDF coalition party newspapers, published in Amharic, Tigrigna, and Oromiffa languages, with a total circulation of 120,000.

Nearly all private newspapers as well as state newspapers are printed at one of the state-owned printing presses, but there were no reports of problems printing any newspapers or magazines. The Ministry of Information and Culture requires that newspapers show a bank balance of approximately $1,250 (10,000 birr) at the time of their annual registration for a license. In December the Ministry reportedly ordered 12 newspapers, including 4 weekly independent political newspapers, to close when they were unable to show sufficient bank assets.

While much of the private press continues to lack professionalism in its reporting, some print media are developing into more responsible publications. Others actually are opposition newsletters that often purvey unsubstantiated criticism of the Government. Several are tied to distinct ethnic groups, especially the Amharas and Oromos, but severely criticize the Government for being ethnocentric. Newspapers critical of government leaders and their policies are available widely in the capital but scarce elsewhere.

Foreign journalists continued to operate freely and often wrote articles critical of government policies. They or their local affiliates were granted greater access to government officials than were local independent journalists. A number of foreign journalists were allowed to go to the war front under restricted circumstances. About 10 Ethiopian affiliates of foreign news agencies also were permitted to go to the war front in February and August to visit liberated areas and Eritrean prisoners of war. Local journalists representing privately owned newspapers were denied access to the war front.

Radio remains the most influential medium for reaching citizens, especially those who live in rural areas. The Press Law allows for private radio stations, but there only are two nongovernmental radio stations in operation: Radio Fana, a station controlled by the ruling EPRDF coalition, and the Tigray People's Liberation Front (TPLF) radio, which broadcasts in the Tigrigna language from Mekele. The Government operates the sole television station, and news is controlled tightly. However, there are no restrictions on access to international news broadcasts. Ownership of private satellite receiving dishes and the importation of facsimile machines and modems are permitted. Internet access is unrestricted. During the year, the Government issued regulations providing for the licensing of private Internet service providers; however, no private Internet service providers were operating at year's end. Private satellite transmission uplinks are not allowed, even for international organizations.

In June the Government issued a broadcast proclamation creating a broadcasting authority to review applications for private radio and television licenses; however, there were delays in promulgating the proclamation and establishing the authority. The broadcast proclamation prohibits political parties and religious organizations from owning stations; foreign ownership also is prohibited.

The official media, including broadcast, wire service, and print media, legally are autonomous and responsible for their own management and partial revenue generation, although they continue to receive government subsidies. Government reporters

practice self-censorship, but at times questioned official policies. The Government's press and information department acts as an official spokesperson and implemented the 1996 Information Policy, which guides contacts among the Government, the press, and the public.

Academic freedom is respected; however, in general, political activity is not encouraged on university campuses. The Ministry of Education has approved the charter for the country's first private university, Unity College. This 4-year college is to offer a complete bachelor's degree program, including a major in journalism. Despite government assurances that Addis Ababa University would not be affected by the conflict with Eritrea, in 1998 the institution dismissed nine Ethiopian academics of Eritrean origin. In addition, in 1998 the authorities detained approximately 82 Eritrean exchange students early in the hostilities. Most of the students were released in 1998, and in February the last 39 students were released and returned to Eritrea (see Section 1.d.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly; however, on occasion the Government restricted this right in practice. Organizers of large public meetings or demonstrations must notify the Government in advance and obtain a permit. While there were no reports that any permits were denied, there were long unexplained delays in issuing permits, which hindered the ability of groups to organize events. EHRCO and some opposition political parties reported that they had difficulties renting halls from local government officials. The ETA was not permitted to organize seminars in the regions, despite Ministry of Education assurances in 1998 that it would be allowed to do so.

In January the Coalition of Ethiopian Opposition Political Organizations held a rally in Addis Ababa to announce its political agenda. The rally was attended by fewer than 3,000 persons. The organizers stated that they were unable to organize properly for the event because local authorities did not approve their permit for the rally until the day before the event was to occur. Both the government and private press covered the rally.

In November student demonstrations against the arrest of two teachers who criticized new textbooks in the Welayita speaking sections of the Southern Nations, Nationalities, and Peoples' Region State (SNNPRS) led to widespread demonstrations and riots during which police killed up to 10 persons, injured hundreds, and arrested and detained as many as 1,000 others (see Sections 1.a., 1.c. 1.d. and 5).

In November Nuer students in the Gambella region demonstrated for the use of the Nuer language in schools (see Section 5). In December the Government arrested up to 26 Nuer tribal political activists and leaders associated with the GPDC on charges of inciting the Nuer students to demonstrate (see Sections 1.d. and 5.).

The Constitution provides for freedom of association and the right to engage in unrestricted peaceful political activity; however, the Government limits this right in practice. The Government changed its procedures for registration of NGO's in 1996, and the NGO registration process has improved significantly over previous years; however, a number of policy issues regarding NGO's remain unresolved, and the NGO registration process still is extremely slow. Primary registration rests with the Ministry of Justice. EHRCO was granted registration as an NGO in June, after a 7-year effort. However, the Ethiopian Free Press Journalist's Association (EFPJA), which consists of 80 members from the private press, has been trying for 5 years to gain Ministry of Justice approval for its registration as a professional association, without success. The Ministry of Justice recognizes the Ethiopia Journalists' Association (EJA), which represents journalists working for government-owned media.

Authorities closed the offices of the HRL in April 1998, on the grounds that some HRL board members wished to use the organization as a front for the OLF. Board members denied any connection to the OLF. The HRL had been operating without a license, but it had fulfilled the prerequisites for licensing and had been waiting for over a year to get a license (see Section 4). The government investigation of the HRL was ongoing at year's end, and the contents of its office, confiscated by the Government in 1998, have not been returned.

The Government requires political parties to register with the NEB. Parties that do not participate in two consecutive national elections are subject to deregistration. Registered political parties also must receive permission from regional governments to open local offices. The opposition AAPO complained that the Oromiya regional government has refused its application to open branch offices in the region. There are 58 organized political parties. Of these, eight are national parties, and the remainder operate only in limited areas. In June a European diplomat received an official reprimand from the Ministry of Foreign Affairs for inviting a registered political party to meet with the international donor working group to discuss preparations for elections in 2000 (see Section 3).

c. *Freedom of Religion.*—The Constitution provides for freedom of religion; however, while the Government generally respects freedom of religion in practice, on occasion local authorities infringed on this right.

The Government requires that religious groups be registered. Religious institutions, like NGO's, are registered with the Ministry of Justice and must renew their registration every year. Unlike NGO's, religious groups are not subject to a rigorous registration process. Two religious organizations reportedly have refused to comply with the government requirement that they register, without consequence. Under current law, a religious organization that undertakes development activities must register its development wing separately as an NGO. The Government does not issue work visas to foreign religious workers unless they are attached to the development wing of a religious organizations. Religious groups are not accorded duty-free status, but they are given free government land for churches, schools, hospitals, and cemeteries. Religious groups, like private individuals or businesses, must apply to regional and local governments for land allocation. An interfaith effort is underway to promote revision of the law, since it affects the duty-free status of religious groups.

In March Jehovah's Witnesses received a letter of apology from a court in Tigray for actions taken in 1998 by local officials to disrupt a religious service and the temporary detention of some 50 believers. There are more than 3,000 members of Jehovah's Witnesses in the country. When the Government began deporting Eritreans and Ethiopians of Eritrean origin in 1998, it decided that members of Jehovah's Witnesses of Eritrean origin, who might face religious persecution in Eritrea, were not to be subject to deportation. Approximately 100 members of Jehovah's Witnesses from Eritrea were permitted to remain in the county despite their Eritrean nationality.

There was a credible report that local officials extorted medical supplies from a clinic operated by a religious organization for sale on the black market. The officials threatened to cancel the NGO registration of the clinic if they did not cooperate.

Evangelical leaders have complained of strict regulations on the importation of bibles, as well as heavy customs duty on bibles and other religious articles; however, bibles and religious articles are subject to the same customs duty as are all imported books and most imported items.

There were some instances of conflict among religious groups, most noticeably between Orthodox Christians on the one hand, and evangelicals and Pentecostals on the other. While some Pentecostals and evangelicals complained in past years that the police failed to protect them adequately during instances of interreligious conflict, there were no complaints of inadequate police protection during the year. In most interreligious disputes, the Government maintains neutrality and tries to be an impartial arbitrator. Some religious leaders have requested the establishment of a federal institution to deal with religious groups. The Government considered the request, but had taken no action to establish such a federal institution by year's end.

The Constitution requires the separation of church and state. The Government has interpreted this constitutional provision to mean that religious instruction is not permitted in schools, whether they are public or private schools. Catholic, Orthodox, evangelical and Muslim-owned and operated schools are not permitted to teach religion as a course of study. Most private schools teach a morals course as part of the school's curriculum, and the Government Education Bureau in Addis Ababa has complained that such courses are not free of religious influence. Churches are permitted to have Sunday schools, the Koran is taught at mosques, and public schools permit the formation of clubs, including those of a religious nature.

Muslim leaders complained that public school authorities sometimes interfered with their free practice of Islam. Certain public school teachers in the SNNPRS, Addis Ababa, and in the Amhara region objected to Muslim schoolgirls covering their heads with scarves while at school. In February a school in Woldea in the Amhara region closed for 3 weeks when Muslim girls insisted on wearing their headscarves to class. In April Muslim leaders complained that Addis Ababa University refused to serve food appropriate for the Muslim Eid feast to Muslim students. When three Muslim students complained, the university expelled them.

Protestant groups occasionally complained that local officials discriminate against them when seeking land for churches and cemeteries. Evangelical leaders complain that because they are perceived as "newcomers" they remain at a disadvantage compared with the Ethiopian Orthodox Church and the Supreme Islamic Council when it comes to the allocation of land.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement, including the right of domestic and foreign travel, emigration, and repatriation; however, the Govern-

ment restricted these rights in practice. In principle, citizens can freely change their residence or workplace; however, since the outbreak of the border conflict with Eritrea in May 1998, Eritreans and Ethiopian citizens of Eritrean origin were subjected to detention and deportation to Eritrea. By year's end, more than 67,000 such persons had been compelled to leave or had left Ethiopia for Eritrea; the vast majority were deported, although a small number left the country voluntarily to join family members who were deported (see Section 1.d.). It is estimated that more than 200,000 Eritreans and Ethiopians of Eritrean origin remain in Ethiopia. In August the Government decreed that all Eritreans, 18 years of age and above residing in Ethiopia who either had taken part in the 1993 referendum on the independence of Eritrea from Ethiopia or who had been granted Eritrean citizenship, had to register as aliens with the SIRAA immediately. Those registering would be issued an identity card and given a 6-month residence permit; however, this permit does not permit individuals access to hospitals or other public services. The Ethiopian passports of residents of Eritrean origin routinely were confiscated or restricted in use for a single exit and no reentry.

Beginning in April, the Government adopted a policy of releasing those Eritrean detainees from the Bilate and Dedesa internment camps who could obtain visas to a country other than Eritrea. Approximately 90 detainees took advantage of this opportunity, with most going to African countries, particularly Uganda and Malawi. In August 25 detainees obtained fraudulent Malawian visas and traveled to Malawi with government-issued laissez-passers. They were returned forcibly to Ethiopia after refusing an offer to travel to Eritrea. One former detainee died and at least six others were wounded in a confrontation with Malawi police. The Government reportedly reacted to this incident by deciding not to permit detainees to depart for countries in Africa.

The law requires citizens and residents to obtain an exit visa before departing the country. Eritreans and Ethiopians of Eritrean origin have been able to obtain exit visas but often are not permitted to return to the country.

In Addis Ababa and western Gondar in the Amhara region there are very small concentrations of Ethiopian Jews (Falashas) and those who claim that their ancestors were forced to convert from Judaism to Ethiopian Orthodoxy (Feles Mora). Approximately 3,000 Feles Mora migrated voluntarily from the western Amhara region to Addis Ababa in 1991 at the time of "Operation Solomon," when a large number of Falashas were airlifted to Israel. The Feles Mora also seek to immigrate to Israel. The number of Feles Mora in the country is approximately 9,000. Israeli officials evaluate the Feles Mora immigration claims on a case-by-case basis and estimate that approximately 20 percent of the Feles Mora eventually may be eligible to immigrate under Israel's law of return. In June the Israeli Government announced that 3,500 Falashas requesting citizenship would be airlifted from Quara, Ethiopia to Israel, and in July 6 Israeli officials went to Gondar to process applications. All the eligible Falashas in Quara left for Israel by year's end.

As a result of the border dispute with Eritrea, approximately 343,000 persons have been displaced internally. The Government has presented relief and rehabilitation proposals for these internally displaced persons to bilateral donors and NGO's.

The law includes provisions for the granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally treats asylum seekers fairly and cooperates with the UNHCR and other humanitarian organizations in assisting refugees and returning citizens. However, there were reports of the forced return of Djiboutian Afars who were not permitted to register as refugees.

Ethiopia hosts 261,661 refugees; most are from Somalia and Sudan. The Government, in cooperation with UNHCR, continues to provide first asylum to refugees from Sudan and Somalia. Along the border of northwest Somalia 195,345 Somali refugees were settled in eight camps, down from 600,000 in 1996. Along the Sudanese border 58,600 Sudanese refugees were settled in four refugee camps around Gambella and Asossa at year's end. Approximately 80 percent of the Sudanese refugees are women and children. There are approximately 1,500 Djiboutian Afar asylum-seekers remaining in the country, down from a high of 18,000 when Djiboutian Afars first entered the country in 1993. These asylum seekers have requested but never were granted formal registration by the Ethiopian Agency for Refugee and Resettlement Affairs (ARRA). Negotiations began in 1997 between the Government and the UNHCR concerning their status and were ongoing at year's end. ARRA conducted an informal registration of Djiboutian Afars in May without UNHCR involvement.

In June Kenya repatriated 1,388 Ethiopians from refugee camps. In October the Government began repatriating 4,700 Kenyans from the Moyale refugee camp; however, approximately 550 Kenyan refugees were turned away at the Kenyan border

due to a lack of proper identification and were returned to the camp. They had not been repatriated by year's end. During the year the UNHCR repatriated approximately 15,000 Somalian refugees to northwest Somalia.

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

Citizens exercised the right to vote for a national government for the first time in 1995; however, most opposition groups boycotted the election, claiming that the Government impeded their ability to participate in the political process, and those who participated complained of harassment. The boycott was one of the factors that led to an overwhelming victory by the better-funded and better-organized EPRDF over candidates of the relatively weak and poorly organized opposition parties and independent candidates. Nevertheless, observers organized by foreign donor governments, the Organization of African Unity (OAU), and a coalition of domestic NGO's judged the elections to be generally free and fair, although they cited numerous irregularities.

The Constitution requires that elections to the national legislative body, the HPR, be held every 5 years; the next elections are scheduled for May 2000. Seventeen opposition political parties are expected to contest the election, including the AAPO, the Southern Ethiopia People's Democratic Coalition, and the Oromo National Congress. In August all registered political parties were invited to a meeting sponsored by Africa Initiative for a Democratic World Order and the Addis Ababa University student association to discuss the ground rules for the elections. In November the Government initiated a dialog with opposition parties to discuss preparations for the election. Government officials stated that they would accept election monitoring by the OAU, local U.N. staff, and domestic NGO's, but that they would not invite international observers. In June a European diplomat received an official reprimand from the Ministry of Foreign Affairs for inviting a registered political party to meet with the international donor working group to discuss preparations for the year 2000 elections. The Government stated that it would make efforts to level the playing field for non-EPRDF political parties, particularly in regard to access to mass media and the ability to open offices. The Government addressed one primary complaint of opposition parties by establishing an election time-table for nominating party candidates and for campaign activities that is much longer than the time-table used in the 1995 elections. In December the HPR struck down the election law that required civil servants to resign from their posts if they wished to run for elections.

The NEB is investigating abuses of election laws related to candidate registration for the 2000 election in the SNNPRS and in the Gambella region. There were credible reports the local officials throughout the country ignored NEB instructions on the acceptance of candidate endorsement signatures from opposition party candidates. In December the Government arrested up to 26 Nuer tribal political activists associated with the GPDC on charges of inciting Nuer students in November to demonstrate for the use of the Nuer language in schools (see Sections 1.d. and 5.). The GPDC claimed that charges were without merit and that the Government was attempting to interfere with the political process for the 2000 elections. The NEB sent investigators to the region, but had not issued a report by year's end. Political participation remains closed to a number of organizations that have not renounced violence and do not accept the Government as a legitimate authority. These groups include Medhin, the Coalition of Ethiopian Democratic Forces, the Ethiopian People's Revolutionary Party, the Oromo Liberation Front, some elements of the Ogaden National Liberation Front, and several smaller Somali groups. The AAPO complained that the Oromiya regional government refused its application to open branch offices in the region (see Section 2.b.).

Neither law nor practice restricts the participation of women in politics; however, while women's status and political participation are greater than ever, women are underrepresented in national politics, the Council of Ministers, and among the leadership of all political organizations. Only 1 of the 15 members of the Council of Ministers is a woman; 2 other women hold ministerial rank; and a number of others hold senior positions. There only are 15 women among the 545 members of the HPR, and only 8 of 115 members in the upper house, the House of Federation, are women, including the speaker. Among the 23 judges on the Federal High Court, 6 are women, and there are 2 women on the Supreme Court.

The government policy of ethnic federalism led to the creation of individual constituencies to help ensure representation in the HPR of all major ethnic groups; however, small ethnic groups were not represented in the legislature. There are 23 nationality groups in 6 of the region states that do not have a sufficient population to qualify for constituency seats, and as a result, the Government determined that

individuals from these nationality groups would compete in 2000 for 23 special seats in addition to the 545-seat HPR.

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

Human rights organizations include EHRCO, the HRL, the Ethiopian Women's Lawyers Association, the Inter-Africa Group, the National Committee on Traditional Practices, the Peace and Development Committee, the Society for the Advancement of Human Rights Education, Enwayay, the Center for Local Capacity Building and Studies, African Initiatives for a Democratic World Order, and Hundee. These and numerous other groups primarily are engaged in civic and human rights education, legal assistance, and trial monitoring. The Research Center for Civil and Human Rights was registered in January, having applied in 1997. In June EHRCO, which monitors human rights, received legal status as an NGO after a 7-year effort, after winning a suit in January against the Government for blocking its bank accounts. The HRL, founded by prominent Oromo civic leaders in 1997, still is being investigated by the Government for its alleged ties to the OLF. Authorities closed the offices of the HRL in April 1998 and confiscated the contents of its offices, which have not been returned (see Section 2.b.). In October the Ministry of Justice decertified the Ethiopian Congress for Democracy, reportedly for financial irregularities.

In March 160 domestic and international NGO's signed a code of conduct and formed a code observance committee. The code details standards of conduct for numerous areas including moral and ethical integrity, transparency and accountability, good governance, gender equity, and environmental consciousness. The code observance committee, composed of five members elected by the NGO general assembly and two representatives from civil society at large, hears and decides matters in all instances involving a violation or breach of the code.

The ICRC conducts regular visits to detention centers and prisons throughout the country; however, since July the Government has denied it access to the Central Investigation Department of the Addis Ababa police. In addition, the ICRC was unable to gain access to police stations in Addis Ababa where ethnic Eritreans are believed to be detained (see Section 1.c.). Until September the ICRC escorted ethnic Eritrean deportees during their several mile walk across "no man's land"—the distance from the deportation bus stops at the Ethiopian border into Eritrea. However, in September the Government ceased to inform the ICRC of deportations (see Section 2.d.). The ICRC was given access to Eritrean POW's in camps along the border with Eritrea and in other regions; however, in February the Government asked the ICRC to leave the Tigray region for several months (see Section 2.d.). In 1998 the Government invited the ICRC, international NGO's, and foreign diplomats to visit centers where detained Eritreans were gathered prior to deportation, and permitted diplomats to visit ethnic Eritrean detainees in Bilate prison camp. In April diplomats visited Bilate prison camp.

The Government is required under the Constitution to establish a human rights commission and office of the ombudsman. An international conference on the subject was held in 1998, followed by extensive public hearings during the year attended by NGO's, opposition groups, and a wide variety of members of civic society. The HPR passed enabling legislation in October. The office of the ombudsman is expected to have the authority to receive and investigate complaints with respect to misadministration by executive branch offices. Neither entity was operational by year's end.

The Government continues to encourage international human rights groups and foreign diplomats to observe the war crimes trials that began in 1994. Officials of the Federal Security Authority generally have been responsive to requests for information from the diplomatic community. Several international human rights groups visited the country during the year.

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

The Constitution states that all persons are equal before the law. The law provides that all persons should have equal and effective protection without discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, wealth, birth, or other status. However, the Government has not yet fully put into place mechanisms for the effective enforcement of these protections.

Women.—Culturally-based abuses including wife beating and marital rape are pervasive social problems. While women have recourse to the police and the courts, societal norms and limited infrastructure inhibit many women from seeking legal redress, especially in remote areas. Social practices obstruct investigations into rape

and the prosecution of the rapist, and many women are not aware of their rights under the law. There are only an estimated 20 rape convictions a year and rape sentences typically are much lighter than the 10 to 15 years prescribed by law.

The Constitution provides for the equality of women; however, these provisions often are not applied in practice. Furthermore, these provisions often are in conflict with the 1960 Civil Code and the 1957 Penal Code, both of which still are in force. The 1960 Civil Code is based on a monarchical constitution that treated women as if they were children or disabled. Discriminatory regulations in the civil code include recognizing the husband as the legal head of the family and designating him as the sole guardian of children over 5 years old. Family Arbitration Councils, and not the courts, have the legal power to dissolve marriages. Domestic violence is not considered a serious justification under the law to obtain a divorce. There is only limited juridical recognition of common-law marriage. Irrespective of the number of years the marriage has existed, the number of children raised and the joint property, the woman is entitled to only 3 months' financial support should the relationship end. However, a husband has no obligation to provide financial assistance to his family and, as a result, women and children sometimes are abandoned when there is a problem in the marriage. All land belongs to the State; however, land reforms enacted in March 1997 stipulate that women may obtain government leases to land. Discrimination is most acute in rural areas, where 85 percent of the population lives. In urban areas, women have fewer employment opportunities than men do, and the jobs available do not provide equal pay for equal work.

As a result of changes in the Labor Law in 1998, thousands of women traveled to the Middle East as industrial and domestic workers. There were credible reports that female workers were abused, and even killed, in these positions (see Section 6.f).

Although illegal, the abduction of women and girls as a form of marriage still is widely practiced in Oromiya regions and the SNNPRS. Forced sexual relationships often accompany most marriages by abduction, and women often are abused physically during the abduction. Abductions have led to conflicts between families, communities, and ethnic groups.

To enhance the status of women, the Government formally adopted a National Program of Action in 1997. The program seeks to expand educational and work opportunities for women, improve women's access to health care, and educate women about certain unhealthy traditional practices such as early marriage. There have been few improvements in the status of women since the inception of this program; however, girls reportedly attended school in greater numbers in some regions, and according to a study done by the National Committee on Harmful Traditional Practices (NCTPE), certain harmful traditional practices such as early marriage and marriage by abduction appeared to be on the decline.

In December 1998, the Ministry of Justice completed a draft Family Law with the purpose of bringing discriminatory elements of the 1960 Civil Code into accord with the Constitution. The draft was sent to the Council of Ministers and the House of Representatives. The House of Representatives organized six forums during the year with participants from all sectors and regions of the country to discuss the law and the various issues still in need of reform. The draft bill still was under discussion at year's end.

The Ministry of Justice also completed a revision of the 1957 Penal Code and a national debate on the revisions began. Critical issues affecting women and children include the penalties for rape, domestic violence, and child molestation. However, regardless of changes to the Penal Code, tradition and culture often prevail over civil and criminal law, and in practice women do not enjoy equal status with men. For example, the harmful traditional practice of abduction as a form of marriage already is illegal under the penal code but still is widely practiced in many rural areas.

Children.—The Government has encouraged efforts by domestic and international NGO's that focus on children's social, health, and legal issues. For example, local officials provided transportation and free facilities to NGO outreach activities. However, the Government has limited ability to provide improved health care and basic education. Despite efforts by the Government to increase the number of schools, including the construction of 303 new schools during the year, there are not enough schools to accommodate the country's youth. Nationwide, only 52 percent of male primary age children and 31 percent of female primary age children attend school, and many do so in shifts. However, government reports show that over 40 percent of the children who attend school leave the system before they reach grade two of primary school. The chance of their relapsing to illiteracy is high. The overall literacy rate is approximately 23 percent; however, only 17 percent of women are literate compared with 26 percent of men. Only 10 percent of males and 7 percent of

females attend secondary school. In 1998 only 23,712 males and 8,484 females earned a school-leaving certificate, a prerequisite to attend college. There is space in institutions of higher education for only a small percentage of these graduates.

Five additional Child Protection Units (CPU's) were created in Addis Ababa's police stations to protect the rights of children by assisting them when they become victims of crime. There are a total of 10 CPU's, which are staffed by members of an NGO. Some police officers underwent training on procedures for handling cases of child abuse and juvenile delinquency. Nevertheless, there is a clear need for reform of the juvenile justice system. The Federal Supreme Court has assigned only three judges to sit on one bench to hear all cases of juvenile offenses. There is a large backlog of juvenile cases and accused children often remain in detention with adults until their cases are heard. There is only one juvenile remand home with a capacity of 150 for children under age 15, and the juveniles who cannot be accommodated at the juvenile remand home are incarcerated with adults.

Societal abuse of young girls continues to be a problem. The majority of girls undergo some form of female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health. The NCTPE conducted a survey that was published in 1998, which indicated that 72.7 percent of the female population had undergone FGM, down from an estimated 90 percent of the female population in 1990. Clitoridectomies typically are performed 7 days after birth and consist of an excision of the labia. Infibulation, the most extreme and dangerous form of FGM, is performed at any time between the age of 8 and the onset of puberty. The law does not specifically prohibit FGM, although it is discouraged officially, and the Government has been very supportive of the NCTPE. The Government also is working to discourage the practice of FGM through education in public schools.

Other harmful traditional practices surveyed by the NCTPE included uvulectomy, milk-teeth extraction, early marriage, marriage by abduction, and food and work prohibitions. The Constitution defines the age of consent as 15 for females and 18 for males. Nevertheless, early childhood marriage is common in rural areas, with girls as young as age 9 subjected to arranged marriages. In the Afar region of the east, young girls continue to be married to much older men, but this traditional practice is coming under greater scrutiny and criticism. The Tigray Women's Association also has had an impact in changing societal attitudes toward early marriage. Pregnancy at an early age often leads to obstetric fistulae resulting in lifelong misery due to total and permanent incontinence. Treatment is available at only one hospital in Addis Ababa that performs over 1,000 fistula operations a year. It estimates that for every successful operation performed, 10 other young women need the treatment. The maternal mortality rate is extremely high due, in part, to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, especially infibulation.

UNICEF estimates that there are approximately 150,000 street children in the urban areas, of which 100,000 reside in Addis Ababa. These children beg, sometimes as part of a gang, or work in the informal sector in order to survive (see Section 6.d.). Government and privately run orphanages are unable to handle the number of street children, and older children often abuse younger children. Due to severe resource constraints, abandoned infants often are overlooked or neglected at hospitals and orphanages. There are a few credible reports that children are maimed or blinded by their "handlers" in order to raise their earnings from begging.

Child prostitution continues to be a problem. In 1996, a National Steering Committee Against Sexual Exploitation of Children was formed and is chaired by the Children, Youth, and Family Affairs Department of the Ministry of Labor and Social Affairs. In October the committee reported that child prostitution is on the increase especially in major urban centers of the country. NGO's report that girls as young as age 11 are recruited to work in houses of prostitution where they are kept ignorant of the risks of HIV infection. There have been many press reports of the large-scale employment of children, especially underage girls, as hotel workers, barmaids, and prostitutes in resort towns and truckstops south of Addis Ababa. In past years, there were reports that poor rural families sold their young teenage daughters to hotel and bar owners on the main truck routes; however, there were no reports of such activity during the year. Social workers note that young girls are prized because their clients believe that they are free of sexually transmitted diseases. The unwanted babies of these young girls usually are abandoned at hospitals, police stations, welfare clinics, and adoption agencies. There were numerous anecdotal accounts of young girls going to the Middle East to work as house servants and nannies, some of whom were abused, including sexually. (see also Section 6.c., 6.d., and 6.f.). Factors aggravating the problem of child prostitution are pervasive poverty, migration to urban centers, and limited educational and job opportunities.

Child labor is pervasive, and child laborers sometimes are subjected to abuse, including neglect, and among children working as domestic servants, sexual abuse and rape (see Section 6.d.).

It is the policy of the Ministry of Defense not to permit persons under the age of 18 to join the armed forces, and the Government made efforts to enforce this policy; however, there were reports that some children under the age of 18 were recruited into the military. There were reports that local officials have been given military "recruitment quotas" to fill and that, as a result, they are recruiting students who are 18 years of age or older. If young boys demonstrated that they are under 18, they are exempted; however, in rural areas children often do not have birth certificates. There is also evidence that persons under the age of 18 were able to obtain documentation to overstate their age and join the armed forces. There is evidence that children as young as age 14 are permitted to join local militias with the consent of village leaders. This reportedly is part of an effort to keep children in local areas despite limited educational or employment opportunities.

People with Disabilities.—The Constitution stipulates that the State shall allocate resources to provide rehabilitation and assistance to the physically and mentally disabled; however, limited government resources restrict action in these areas. The Government has not yet put into place mechanisms to enforce a 1994 law mandating equal rights for the disabled. The Government does not mandate access to buildings or government services for the disabled, and persons with minor disabilities sometimes complain of job discrimination. According to one NGO report, only 500 of the approximately 700,000 visually impaired persons in the country have access to employment opportunities. There are numerous domestic NGO's that work with the disabled. For example, the Amhara Development Association operates a project to provide vocational training to disabled war veterans in Bahir Dar. The Tigray Development Association has established a similar center in Mekele. A 1994 census determined that there were 989,000 disabled persons in the country; however, observers believe that number has grown and is significantly higher.

Religious Minorities.—Despite the generally broad level of societal tolerance for established faiths, there were instances of open conflict among religious groups in past years, most noticeably between Ethiopian Orthodox Christians on the one hand, and Pentecostals and evangelicals on the other, and there continued to be pockets of interreligious tension and criticism during the year. Newer faiths such as Jehovah's Witnesses and Pentecostals have encountered overt opposition from the public. Muslims and Orthodox Christians complain about proselytization by Pentecostals and Jehovah's Witnesses. Ethiopian Orthodox leaders complain that sometimes Protestants fail to respect Orthodox holy days and Orthodox customs. Muslims complain that some Pentecostal preachers disparage Islam in their services. There were complaints by Muslim leaders that the Ethiopian Orthodox Church's desire to "show supremacy" sometimes caused irritation in the country's various regions.

Protestant and Pentecostal leaders complained that, on occasion, Orthodox or evangelical adherents interrupted Protestant and Pentecostal religious meetings and attempted to prevent the construction of Protestant churches in predominately Orthodox or evangelical areas.

In February a Seventh-Day Adventist minister rented a room in a building in Bahir Dir and conducted a religious service. Local Ethiopian Orthodox Church members gathered outside the building and threw stones. There were no reported injuries.

In April two Muslim communities attempted to construct new mosques but abandoned the construction when local Orthodox Church members caused damage to the construction sites and beat one Muslim who tried to prevent their actions.

Nevertheless, in most sections of the country Orthodox Christians and Muslims participate in each other's religious observances, and there is tolerance for intermarriage and conversion in certain areas, most notably in Welo, as well as in urban areas throughout the country. In the capital, Addis Ababa, persons of different faiths often live side-by-side. Most urban areas reflect a mixture of all religious denominations. Longstanding evangelical Protestant denominations, particularly the Mekane Yesus Church and Kale Hiwot Churches, provide social services such as health care and education to nonmembers as well as to members. Mekane Yesus and Kale Hiwot leaders reported improved relations with the Ethiopian Orthodox Church during the year.

National/Racial/Ethnic Minorities.—There are more than 80 ethnic groups. Although many of these groups have influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands have played a dominant role. Some ethnic groups such as the Oromos, the largest single group, were subjugated during the 19th century. In an attempt to address ethnic concerns, the

Government has established a federal system with political boundaries drawn roughly along major ethnic lines. With federalism regional states have much greater control over their affairs. In Oromiya, for example, the regional government required that all primary schools adopt Oromiffa as the language of instruction. This has drawn protests from groups that reside in Oromiya whose mother tongue is not Oromiffa and who believe that their children are now at a disadvantage. There are credible reports that teachers and other government workers have had their employment terminated if they are not of the dominant ethnic group in the region.

In May local administrators in the SNNPRS informed elementary and high school teachers that new textbooks would be used in the North Omo Zone, which merged four closely related languages spoken in the zone: Welayita, Gamo, Goffa, and Dawro. Neither local communities nor teachers had been consulted before the decision was made to introduce the new textbooks. Representatives of the elders committee of the Welayita ethnic group complained to local and federal officials about the loss of the Welayita language as a means of instruction and requested that the Welayita be granted zonal status within the SNNPRS, but the officials denied their request. The Welayita ethnic group has a larger population than four federal region states, but only controls 7 of the 22 districts in the North Omo zone. When the school year began, students boycotted classes in protest of the new textbooks, and in November police arrested two teachers for objecting to the new language (see Section 1.d.). The arrests led to widespread demonstrations and rioting in the city of Sodo during which police killed up to 10 persons, injured hundreds, and arrested and detained as many as 1,000 others (see Sections 1.a., 1.c. and 1.d.). Schools remained closed until December, approximately 100 special police remained in Sodo at year's end, and approximately 100 teachers were transferred from the area because of their opposition to the new language.

There has been a long history of tension between the Nuer and Anuak tribal groups. In November Nuer students in the Gambella region demonstrated for the use of the Nuer language in schools: the Amharic language is the medium of instruction in schools in the Gambella region. In December the Government arrested up to 26 Nuer tribal political activists associated with the GPDC on charges of inciting the Nuer students to demonstrate (see Section 1.d.). The GPDC accused the Anuak tribe, whose political organization, the Gambella People's Democratic Party, is an EPRDF affiliate, of interfering with their political activities prior to the May 2000 elections (see Section 5).

The expansion of the military from a low of 60,000 personnel in April 1998 to approximately 325,000 to 350,000 personnel at year's end has aided greatly in the goal of bringing other ethnic groups into the military. By most accounts, the military is an ethnically diverse organization with very little friction between the various groups represented, at least in the lower ranks. At the higher ranks the officer cadre is much less ethnically diverse. Promotions awarded in July to major general, brigadier general, and colonel were heavily weighted towards the Tigray ethnic group, although some Amharas and one notable Oromo were included on the promotion list. Persons from the west, south and east conspicuously were absent from the senior officer promotion lists.

Section 6. Worker rights

a. *The Right of Association.*—Only a small percentage of the population is involved in wage labor employment, which is concentrated largely in urban areas. Approximately 85 percent of the work force live in the countryside and are engaged in subsistence farming.

The Constitution provides most workers with the right to form and join unions and engage in collective bargaining, but the 1993 Labor Proclamation specifically excluded teachers and civil servants, including judges, prosecutors, and security services, from organizing as a union. Only 300,000 workers are unionized. The 1993 Labor Proclamation also decreed that workers who provide "essential services" are not allowed to strike. Essential services are defined broadly to include air transport services, railways, bus service, postal, police and fire services, banking, telecommunications, and medical services.

The ETA formerly had a membership of 120,000; however, that number has decreased significantly due to government intimidation and restrictions on ETA activities. In 1992 Dr. Taye Woldesemayat was elected chairman of the ETA. Soon thereafter the ETA executive committee issued demands to protect teachers' rights and improve working conditions and questioned aspects of the Government's education policies. There are credible reports that the Government began to harass the ETA leadership at all levels beginning in 1993 and that such harassment continued during the year. In March 1996, Kebede Desta, chairman of the retired teachers union, was arrested and died in jail in March. In May 1996, Dr. Taye, upon his return from

Europe, was arrested and charged with being the leader of a clandestine political organization. In May 1997, Assefa Maru, an ETA executive committee member, was killed by police. In August 1998, the Government sealed the ETA executive offices, detained ETA leaders, and transferred the assets of the ETA over to an ETA faction supportive of the Government's educational policies. In June Dr. Taye was sentenced to 15 years in prison (see Section 1.d.).

There is no requirement that unions belong to the Confederation of Ethiopian Trade Unions (CETU), which was established in 1993, decertified in December 1994 because of internal management and political disputes, and officially reestablished and recertified in April 1997. CETU includes all nine federations organized by industrial and service sectors rather than by region. In September the Banking and Insurance Workers Federation (BIWF) rejoined CETU when four of the five core unions in the BIWF voted to join CETU.

The Labor Law stipulates that a trade organization may not act in an overtly political manner. The Labor Law explicitly gives workers the right to strike to protect their interests, but it also sets forth restrictive procedures that apply before a legal strike may take place. These apply equally to an employer's right to lock out workers. Strikes must be supported by a majority of the workers affected. The Labor Law prohibits retribution against strikers but labor leaders state that most workers are not convinced that the Government would enforce this protection. Both sides must make efforts at reconciliation, provide at least 10 days' notice to the Government, include the reasons for the action, and in cases already before a court or labor board, the party must provide at least a 30-day warning. If an agreement between unions and management cannot be reached, the Minister of Labor may refer the case to arbitration by a Labor Relations Board (LRB). The Government has established LRB's at the national level and in some regions. The Minister of Labor and Social Affairs appoints each LRB chairman, and the four board members include two each from trade unions and employer groups. Some efforts to enforce these regulations are made within the formal industrial sector. There were no strikes during the year. Labor officials have stated that in view of high unemployment and the inattention courts have given to labor cases, workers are afraid to participate in strikes or other labor actions.

Independent unions and those belonging to CETU are free to affiliate with and participate in international labor bodies.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected under the Labor Law and under the Constitution and is practiced freely throughout the country. Collective bargaining agreements concluded between 1975 and the promulgation of the 1993 Labor Law remain in force. Labor experts estimate that more than 90 percent of unionized workers are covered by collective bargaining agreements. Wages are negotiated at the plant level. The law prohibits antiunion discrimination by employers against union members and organizers. There are grievance procedures for hearings on allegations of discrimination brought by individuals or unions. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities. Labor leaders point to a number of court cases that are 3 or 4 years old in which workers have been terminated for union activities as examples of inattention by the courts to worker rights. Seasonal and parttime agricultural workers are not organized even on state-owned plantations. Seasonal workers' compensation, benefits, and working conditions are far below those of unionized permanent plantation employees.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Criminal Code, which applies to persons over the age of 15 specifically prohibits forced labor; however, forced labor can be used by court order as a punitive measure. Forced or compulsory labor by children is illegal; while there were reports in past years that young girls reportedly were sold or forced into prostitution, there were no such reports during the year (see Sections 5 and 6.f.). There also were numerous anecdotal accounts of young persons, especially girls, traveling to the Middle East to work as house servants and nannies, some of whom were abused, including sexually (see Section 6.f.). The Constitution proscribes slavery, which was abolished officially in 1942, and involuntary servitude. There were no reports of slavery within the country.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Under the Labor Law, the minimum age for wage or salary employment is 14 years; special provisions cover children between the ages of 14 and 18, including the prohibition of night work or hazardous work.

Children may not work more than 7 hours per day; work between the hours of 10 p.m. and 6 a.m.; work on public holidays or rest days; or perform overtime work. While the Government has made some effort to enforce these regulations within the formal industrial sector, social welfare activists, civic organizers, government offi-

cials, and entrepreneurs agree that child labor is pervasive throughout the country, especially in the informal sector. In urban areas, children in large numbers can be seen working in a variety of jobs, including shining shoes, hustling passengers into cabs, working as porters, selling lottery tickets, and herding animals. Child domestic workers are common. Child laborers often are abused. A research study published during the year reported that the prevalence of child abuse among urban child laborers is 70 percent, compared with 24.5 percent among non-economically active children from the same urban district. The study concluded that physical and emotional abuse were twice as common among child workers compared with non-workers, sexual abuse was five times as common, and neglect was eight times as common. Among child workers surveyed, rapes occurred exclusively among child domestics. A second research study of child labor sponsored by CETU's National Federation of Farm, Plantation, Fishery, and Agro-industry Trade Unions and published during the year focused on rural locations. The study reported that 30 percent of the workers on state farms surveyed were between the ages of 7 and 14. Child workers typically worked 6 days a week, received no benefits, and earned less than $10 (80 birr) a month. At one plantation 75 percent of the children worked 12-hour days. There also is evidence that children as young as age 14 are permitted to join local militias with the consent of village leaders. This reportedly is part of an effort to keep children in local areas despite limited educational or employment opportunities (see Section 5). The Government maintains that most economically active children are engaged in family-based, nonexploitative child work that is part of the socialization process and maintains that there is not a child labor problem.

Forced or compulsory labor by children is illegal, and, unlike in past years, there were no reports that it happened. (see Sections 5, 6.c. and 6.f.).

e. *Acceptable Conditions of Work.*—In 1995 the Government established a minimum wage of approximately $15 (120 birr) per month for all wage earners in both the private and public sectors. In addition, each industry and service sector has established its own minimum wage. For example, public sector employees, the largest group of wage earners, earn a minimum wage of approximately $22 (175 birr) per month; employees in the banking and insurance sector have a minimum wage of $25 (200 birr) per month. According to the statistics reported by the Office of the Study of Wages and Other Remuneration, these wages are insufficient to provide a decent standard of living for a worker and family. Consequently, most families must have at least two wage earners to survive, and that is one of the reasons children leave school early.

The legal workweek, as stipulated in the Labor Law, is 48 hours, consisting of 6 days of 8 hours each, with a 24-hour rest period. However, in practice, most employees work a 40-hour workweek consisting of 5 days of 8 hours each.

The Government, industry, and unions negotiate to set occupational health and safety standards. However, the Inspection Department of the Ministry of Labor and Social Affairs enforces these standards ineffectively, due to a lack of human and financial resources. Workers have the right to remove themselves from dangerous situations without jeopardy to continued employment; however, most workers fear losing their jobs if they were to do so.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were numerous anecdotal accounts of young girls traveling to the Middle East to work as house servants and nannies, some of whom are abused, including sexually. There reportedly is a network of persons based in the tourism and import-export sectors who are involved heavily in soliciting potential clients, recruiting young girls, arranging travel, and fabricating counterfeit work permits, travel documents, and birth certificates (see Sections 5 and 6.c.).

Although illegal, the abduction of women and girls as a form of marriage still is widely practiced in Oromiya regions and the SNNPRS (see Section 5).

As a result of a change in the Labor Law the Government no longer acts as an employment agency for workers going abroad. Private entities now arrange for overseas work and as a result, the number of women being sent to Middle Eastern countries as domestic or industrial workers increased significantly. Lebanon is the most popular destination. There were credible reports that hundreds of the approximately 15,000 Ethiopian domestic workers in Lebanon were subjected to abusive conditions, including sexual exploitation. In September and October, pictures appeared in the local press of workers returning bruised and beaten. There were also reports that Ethiopian domestic workers were abused in other Middle Eastern countries.

The Government began revising the Federal Civil and Penal Codes to increase the penalties for traffickers. Training programs were implemented for police officers on the criminal aspects of trafficking.

GABON

Gabon is a republic dominated by a strong Presidency. Although opposition parties have been legal since 1990, a single party, the Gabonese Democratic Party (PDG) has remained in power since 1968 and has circumscribed political choice. Elections for the presidency and the National Assembly generally have not been free and fair but have varied widely in quality; some suffered chiefly from poor organization, while others were fraudulent. PDG leader El Hadj Omar Bongo has been President since 1967 and was reelected for another 7-year term in a December 1998 election marred by irregularities that generally favored the incumbent, including incomplete and inaccurate electoral lists and the use of false documents to cast votes. In July 1998, following opposition victories in 1996 elections for local government offices that recently had been made elective, the Government transferred key electoral functions to the Interior Ministry from an independent National Electoral Commission that had been established pursuant to a 1995 constitutional referendum. Members of the PDG and allied parties hold large majorities of seats in both chambers of the national legislature: The directly elected National Assembly, for which the most recent elections, held in December 1996, were poorly run and fraudulent; and the Senate, members of which are chosen by municipal and regional government officials. The judiciary is independent but remains vulnerable to government manipulation.

The national police, which are subordinate to the Interior Ministry, and the gendarmerie, which is subordinate to the Defense Ministry, are primarily responsible for domestic law enforcement and public security. In addition elements of the armed forces and the "Republican Guard," an elite, heavily armed unit that protects the President, sometimes have performed internal security functions; both the armed forces and the Republican Guard are subordinate to the Defense Ministry. Members of the security forces occasionally committed human rights abuses.

The country's economy is underdiversified and heavily dependent upon external trade. The State dominates much of the economy through telecommunications, timber export, and oil refinery parastatals; however, the production of wood, oil, and other minerals is largely private, and the water, electric, railroad, and sugar parastatals have been privatized. Government financial mismanagement and corruption have contributed to significant arrears in domestic and external debt payments. Since the discovery of offshore oil in the late 1970's, the oil industry has generated nearly half of recorded gross national product; oil export earnings have allowed the country's approximately 1 million citizens to enjoy a relatively high material standard of living based on imports of consumer goods and have drawn to the country's capital, Libreville, a third of the country's citizens and many immigrants from poorer African countries who work chiefly in the informal and service sectors. Average annual per capita GDP was approximately $4,500, although income distribution remained badly skewed in favor of urban dwellers and a small economic elite, while the rural population continued to receive relatively few social services. However, the depletion of proven reserves of oil and timber contributed to declining export earnings and state revenues during the year.

The Government generally respected the rights of its citizens in some areas; however, longstanding human rights abuses continued. Members of the security forces committed isolated extrajudicial killings, the security forces beat and tortured prisoners and detainees, prison conditions remained harsh and life threatening, arbitrary arrest and detention continued, the judiciary remained subject to government influence, and authorities routinely infringed on citizens' privacy rights. The Government continued to restrict freedom of the press. The ability of citizens to change their government remained limited. Violence and societal discrimination against women and forced labor by foreign children as domestic and agricultural workers remained problems.

RESPECT FOR HUMAN RIGHTS

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

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

In April an off-duty member of the Republican Guard shot and killed a taxi driver who had refused to lend his taxi to the soldier. Despite demands from the media to prosecute the alleged assailant, police had not charged the suspect by year's end.

In July a group of off-duty policemen reportedly killed 2 persons and wounded 11 in a discotheque in Libreville. This reportedly was in retaliation for the killing of

a policeman at the same discotheque several nights earlier. There were no arrests in this case by year's end.

Although there were no confirmed reports of attempted killings that appeared to be politically motivated, Pierre Mamboundou, who contested the December 1998 presidential election as the candidate of the opposition High Council of the Resistance Party, and to whom official results assigned the second-largest number of votes cast in that election, stated in December 1998 that armed commandos attempted to kill him on December 12, 1998, 1 day before the official results of that election were announced. Mamboundou stated that he believed that the Government was responsible for the alleged attack, but no evidence supporting this allegation was known.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or cruel and inhuman punishment; however, security forces often beat or physically mistreat prisoners and detainees as punishment and to exact confessions.

In February police used force to disperse student demonstrators (see Section 2.a.).

There were occasional incidents of violence in which practitioners of some traditional indigenous religions (see Section 5) inflicted bodily harm on other persons. However, the details of these incidents are uncertain. The Ministry of the Interior maintained that violence and bodily harm to others in the practice of a traditional religion is a criminal offense and is prosecuted vigorously. Media reports suggested that this was true; however, little information about such prosecutions or their results is available.

Conditions in most prisons are harsh and life threatening. Sanitation and ventilation are poor, and medical care is almost nonexistent. Prisons provide inadequate food for inmates. There were no known visits by human rights monitors to prisons during the year, although the Government was not known to have impeded such visits.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are problems. The law provides for up to 48 hours of initial preventive detention, during which time police must charge a detainee before a judge. However, in practice police rarely respect this provision. Charges often are not filed expeditiously and persons often are detained arbitrarily for long periods. Bail may be set if there is to be a further investigation. Pretrial detainees have the right to free access to their attorneys, and this right is respected in practice. Detainees have the right to an expeditious trial, as defined by the law. Pretrial detention is limited to 6 months for a misdemeanor and to 1 year for a felony charge. These periods may be extended for 6 months by the examining magistrate. Prolonged pretrial detention is common. The Attorney General's office estimates that roughly 40 percent of persons in custody are pretrial detainees.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary is generally independent in principle, it remains vulnerable to government manipulation.

The judicial system includes the regular courts, a military tribunal, and a civilian State Security Court. The regular court system includes trial courts, appellate courts, and the Supreme Court. The Constitutional Court is a separate body charged with examining constitutional questions, including the certification of elections. There are no traditional or customary courts. In some areas, minor disputes may be taken to a local chief, but the State does not recognize such decisions. The State Security Court, last convened in 1990, is constituted by the Government as required to consider matters of state security.

There were systemic resource and personnel shortages in the judiciary, which often contributed to prolonged pretrial detention (see Section 1.d.).

The Constitution provides for the right to a public trial and the right to legal counsel. These rights are generally respected in criminal cases. Nevertheless, procedural safeguards are lacking, particularly in state security trials. A judge may thus deliver an immediate verdict of guilty at the initial hearing if sufficient evidence is presented by the State.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for protection from surveillance, from searches without warrant, and from interference with private telecommunications or correspondence. As part of criminal investigations, police may request search warrants from judges, which they obtain easily, sometimes after the fact. The Government has used them in the past to gain access to the homes of opposition figures and their families.

Government authorities also routinely monitor private telephone conversations, personal mail, and the movements of citizens.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press and, although citizens generally continued to speak freely and criticize the Government, the Government continued to restrict press freedom. Legislators in the National Assembly openly criticize government policies, Ministers, and other officials.

The only daily newspaper was the state-affiliated L'Union. About 10 privately owned weekly or monthly publications in newspaper format, representing independent views and those of various political parties, appeared during the year; however, most appeared irregularly due to financial constraints and, in some instances, to government suspensions of their publication licenses. All newspapers—including L'Union—actively criticized the Government and political leaders of all parties. Most also criticized the President.

Journalists are subject to the Communication Code, a law which specifies their rights and responsibilities. Libel can be either a criminal offense or a civil matter. The law authorizes the State to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the State to criminalize civil libel suits.

In April the National Communication Council (CNC), a government agency subordinate to the Communications Ministry, released its draft of a proposed new Communications Code that would further restrict press freedom by expanding the scope of criminal libel laws in the name of protecting "dignity of the person," but would shift the penalties for libel away from imprisonment and toward monetary fines; it would reduce prison sentences for journalists convicted of criminal libel while increasing fines that could be imposed on such journalists and on the newspaper firms that employ them. The new Communications Code was pending in the National Assembly at year's end.

In recent years, the Government repeatedly has suspended the publication licenses of some pro-opposition newspapers. For example, the publication license of Le Bucheron, a Libreville-based weekly affiliated with the National Rally of Lumberjacks (RNB) the country's largest opposition party, was suspended by the Ministry of Communications in 1993, by the Ministry of Interior in 1995, and twice by the CNC during 1997. In each instance, the grounds for suspension were the contents of articles or cartoons critical of President Bongo or his Government. The most recent suspension, for 3 months starting in October 1997, resulted from the newspaper's publications of allegations that President Bongo stifled dissent by practicing witchcraft.

In April the CNC suspended the publication license of La Griffe, a Libreville-based satirical weekly newspaper, on the grounds that it was publishing anonymous editorials in contravention of a legal requirement, necessary for the enforcement of criminal libel laws, that publications indicate the authors of everything they publish. The Ministry of Communications previously had suspended the same newspaper's license from August 1998 through March after the Government successfully prosecuted members of the newspaper's staff for criminal libel. La Griffe's publication license remained suspended at year's end.

The Government did not prosecute any journalists for criminal libel during the year. However, in recent years, the Government increasingly has used criminal libel prosecutions to restrict freedom of expression, especially criticism of the Government. Two private print media journalists, convicted of criminal libel in August 1998, fled the country early in the year while their appeals were pending and remained outside the country at year's end: Michel Ongoudou Loundah, editor-in-chief of La Griffe, and La Griffe reporter Pulcherie Beaumiel, both of whom the Government had prosecuted and whom a court had convicted and sentenced to 8 months' imprisonment for reporting that the director general of the state-owned airline had used the airline to smuggle ivory internationally. In August 1998, Charles Moussavou Mabika, a journalist at Gabonese Radio and Televison (RTG) and president of the national journalists' union, was convicted of libel and sentenced to a fine and 1 month's incarceration with no opportunity to appeal, for alleging that the Minister of Communications had embezzled a sum equivalent to $3.5 million; Mabika served his sentence and was released in late 1998. In January 1998, Pierre-Andre Kombila, publisher of Le Bucheron, was convicted of libeling the President by printing accusations that President Bongo practices witchcraft and was fined the equivalent of $1,800 and given a suspended sentence of 4 months' imprisonment.

The State owns and operates two radio stations, RTG–1 and RTG–2, which broadcast to all areas of the country. Much of their news coverage concerns the activities of government officials. However, RTG editorials sometimes are critical of specific government policies and even specific Ministers of government. The CNC issues and sometimes has suspended the broadcasting licenses of private radio and television

stations. During the year, license suspensions by the CNC reduced the number of privately owned radio and television stations. At year's end, only six privately owned radio stations operated in the country: Africa No. 1, Radio Nostalgie, Radio Generation Nouvelle, Radio Unite, Radio Mandarine, and Radio Soleil. Radio Soleil is affiliated with the opposition RNB party and is highly critical of the Government. The other privately owned radio stations were apolitical. The State owned and operated two television stations, RTG–1 and RTG–2; an apolitical station, TV Plus, was the only privately owned television station still broadcasting in the country at year's end.

In December 1998, while the Government was tabulating the results of the presidential election, domestic broadcasts of Radio Soleil were jammed, and the station's telephone lines were cut.

In February the CNC suspended a live call-in program from Radio Soleil. The CNC maintained that the program, Feedback, violated an ordinance in the communications code. Specifically, the CNC claimed that a caller, on a live broadcast that subsequently was rebroadcast, had insulted President Bongo.

On October 11, the CNC suspended the broadcasting licenses of two privately owned radio stations, Note Dame de Perpetuel Secours and Radio Liberte, and of two privately owned television stations, TV 11 and Woleu Vision.

The Government did not interfere with domestic reception of broadcasts of international radio stations, including Radio France 1 and the Voice of America. Foreign newspapers and magazines were widely available.

The Government did not restrict access to or use of the Internet. At year's end there were two Internet service providers in the country, one state-owned and the other privately owned. In urban areas there were cybercafes that provided relatively affordable access to the Internet.

There are no restrictions on academic freedom, including research.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice for citizens and recognized organizations. The law requires that groups obtain permits for public gatherings in advance, and the Government usually grants them.

In February police used force to disperse demonstrations by high school and university students who had been on strike since November 1998 to protest shortages of school buses and other facilities; some such demonstrations had become destructive of property and disruptive of traffic.

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

c. *Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respects this right in practice. There is no state religion, and authorities do not engage in religious persecution or favoritism. A 1983 decree banning Jehovah's Witnesses, which the government promulgated on the grounds that Jehovah's Witnesses allegedly do not adequately protect individuals who might dissent from the group's views, remained in effect throughout the year. However, the Government did not enforce the ban; in practice, Jehovah's Witnesses in the country worshipped free from any known hindrance by the State. Interior Ministry officials reportedly have met with representatives of Jehovah's Witnesses to discuss lifting the ban; as a condition of lifting the ban, the Government reportedly seeks a written commitment from the denomination that it would respect individual rights.

The Ministry of the Interior maintains an official registry of some religious groups; however, it does not register traditional indigenous religious groups. The Government does not require religious groups to register but recommends that they do so in order to assemble with full constitutional protection. No financial or tax benefit is conferred by registration. The Government has refused to register about 10 religious groups, including Jehovah's Witnesses.

In October the Government suspended the broadcasting license of a privately owned radio station affiliated with the Catholic Church (see Section 2.a).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights. There are no legally mandated restrictions on internal movement. Police and gendarmes continued frequently to stop travelers to check identity, residence, or registration documents, and members of the security forces regularly harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. They extorted bribes and demanded services with the threat of confiscation of residence documents or imprisonment. Residence permits cost up to $1,000.

An unevenly enforced law requires married women to have their husbands' permission to travel abroad. An exit visa is no longer required for citizens to travel abroad. Aliens resident in the country must obtain a visa in order to leave and return.

In July 1, 500 security force members including army soldiers were deployed in the capital to round up illegal immigrants and bandits; according to a Defense Ministry statement, they were instructed "to search systematically the maximum number of vehicles."

The law contains provisions for granting refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government strictly controls the process of refugee adjudication. Coordination with the U.N. High Commissioner for Refugees (UNHCR) is generally adequate. During the year, an estimated 15,000 refugees from the Republic of Congo (Brazzaville) entered the country; many of them were fleeing offensives against Congolese rebels by forces supporting the Congo's government. The Government cooperated with the UNHCR and international nongovernmental organizations (NGO's) that provided assistance to these refugees.

During the year there were no reports that the Government forcibly returned persons to a country were they feared persecution. However, in 1997 the Government handed over two refugees from Equatorial Guinea to members of the Equatoguinean security forces who accompanied the President of Equatorial Guinea on a visit to the country; they were repatriated forcibly on the visiting President's plane, subsequently were imprisoned in Equatorial Guinea, and remained in prison at year's end.

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

The 1991 Constitution explicitly provides this right, but mismanagement and serious irregularities in both the 1990 and 1996 legislative elections and the 1993 and 1998 presidential elections called into serious doubt the extent to which this right exists in practice. A single party, the PDG, has remained in power since its creation by President Bongo in 1968, and political choice has remained limited in practice despite the legalization of opposition parties since 1990.

In a July 1995 constitutional referendum, citizens approved by a 96 percent majority reforms, including most significantly the establishment of an independent National Electoral Commission (NEC). The referendum was carried out under arrangements that assured that all political parties could monitor voting and vote counting.

The Republic is dominated by a strong Presidency. The President can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law while the legislature is not in session. The legislature generally has approved legislation presented to it by the President, but occasionally has not done so. The President appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is responsible. The President appoints ministers of government, provincial governors, prefects and subprefects, and the heads of parastatal firms.

PDG leader El Hadj Omar Bongo has been President since 1967, when the former president died while Bongo was Vice President. He was reelected for another 7-year term in a December 1998 election marred by irregularities that generally favored the incumbent, including incomplete and inaccurate electoral lists and the use of false documents to cast multiple votes. In July 1998, the Government transferred key electoral functions, including the maintenance of voter registration lists, from the NEC to the Interior Ministry. In October 1998, the representatives of three major opposition parties withdrew from the NEC to protest their inability to verify the accuracy of voter registration lists. Official results showed Bongo winning about two-thirds of the votes cast.

The most recent elections for the National Assembly, the lower house of the bicameral national legislature, held in 1996, were poorly run and fraudulent. Candidates belonging to the PDG and other parties supporting President Bongo won more than 80 of the 120 seats, including 8 of 10 seats in the capital, where the opposition recently had won fairer local government elections. The military and NEC magistrates fraudulently ensured victory for parties supporting the President by arbitrarily altering vote counts, particularly in the capital.

The ability of citizens to choose their subnational governments remains limited in practice. Among subnational officials, provincial governors, prefects, and subprefects are officers of the central Government, responsible to the President. Mayors and municipal councils are elected; however, municipal governments have limited financial autonomy and depend heavily on funding from the central Government. During the year, the Mayor of Libreville, a member of the RNB opposition party, complained that the central Government was not disbursing funds allocated to Libreville's municipal government.

Local elections for mayors and municipal councils held in 1996 were poorly organized and later were repeated in key districts. In both sets of elections, opposition

parties won most of the municipal council seats in the capital, Libreville, where the RNB candidate was elected mayor.

The Senate, the upper house of the bicameral national legislature, was created in 1996. The first elections for Senators were held in 1997. Municipal and regional government officials elect all 91 Senators.

Major opposition parties include the RNB and the Gabonese Progressive Party (PGP). The RNB's political base is in the northern province of Woleu-Ntem, which is inhabited chiefly by members of the Fang ethnic group, and in Libreville neighborhoods with many Fang residents, although the party attracts some support from other regions and ethnic groups. In 1998, before the presidential election, the RNB spit into two factions. The PGP enjoys strong support in Port Gentil, the country's economic center, and among the Myene ethnic group. Ideological splits and rivalries between Libreville and Port Gentil have reduced the effectiveness of the PGP.

There are no restrictions on the participation of women and minorities in politics. At year's end, 6 of the 120 National Assembly representatives, 9 of the 91 senators, and 4 of the 41 cabinet members were women. Indigenous Pygmies rarely participate in the political process, and the Government has made only limited efforts to include them (see Section 5).

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

The Government officially allows the existence of independent human rights groups, although none are active. No domestic nongovernmental associations (NGO's) actively investigate, report on, or work to mitigate human rights abuses. The largest and best-financed domestic NGO's are government-associated and financed; the president of one such NGO, GERDDES-Gabon, is a senior official of the ruling party. In October the Government announced its intention to set up a National Human Rights Commission; it had not yet done so by year's end.

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

The Constitution forbids discrimination based on national origin, race, gender, or opinion. The Government does not uniformly enforce these constitutional provisions and tolerates a substantial degree of discrimination against women, especially in domestic affairs. It has also provided a lower level of health care and educational services to children of families of other African nationalities than it provided to citizens.

Women.—Violence against women is common and is especially prevalent in rural areas. While medical authorities have not specifically identified rape to be a chronic problem, religious workers and hospital staff report that evidence of beatings of women is common. Police rarely intervene in such cases, and women virtually never file complaints with civil authorities. Only limited medical and legal assistance is available.

The law provides that women have rights to equal access in education, business, and investment. Women own businesses and property, participate in politics, and work throughout the government and the private sector. Women nevertheless continue to face considerable societal and legal discrimination, especially in rural areas. According to a U.N. agency, only 52 percent of women were literate in 1994, compared with 74 percent of men.

By law couples must stipulate at the time of marriage whether they intend to adhere to a monogynous or a polygynous relationship. For monogynous married couples, a common property law provides for the equal distribution of assets after divorce. Wives who leave polygynous husbands suffer severe reductions in their property rights. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property. Common law marriage, which is socially accepted and widely practiced, affords a woman no property rights.

The law still requires that a woman obtain her husband's permission to travel abroad; however, this requirement is not consistently enforced.

Children.—The Government has used oil revenue to build schools, to pay adequate teacher salaries, and to promote education, even in rural areas. The country has a relatively high infant mortality rate, and not all children have access to vaccination. Traditional beliefs and practices provide numerous safeguards for children, but children remain the responsibility of the extended family—including aunts, grandmothers, and older siblings. There is little evidence of physical abuse of children. Protection for children's rights is not codified in law.

There is concern about the problems facing the large community of children of African noncitizens. Almost all enjoy far less access to education and health care than do children of Gabonese and are sometimes victims of child labor abuses (see Section 6.d.). Female genital mutilation (FGM), which is widely condemned by inter-

national health experts as damaging to both physical and psychological health, occurs among the resident population of expatriate Africans. There are no laws against FGM, but according to local women's groups, it is not practiced on Gabonese children.

People With Disabilities.—There are no laws that prohibit discrimination against persons with disabilities, or that provide for access to buildings or services.

Indigenous People.—The Baka people (Pygmies) are the earliest known human inhabitants of the country. Several thousand indigenous Pygmies live in the country, most in large tracts of still-intact rain forest in the northeast. Domestic law grants them the same civil rights as other citizens. Pygmies are largely independent of formal authority, keeping their own traditions, independent communities, and local decisionmaking structures. Pygmies did not participate in government-instituted programs that integrated many small rural villages into larger ones along major roads. As a result, their access to government-funded health and sanitation facilities was limited. There are no specific government programs or policies to assist or hinder Pygmies.

National/Racial/Ethnic Minorities.—The country's citizen population includes several ethnic groups, each of which generally speaks a distinct primary language and is concentrated in an identifiable area of the country. There is no majority ethnic group; the largest ethnic group is the Fang, which makes up over 30 percent of the population and is concentrated in the north. Other major ethnic groups include the Myene, the Bapunu, the Bateke, the Obamba, and the Nzebi. Urban neighborhoods are not ethnically segregated; interethnic marriage is common.

There was some correlation between ethnic and political cleavages. Support for the ruling party is stronger among persons from southern ethnic groups, including President Bongo's Bateke ethnic group, than among the northern Fang group or the coastal Myene group (see Section 3).

The Government generally fostered ethnic balance in the public sector, throughout which persons from all major ethnic groups continued to occupy prominent positions. However, there was evidence that members of the President's Bateke ethnic group and other ethnic southerners held a disproportionately large number of key positions throughout the military and security forces (see Section 3).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions. Virtually the entire formal private sector work force is unionized. Unions must register with the Government in order to be recognized officially. Public sector employees may unionize although their right to strike is limited if it could jeopardize public safety. Until 1990 there was only one recognized labor organization, the Gabonese Labor Confederation (COSYGA), to which all unionized workers contributed a mandatory percentage of their salaries. In 1992 the Government accepted the establishment of independent unions and abolished the mandatory contribution to COSYGA. Since 1993, many independent unions have emerged, including powerful unions of teachers, civil servants, transport workers, and communications workers. Some independent unions have associated to form the Gabonese Confederation of Free Unions (CGSL). COSYGA has continued to be affiliated with the Government but has publicly criticized some government policies it perceived as contrary to labor interests.

In 1994 the National Assembly passed an extensively revised version of the Labor Code, which was published and implemented in early 1995. The code provides extensive protection of worker rights.

Strikes are legal if they are held after an 8-day notice advising that outside arbitration has failed. The Labor Code prohibits direct government action against individual strikers who abide by the arbitration and notification provisions. It also provides that the Government cannot press charges against a group for criminal activities committed by individuals.

The country's largest union, which represents public sector employees, went on strike in November 1998 to demand higher wages and remained on strike until February. On January 26, the Prime Minister issued a public statement threatening criminal penalties against public sector workers who continued to strike.

In October the employees of the Chamber of Commerce went on strike to protest the state-owned Chamber's failure to pay their salaries, which in turn resulted from its failure to receive funds from the Government.

Unions and confederations are free to affiliate with international labor bodies and participate in their activities. COSYGA is affiliated with the Organization of African Trade Union Unity, while the CGSL is affiliated with the International Confed-

eration of Free Trade Unions. Both COSYGA and CGSL have ties with numerous other international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code provides for collective bargaining by industry, not by firm; collectively bargained agreements set wages for whole industries. Labor and management meet to negotiate differences, and the Ministry of Labor provides an observer. This observer does not take an active part in negotiations over pay scales, working conditions, or benefits. Agreements also apply to nonunion workers. While no laws specifically prohibit antiunion discrimination, the court may require employers who are found guilty by civil courts of having engaged in such discrimination to compensate employees.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, and there are no reports that it exists in the adult community. The Government also specifically prohibits forced and bonded labor by children, but does not enforce this prohibition effectively. However, children and in particular immigrant children are forced to working as domestic or agricultural help. The Government is cooperating actively with the U.N. Children's Fund (UNICEF) to combat this abuse; however, UNICEF has reported that some government officials privately use forced labor by immigrant children (see Section 6.d.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Children below the age of 16 may not work without the express consent of the Ministries of Labor, Education, and Public Health. These ministries rigorously enforce this law with respect to Gabonese children, and there are few Gabonese under the age of 18 working in the modern wage sector. A significant number of children work in marketplaces or perform domestic duties. UNICEF and other concerned organizations have reported that government officials often privately use foreign child labor, mainly as domestic or agricultural help. These children do not go to school, have only limited means of acquiring medical attention, and are often victims of exploitation by employers or foster families. Laws forbidding child labor theoretically extend protection to foreign children as well, but abuses often are not reported. Education is compulsory until age 16. However, there is evidence that fewer than half of all secondary-school-age children attended school as of 1996; secondary school attendance rates for immigrant children appear likely to be lower, although public schools accept immigrant children, and the Government encourages them to attend.

On January 23, the Minister of Education announced the indefinite closure of all public primary and secondary schools, following a strike by some public school teachers and most university students (see Sections 2.a and 6.a); however, all affected schools reopened in February following the resolution of the strike, and remained open throughout the rest of the year.

The Government prohibits forced and bonded labor by children but does not enforce this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Labor Code governs working conditions and benefits for all sectors and provides a broad range of protection to workers. The Code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. All companies in the modern wage sector pay competitive wages and grant generous fringe benefits required by law, including maternity leave and 6 weeks of annual paid vacation.

Traditionally, representatives of labor, management, and the Government met annually to examine economic and labor conditions and to recommend a minimum wage rate within government guidelines to the President, who then issued an annual decree. This procedure has not been followed since 1994, in part because the Government was pursuing a policy of wage austerity recommended by international financial institutions. The monthly minimum wage was kept at its 1994 level of about $110 (cfa 64,000). Wages provide a decent standard of living for a worker and family.

The Ministry of Health has established occupational health and safety standards but does not enforce or regulate them effectively. The application of labor standards varies greatly from company to company and between industries. The Government reportedly does not enforce Labor Code provisions in sectors where the bulk of the labor force is non-Gabonese. Foreigners, both documented and undocumented, may be obliged to work under substandard conditions; may be dismissed without notice or recourse; or may be mistreated physically, especially in the case of illegal aliens. Employers frequently require longer hours of work from noncitizen Africans and pay them less, often hiring on a short-term, casual basis in order to avoid paying taxes, social security contributions, and other benefits. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

f. *Trafficking in Persons.*—No law specifically prohibits trafficking in persons; however, authorities have indicated that a provision of the Constitution that pro-

hibits endangering the physical well-being of a person authorizes the State to prosecute persons who commit this abuse.

There were no reports that persons were trafficked in, to, or from the country during the year.

THE GAMBIA

The Gambia is ruled by President Yahya A.J.J. Jammeh, the former chairman of the Armed Forces Provisional Ruling Council (AFPRC) that seized power in a military coup in 1994, deposing a democratically elected government. Jammeh resigned his military commission and was elected president in controversial elections in September 1996, which observers considered neither free nor fair. Three of the 13 members of the current Cabinet are retired army officers who were Jammeh's allies during or immediately following the coup, and the security forces continue to exert strong influence in the Government. In January 1997, the Constitution of the Second Republic came into effect, restoring formal constitutional government, and citizens chose a National Assembly in elections, the results of which generally were accepted by the opposition. Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), won 33 of the 45 assembly seats filled by election. The Constitution provides for an independent judiciary; however, the judiciary reportedly is subject at times to executive branch pressure, especially at lower levels, although the courts have demonstrated their independence on occasion.

The Gambian National Army (GNA) reports to the Secretary of State for Defense (who is now the President). The police report to the Secretary of State for the Interior. The National Intelligence Agency (NIA), established in 1995 by government decree, reports directly to the President but is otherwise autonomous. Members of the security forces committed serious human rights abuses.

The rapidly growing population of 1.3 million is divided between a rural majority and a growing urban minority. Much of the population is engaged in subsistence farming. The country's farmers, a majority of whom are women, grow rice, millet, corn, and groundnuts (the country's primary export crop). The private sector, led by tourism, trading, and fisheries, is experiencing modest growth. However, a high population growth rate has diluted the positive effects of economic expansion. Per capita gross domestic product is estimated to be $360.

The Government's human rights record generally was poor, and serious problems remained. President Jammeh's dominance and restrictions on opposition parties continued, and in practice citizens still do not have an effective right to change their government. Security forces sometimes beat or otherwise mistreated detainees and prisoners. There was at least one credible report that police severely beat an opposition figure while in custody. Prison conditions remained very poor. Security forces at times arbitrarily arrested and detained citizens, particularly opposition politicians and journalists. Some of the detainees alleged harsh treatment at the hands of their captors. The courts reportedly are subject to executive branch pressure, particularly at lower levels, although magistrates occasionally demonstrate some independence by ruling against the Government. However, members of the security forces occasionally defy High Court orders with relative impunity. The Constitution prohibits the prosecution of any member of the AFPRC for any act or omission in the performance of official duties following the 1994 coup. The Government at times infringed on citizens' privacy rights; the right to transfer funds or assets remained restricted for most senior officials of the former Jawara government. The Government significantly limited freedom of speech and of the press through intimidation and fear. Journalists still practice self-censorship. Citizens have been arrested for making antigovernment statements in public. The Government restricted freedom of assembly and association. The opposition United Democratic Party (UDP), in at least two instances, was denied permission to hold public rallies on the grounds that it did not provide sufficient notice. Although opposition forces were active and vocal in the National Assembly, a standing order forbade parliamentarians from criticizing the Head of State in their debates or discussing any matter before the courts. Although formal constitutional rule was restored in 1997, some constitutional provisions have not been respected in practice, and others have not been tested in the courts. An apparently unconstitutional ban on political activity by some politicians and political parties remains in effect and has not been subject to judicial review. The Government at times limited freedom of movement, particularly for some senior officials of the former Jawara government. The Government continued to withhold passports from at least three current opposition politicians, although in May a new passport was issued to one of the politicians. Discrimination and violence against

women persisted. The practice of female genital mutilation (FGM) is widespread and entrenched. Child labor is common.

RESPECT FOR HUMAN RIGHTS

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

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

The Government has not taken any action against a group of soldiers who shot and killed a man on a beach in October 1997, despite assurances by the Department of State for Defense that the matter would be "judiciously and expeditiously addressed."

The circumstances of the May 1997 death of Yaya Srammeh, a rebel accused of treason, have not been explained publicly, nor has there been an investigation into his death.

In July 1998, the Secretary of State for the Interior stated before the National Assembly that there had been no progress in his department's investigation of the 1995 death of former Finance Minister Ousman Koro Ceesay. The Government made no further statements on this matter during the year.

There were no reported developments concerning the 1995 death of Sadibou Haidara, a member of the junta that seized power in 1994.

In January rebels allegedly belonging to the Movement of Democratic Forces for the Casamance (MFDC) in Senegal crossed the border and attacked the village of Gambissara, killing two persons. On January 16, police arrested three alleged members of the MFDC.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture or inhuman or degrading punishment; however, security forces sometimes beat or otherwise mistreated detainees and prisoners. There were also reports that security forces beat military and security detainees, and that security prisoners sometimes are threatened with summary execution.

According to a member of the National Assembly, police allegedly severely beat and tortured an opposition politician who was arrested and detained for 2 days (see Section 1.d.).

Police harassed citizens at checkpoints (see Section 2.d.).

There were no developments in the promised investigation of the detention and torture of eight UDP officials in 1997. At the time of the incident, the Government promised a full investigation and appropriate action by the Attorney General. Since the incident, police investigators have interviewed some witnesses, but some victims say that they have not been contacted. No one has been arrested and no results of the investigation have been made public.

There were no further developments in the case of the reported detention and severe beating of UDP member Yaya Sanneh in July 1997.

Conditions at Mile 2, Janjanbureh, and Jeshwang prisons remained very poor. Mile 2 prison was reported to be grim, overcrowded, and lacking in medical facilities. Prisoners are locked in their cells for over 20 hours each day. There were credible reports of beatings, malnourishment, and other harsh treatment of political, military, and security detainees. Women are housed separately.

Conditions in one representative local jail reportedly were unsanitary and overcrowded. Inmates slept on cement benches or on the floor without blankets. There was one water tap in the cell area but often no water. Police are reluctant to terminate fistfights between prisoners until the dispute is settled, and many of the prisoners are injured.

The International Committee of the Red Cross visited Mile 2 prison during the year. Local nongovernmental organizations (NGO's) also generally are permitted to visit prisons upon request. A member of the African Commission on Human and Peoples' Rights and the Special Rapporteur on Prisons and Conditions of Detention in Africa visited the three prisons during the year.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution includes provisions to protect against arbitrary arrest and detention; however, on occasion, security forces arbitrarily arrested and detained citizens. Periods of detention ranged from a few hours to several days.

The Government has not revoked formally military decrees enacted prior to the current Constitution that give the NIA and the Secretary of State for Interior broad power to detain individuals indefinitely without charge if "in the interest of national security." The Constitution provides that decrees remain in effect unless inconsistent with constitutional provisions. These detention decrees appear to be inconsistent with the Constitution, but they have not yet been subject to judicial chal-

lenge. The Government has stated that it no longer enforces these decrees; however, in some instances, the Government did not respect the constitutional requirement that detainees be brought before a court within 72 hours.

In April the NIA arrested two airport security officials and detained them without charge for 2 days after they attempted to prevent a senior presidential advisor from escorting a group of foreign officials onto the airport tarmac. The presidential advisor reportedly drew his gun after being denied entry, forced his way onto the tarmac, and then struck the more senior of the security officials on the head with the butt of the gun. Upon being released from detention, both security officers were fired from their jobs; however, in July they were reinstated and the senior security officer was promoted.

In May the NIA arrested Tata Camara, chairperson in Janjanbureh of the UDP, and six other UDP supporters in Dankunku. Tata allegedly was discussing privately her views of economic hardships in the country when arrested. The arrests of the other six followed a UDP political rally held in Dankunku in May. The six UDP supporters were released after 6 hours but Camara remained in detention for 2 weeks.

On May 26, an opposition member, Shyngle Nyassi, was abducted from his house in Brikama and detained without charge by the NIA. The NIA defied a High Court order to release Nyassi, who was detained for 2 weeks, falsely claiming that he was not in the agency's custody. The NIA released Nyassi a week after the court-ordered time.

On July 16, a reporter from a new newspaper, The Independent, was detained for over 2 hours. He allegedly was harassed for reporting that government immigration officers had arrested non-citizen, disabled beggars. On July 30, the NIA arrested six staff members of The Independent and detained them for 3 hours for questioning after the newspaper continued publishing despite a court order to cease publication. On August 1, the NIA arrested and detained for a day the editor in chief and the managing editor of The Independent (see Section 2.a.).

In September a reporter from The Daily Observer and the editor in chief were arrested and detained for questioning after publishing a story about an alleged military skirmish in the village of Kanilai, which is President Jammeh's home village (see Section 2.a.). The editor was released after 2 hours of questioning, but the reporter was detained for 48 hours. Both were released without charge.

In September the chairman of the opposition National Reconciliation Party (NRP) in Dankunku village, Musa Jallow, was arrested and detained for 2 days by the police. He was accused of insulting President Jammeh and other government authorities. A member of the National Assembly, who visited Jallow during his detention, reported that Jallow had been beaten and tortured.

In May 1998, 10 persons, including UDP leader Lamin Waa Juwara and the imam of the largest mosque in Brikama, were arrested in a politically charged dispute over minor construction work at a mosque in Brikama (see Section 2.c.). None of those arrested was charged within the constitutionally required 72-hour period. Charges against five of those detained were dropped. The four that were charged with damaging public property were acquitted and discharged by the magistrate court in February.

On December 28, three journalists with the Independent newspaper were arrested for "libel against the President" (see Section 2.a.). They were released on bail, but must check in with the police on a regular basis. Their trial was pending at year's end.

The Government has made no progress in investigating the detention and torture of eight UDP activists in 1997 (see Section 1.c.).

The Government did not exile opponents; however, former President Jawara remains outside the country under threat of arrest and detention on corruption charges if he returns. Other senior officials of the former government, for example, Vice President Saihou Sabally, and Secretary General Abdou Sara Janha, also remain outside the country, but do not face official charges.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary reportedly is subject at times to executive branch pressure, especially at the lower levels. The courts nevertheless have demonstrated their independence on several occasions, at times in significant cases. In February the High Court dismissed charges against some of the defendants in the politically charged dispute concerning a mosque in Brikama (see Section 1.d.). In 1997 the Court of Appeal, the country's highest court, overturned the treason convictions and death sentences of four men who led an abortive coup in November 1996. The Government has appealed this decision to the Privy Council in London, but the case was pending at year's end.

The judicial system comprises a Judicial Committee of the Privy Council (based in London), the Court of Appeal, high courts, and eight magistrate's courts. The

Constitution provided for a reconfiguration of the courts by which a Supreme Court would replace the Privy Council as the ultimate court of appeal. The new Supreme Court was inaugurated in December, and a full compliment of judges and a Chief Justice were appointed. Appeals to the Privy Council ceased. Village chiefs preside over local courts at the village level.

The judicial system recognizes customary, Shari'a, and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and all other traditional and social relations. Shari'a law is observed primarily in Muslim marriage and divorce matters. General law, following the English model, applies to felonies, misdemeanors in urban areas, and the formal business sector. Trials are public, and defendants have the right to an attorney at their own cost.

The 1998 trial of three men accused of complicity in a July 1997 coup attempt was closed to the public after the court accepted a prosecution motion that public presentation of certain evidence would lead to a "breach of peace and public order." One of the accused made detailed allegations of torture before the proceedings were closed. The three were convicted of treason in October 1998 and sentenced to death; their appeals of the convictions were pending at year's end.

The junta that took power in 1994 appointed four commissions to investigate individuals and organizations suspected of corruption during the First Republic. These commissions had powers similar to a grand jury, with additional authority to recommend the seizure of assets, to imprison and fine for contempt, and to imprison or demand bond from individuals considered likely to abscond. Three of the commissions completed their work in 1998, the fourth completed its work and submitted its report. The commissions were closed in December. No findings were made public by year's end.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such abuses; however, although the Government generally respects these prohibitions, in practice there were some exceptions. The Government has not canceled Decree 45, which abrogates Constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree remains formally in effect, pending a judicial finding that the decree is inconsistent with the Constitution. In practice the Government appears not to enforce it, but no court case has been brought to test the decree's constitutionality.

Observers assume that the Government monitors citizens engaged in activity that it deems objectionable. In the past, surveillance included monitoring of telephones and mail. In previous years, investigating commissions made findings resulting in the forfeiture of private property, principally that property held by former government and parastatal officials. The work of these commissions, which began under the AFPRC regime, is sanctioned under the Constitution with provisions for due process. However, it is not clear that the full rights of due process were accorded to officials investigated by the commissions before the Constitution took effect. The evidentiary standards applied by the commissions in ordering the forfeiture of money and property are not clear, and orders by the commissions have not yet been subject to effective judicial review.

The Government restricted the right to transfer funds or assets of some senior officials of the former Jawara government accused of corruption.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, in practice, the Government significantly limits the full exercise of these freedoms by using intimidation, police pressure, regulatory scrutiny, and laws that inhibit the media. As a result, journalists practice a significant degree of self-censorship.

On July 23, the publishers of The Independent received a letter from the Attorney General, ordering them to cease publishing until they had registered their business name with the Commissioner of Income Tax as required by the Business Registration Act of 1973. The Independent ignored the order and continued to publish. On July 30, the NIA raided The Independent offices and arrested six staff members. They were detained for questioning for 3 hours and released without charge. On August 1, the editor in chief and the managing editor were arrested and detained by the NIA for continuing to publish the newspaper. They were released on August 2 (see Section 1.d.). The Independent subsequently completed the registration of its name and resumed publishing on August 20. On December 28, the editor in chief, the managing editor, and a staff reporter with the Independent were arrested for "libel against the President," after they wrote an article questioning the stability of the President's marriage. They were released on a bail of $1,000 (10,000 dalasi)

each, but must check in with the police on a regular basis. Their trial was pending at year's end.

In early 1998, the NIA closed the country's leading independent radio station, Citizen FM, after it broadcast a report that a senior NIA official had been implicated in a currency counterfeiting scheme. The station also was charged with failure to pay its licensing fees. The station's owner and news editor were detained briefly. Despite the controversy over licensing fees, a government press release made it clear that the station's editorial policies were a principal reason for the government action. The press release warned about "disciplinary measures" for reporting "allegations and unconfirmed rumors." In July 1998, a magistrate's court ordered that the station be forfeited to the Government for failure to pay the licensing fees, despite repeated offers by the station's ownership to pay past due accounts. The station's ownership has appealed the judgment; the trial resumed at the High Court in June, but was adjourned until 2000.

The Daily Observer, the country's leading independent newspaper, also has experienced significant governmental interference. In May the Daily Observer was sold to a businessperson said to be more amenable to President Jammeh than the previous management. Nevertheless, Daily Observer reporters still encounter politically motivated resistance. In September a reporter from the Daily Observer and the editor in chief were arrested and detained for questioning, subsequent to an Observer article reporting on an alleged military skirmish in the President's home village. The editor in chief was released after 2 hours and the reporter released after 48 hours (see Section 1.d.).

In September an opposition politician was arrested, detained, and reportedly beaten for allegedly insulting President Jammeh and other government authorities (see Section 1.d.).

The Government employed arrest, detention, and interrogation to intimidate journalists and newspapers that published articles that it considered inaccurate or sensitive (see Section 1.d.). Decrees 70 and 71, enacted in 1996, remained in effect and continued to inhibit free reporting. The decrees require all newspapers to post a $10,000 (100,000 dalasis) bond or cease publication. The bond is required to ensure payment of any penalties imposed by a court for the publication of blasphemous or seditious articles or other libel. State-owned publications are not subject to these decrees. The possession and distribution of documents deemed to be "political literature" also is barred by decree. These decrees and the fear of reprisals and government action have had a chilling effect on the press. Although still independent, the nongovernment press practices a significant degree of self-censorship. However, strong criticism of the Government is frequent, and opposition views appear in the independent press. English, French, and other foreign newspapers and magazines are available.

Radio broadcasts from the government station and private stations normally reach listeners in the eastern part of the country. Private radio stations simulcast news provided by Radio Gambia, the government station. After the closure of Citizen FM, only one private radio station produced independent news broadcasts. However, occasionally there were public affairs broadcasts on at least two independent radio stations. The British Broadcasting Corporation, Voice of America, Radio France International, and other news reports sometimes are rebroadcast by local stations, and all are available via short-wave radio. Senegalese television and radio are available in many parts of the country. Wealthy residents also use television satellite systems for independent news coverage.

Government radio and television give very limited coverage to opposition activities, including statements by opposition parliamentarians in the National Assembly. In most other respects, the state media serve as propaganda instruments for the Government and its supporters.

There were no reports of any government restrictions on academic freedom. There is no university, but a university extension program completed its fourth academic year in August.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for freedom of assembly; however, the Government restricts this right in practice. The authorities interfered with efforts by the principal opposition party, the UDP, to organize public meetings. In several instances, the Government denied UDP requests for permits to hold political rallies on the grounds that the requests were submitted late. Nevertheless the UDP held several well attended rallies at which leaders made statements highly critical of the Government.

In May the police arrested a female chairperson and six other UDP supporters for attending a political rally. The six were released within 24 hours, but the chairperson was detained without charge for 2 weeks (see Section 1.d.).

The Constitution provides for freedom of association; however, the Government restricts this right in practice. Decree 89 banned from political activity three major opposition political parties, and all former presidents, vice presidents, and ministers until 2024. The decree's penalty of life imprisonment for an individual or a $100,000 (1 million dalasi) fine for an organization considerably restricts political activity (see Section 3). Despite the fact that the decree apparently conflicts with provisions of the Constitution, it has not been challenged in court. The severe penalties for violating the decree have inhibited political challenge, since most cases would have to be brought by a person who violated the decree. The three banned major parties have not resumed activity nor have the various political figures covered under the ban done so.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Adherents of all faiths are free to worship without government restriction.

The foreign leadership and foreign staff members of the Ahmadiyah Islamic branch, who left the country in 1997 claiming fear of persecution after being criticized by the imam of the Statehouse mosque so far have not returned. However, in 1998 the Gambian head of the Ahmadiyah branch returned from exile, and the institutions of the Ahmadiyah, which were closed as a result of the conflict, were reopened. The Statehouse imam has made no further criticism of the Ahmadiyah branch.

In May 1998, the imam of the largest mosque in Brikama was arrested in a dispute over minor construction work at a mosque that reportedly was financed by supporters of the ruling party. The imam, a largely apolitical figure who nevertheless is believed by many to oppose the ruling party, ordered a halt to the construction. Subsequently he was arrested, together with a leading opposition party politician and eight others. In February after a protracted legal battle, all of those arrested were acquitted of charges of destruction of property and discharged by the High Court. However, the Government refused to allow the imam to lead prayers at the mosque both as a result of this incident and due to pressure from his opponents in the community. The Government's refusal to allow the imam to lead prayers was being considered in the High Court at year's end.

The Government permits and does not limit religious instruction in schools. Bible and Koranic studies are provided in both public and private schools throughout the country without government restriction or interference. Religious instruction in public schools is provided at government expense, but is not mandatory.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement but allows for "reasonable restrictions," and there were instances in which the Government restricted this right. At a major police checkpoint outside of Banjul, police and NIA personnel reportedly harassed individuals not carrying the recently required identification card. Even citizens who carried Gambian passports were detained and threatened at gunpoint. However, observers reported that such activity lessened by year's end.

The authorities prohibited those under investigation for corruption or security matters from leaving the country. Three politicians associated with the opposition UDP also were denied passports, although they were not facing corruption or security charges. One of the politicians was granted a passport in May. The leader of the opposition UDP and other opposition figures have traveled outside the country without incident.

The law does not provide for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provided first asylum for approximately 3,000 persons from Senegal and Guinea-Bissau during the year. There were no reports of the forced expulsion of persons with a valid claim to refugee status. The Government works with the UNHCR and local NGO's in processing refugee claims. The Gambia hosts approximately 8,000 refugees from Sierra Leone, Senegal, Guinea-Bissau, Liberia, and other countries. The Government continues to host approximately 3,500 Senegalese refugees from the troubled Casamance region. In August with the assistance of the Government, the UNHCR repatriated 93 refugees to the Casamance region in Senegal and 250 to Guinea-Bissau.

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

Despite a new Constitution and legislative elections in 1997, citizens still do not have an effective right to change their government in practice. Citizens attempted to exercise this right in presidential elections in 1996; however, the few inter-

national observers who were present noted serious problems in the electoral process. Foreign governments criticized the election as not being free and fair, primarily because of government intimidation, restrictions imposed by the Government on opposition campaign efforts, and limited access to the government-owned media prior to the election.

Government-owned media continued to deny news coverage and other access to opposition politicians and engaged in a number of other practices that restricted political activity (see Section 2.a.). In September an opposition politician was arrested, detained, and reportedly beaten for allegedly insulting President Jammeh and other government authorities (see Section 1.d.). The Government frequently refused to authorize opposition meetings (see Section 2.b). Decree 89 bans three former political parties and all persons who held the offices of president, vice president, and minister since 1965 from involvement in politics until 2024 (see Section 2.b.). Although Decree 89 apparently is unconstitutional, it has not been challenged in the courts and remained in effect. The severe penalties for violating the decree have inhibited challenge, since most cases would have to be brought by a person who violated the decree. During the year, the Government thwarted an opposition effort to have the National Assembly repeal Decree 89.

In January 1997, the Constitution of the Second Republic came into effect, and citizens chose a new National Assembly in elections whose results were accepted by the opposition. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC) won 33 of 45 assembly seats filled by election; 4 members are appointed by the President. Procedural methods are used to restrict debate within the National Assembly.

The Constitution provides for the democratic election of the President every 5 years. National Assembly elections are held 3 months after the presidential elections. Presidential elections are scheduled for 2001. Local elections originally scheduled for 1998 were postponed; no new date has been fixed yet.

There are no obstacles to the participation of women in government; however, they are underrepresented in government and politics. Only 1 of 45 members of the National Assembly is a woman. The Vice President (who is also Minister of Health) is a woman and there are three female ministers in the Cabinet.

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

There are several organizations whose mandates provide for human rights monitoring. The AFPRC's Decree 81 of 1996 requires NGO's to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate (including that of international NGO's). However, the Government did not take action against any NGO's during the year.

There are three major organizations whose primary mandate is the promotion of human rights—the International Society for Human Rights (ISHRA), the African Center for Democracy and Human Rights Studies (ACDHRS), and the Institute for Human Rights and Development (IHRD). Both the ISHRA and the ACDHRS have conducted training in democratic rights and civic education. The IHRD is a new organization and focuses principally on the operations of the African Commission on Human and Peoples' Rights, an organ of the Organization of African Unity based in Banjul.

In May President Jammeh appointed the first government ombudsman as required in the Constitution. On May 3, the National Assembly approved the appointment. The ombudsman's office, which began operations during the year is charged with investigating allegations of mal-administration, mismanagement, or discrimination.

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

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status, and the Government generally respects these prohibitions.

Women.—Domestic violence, including abuse, occasionally is reported, and its occurrence is believed to be fairly common. Police tend to consider these incidents to be domestic issues outside of their ordinary jurisdiction.

Rape and assault are crimes under the law. The law does not differentiate between married and unmarried women in this regard. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage); incest is also illegal. These laws generally are enforced.

Neither sexual harassment nor de facto sexual discrimination are believed to be widespread, although individual instances have been noted.

Traditional views of women's roles result in extensive societal discrimination in education and employment. Families frequently educate male children before female children. Females constitute about 40 percent of primary school students and roughly ⅓ of high school students.

Employment in the formal sector is open to women at the same salary rates as men. No statutory discrimination exists in other kinds of employment; however, women generally are employed in endeavors such as food vending or subsistence farming.

Shari'a law usually is applied in divorce and inheritance matters for Muslims, who make up approximately 90 percent of the population. Women normally receive a lower proportion of assets distributed through inheritance than do male relatives. Marriages often are arranged and, depending on the ethnic group, polygyny is practiced. Women in polygynous unions have property and other rights arising from the marriage. They have the option to divorce, but not a legal right to approve or be notified in advance of subsequent marriages.

Active women's rights groups exist, which are focused primarily on economic issues and the elimination of female genital mutilation (FGM).

Children.—The Government is committed to children's welfare. The Department of Education and the Department of Health, Social Welfare, and Women's Affairs are the two most generously funded departments. However, the lack of resources limits state provision of both education and health services.

The Constitution mandates free compulsory primary education, but in view of the current state of the educational infrastructure, this provision represents a goal and not an accomplishment. There is no effective compulsory education. However, in February 1998, the President announced an end to fees for the first 6 years of schooling, and the Government has implemented the decision. Opportunities for secondary education are even more limited. The participation of girls in education is very low; there is approximately a two to one ratio of boys to girls enrolled in school at all levels. The enrollment of girls is particularly low in rural areas where a combination of poverty and socio-cultural factors influence parents' decisions to not send girls to school.

The care and welfare of children in distress is considered primarily a family responsibility. In cases of divorce, the Department of Social Welfare attempts to require periodic financial support by fathers; however, there is no criminal prosecution when fathers fail to provide financial support.

Authorities generally intervene when cases of child abuse or mistreatment are brought to their attention, however, there is no societal pattern of abuse against children. Serious cases of abuse and violence against children are subject to criminal penalties.

There are a few instances of child street begging. The tourist industry has stimulated a small amount of child prostitution, which is prosecuted vigorously. In rural areas, most children assist their families in farm and housework. In urban areas, many children work as street vendors or taxi and bus assistants.

The practice of female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is widespread and entrenched. Reports place the number of women having been subjected to FGM at between 60 and 90 percent. Seven of the nine major ethnic groups practice FGM at ages varying from shortly after birth until 18 years old. In recent years, the Government publicly has supported efforts to eradicate FGM and discourages FGM through health education. However, the Government has not passed legislation against FGM, and FGM is not considered a criminal act. In February President Jammeh stated publicly that the Government would not ban FGM, and that FGM is a part of the country's culture.

People with Disabilities.—There are no statutes or regulations requiring accessibility for the disabled. No legal discrimination against the physically disabled exists in employment, education, or other state services. Severely disabled individuals subsist primarily through private charity. Less severely disabled individuals are accepted fully in society and encounter no discrimination in employment for which they are physically capable.

Section 6 Worker Rights a. The Right of Association

The 1990 Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and provides for their registration with the Government. It specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions or striking. About 20 percent of the work force is employed in the modern wage sector, where unions are most active. Approximately 30,000 workers are union members, constituting about 10 percent of the work force.

The Gambian Worker's Confederation and the Gambian Workers' Union are the two main independent and competing umbrella organizations. The Government recognizes both organizations.

The Labor Act authorizes strikes but requires that unions give the Commissioner of Labor 14 days' written notice before beginning an industrial action (28 days for essential services). It prohibits retribution against strikers who comply with the law regulating strikes. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. Because of these provisions and the weakness of unions, few strikes occur.

Unions may affiliate internationally, and there are no restrictions on union members' participation in international labor activities. The country applied in 1995 to join the International Labor Organization. It has been accepted in principle but must make modifications to its labor and employment laws before gaining full membership; however, the Government took no action during the year to modify its labor and employment laws. b. The Right to Organize and Bargain Collectively

The 1990 Labor Act allows workers to organize and bargain collectively. Although trade unions are small and fragmented, collective bargaining takes place. Each recognized union has guidelines for its activities specified by the appropriate industrial council established and empowered by the Labor Act. Union members' wages exceed legal minimums and are determined by collective bargaining, arbitration, or agreements reached between unions and management after insuring that the agreements are in compliance with labor law. No denial of registration has been reported. The act also sets minimum contract standards for hiring, training, terms of employment, and provides that contracts may not prohibit union membership. Employers may not fire or discriminate against members of registered unions engaged in legal union activities.

The Government is attempting to establish an export processing zone at the port of Banjul, but no manufacturer has begun operations yet. c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits compulsory labor, and it is not known to occur. Although the law does not prohibit specifically forced or bonded labor by children, it is not known to occur. Most children performing customary chores or who are engaged in petty trading do so as a part of an extended family. d. Status of Child Labor Practices and Minimum Age for Employment

The statutory minimum age for employment is 18 years. There is no effective compulsory education, and because of limited secondary school openings, most children complete formal education by age 14 and then begin work. Employee labor cards, which include a person's age, are registered with the Labor Commissioner, but enforcement inspections rarely take place. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas, most children assist their families in farming and housework. In urban areas, many children work as street vendors or taxi and bus assistants. The tourist industry has stimulated a small amount of child prostitution (see Section 5).

Although the law does not prohibit specifically forced or bonded labor by children, it is not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Minimum wages and working hours are established by law through six joint industrial councils: Commerce; Artisans; Transport; Port Operations; Agriculture; and Fisheries.

Labor, management, and the Government are represented on these councils. The lowest minimum wage is about $1.04 (12 dalasis) per day for unskilled labor. This minimum wage is not sufficient to provide a decent standard of living for a worker and family. Only 20 percent of the labor force, essentially those workers in the formal economic sector, are covered by the minimum wage law. The majority of workers are employed privately or are self-employed, often in agriculture. Most citizens do not live on a single worker's earnings but share resources within extended families.

The basic legal workweek is 48 hours within a period not to exceed 6 consecutive days. A 30-minute lunch break is mandated. Nationwide, the workweek includes 4 8-hour workdays and 2 4-hour workdays (Friday and Saturday). Government employees are entitled to 1 month of paid annual leave after 1 year of service. Private sector employees receive between 14 and 30 days of paid annual leave, depending on length of service.

The Labor Act specifies safety equipment that an employer must provide to employees working in designated occupations. The Factory Act authorizes the Ministry of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and the Ministry is authorized to appoint inspectors to ensure compliance

with safety standards. Enforcement is inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the Labor Department. Workers may refuse to work in dangerous situations without risking loss of employment.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

GHANA

Ghana is a constitutional republic dominated by a strong presidency. Flight Lieutenant (ret.) Jerry John Rawlings has ruled the country for 18 years. He became the first President of the Fourth Republic following controversial elections in 1992. This ended 11 years of authoritarian rule under Rawlings and his Provisional National Defense Council (PNDC), which had seized power from an elected government in 1981. The opposition fully contested the 1996 presidential and parliamentary elections, which were described as peaceful, free, and transparent by domestic and international observers. President Rawlings was reelected with 57 percent of the popular vote. Rawlings' National Democratic Congress (NDC) party won 133 of the Parliament's 200 seats, just short of the two-thirds majority required to amend the Constitution. The Constitution calls for a system of checks and balances, with an executive branch headed by the President, a unicameral parliament, an independent judiciary, and several autonomous commissions, such as the Commission for Human Rights and Administrative Justice (CHRAJ). In reality this system of checks and balances is circumscribed by a parliament dominated by the President's party, a hesitant judicial service, and a system-wide lack of resources that hobbles the effectiveness of all three branches. The presence of a significant number of opposition parliamentarians has led to increased scrutiny of the Government's activities. In 1998 in peaceful elections voters elected new district assembly representatives and, for the first time, unit committee members to complete the local government structure outlined in the Constitution. The judiciary appears subject to executive influence on occasion and lacks adequate resources.

Several security organizations report to various government departments. The police, under the jurisdiction of an eight-member Police Council, are responsible for maintaining law and order. A separate department, the Bureau of National Investigations (BNI), handles cases considered critical to state security and answers directly to the executive branch. Although the security apparatus is controlled by and responsive to the Government, monitoring, supervision, and education of the police in particular remain poor. Police committed some serious human rights abuses.

The economy remains dependent on agriculture, with about 41 percent of gross domestic product (GDP) and 59 percent of employment derived from this sector, according to government statistics. Gold, cocoa, and timber are the traditional sources of export earnings, although cocoa and gold revenues fell due to the drop in the prices of these commodities on the world market. Tourism is the third largest foreign exchange earner. Service sector growth outpaced both agriculture and industry, according to an International Labor Organization (ILO) study released in September. The economy grew at a rate of 4.4 percent, down from 4.6 percent in 1998, due to the fall in the world price of gold and cocoa and the increase in the price of crude oil. Inflation decreased from 15 percent to 13.8 percent. Per capita GDP decreased to approximately $400.

There continued to be problems in the Government's human rights record; however, it continued its attempts to improve its practices. Police use of excessive force again resulted in a number of extrajudicial killings as well as injuries, although the use of rubber bullets and water cannons improved the ability of the police to manage crowd control situations without killings or serious injuries. Numerous incidents from earlier years remained unsolved. There were continued credible reports that members of the police beat prisoners and other citizens, and arbitrarily arrested and detained persons. Police corruption is a problem. Prison conditions remained harsh, and prolonged pretrial detention remained a problem. Inadequate resources and a system vulnerable to political and economic influence compromised the integrity of the overburdened judicial system. The Government sometimes infringed on citizens' privacy rights. The Government continued to prosecute two criminal libel cases. In 1998 three independent journalists were jailed following legally flawed contempt-of-court cases, strengthening the perception that the judiciary operates under the influence of the executive. In November a journalist was sentenced to 3 months in jail and fined about $460 after being found guilty in a criminal libel case. The Government continued to pressure the media. Some journalists practiced self-censorship.

The nongovernment press, nonetheless, continued its vigorous and outspoken criticism of various government policies. Police used force to disperse demonstrations. Government-supported demonstrations took place unimpeded, while demonstrations critical of the Government, when they occurred, were circumscribed. Violence against women is a serious problem. Traditional practices, including a localized form of slavery practiced in some rural areas, still result in considerable discrimination against and abuse of women and children. Female genital mutilation (FGM) still is practiced. In May mobs attacked three charismatic Christian churches in a seasonal conflict over a traditional ban on drumming. Some ethnic groups complain of discrimination. Child labor is a problem in the informal sector, and there were reports of forced child labor, and trafficking in women and children. Vigilante justice also is a problem. Legislation intended to provide additional protection to women and children came into effect, following similar legislation in 1998 intended to protect women and children.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Security forces committed a number of extrajudicial killings. The number of deaths reportedly caused by members of the security services remained the same, although the use of rubber bullets and water cannons improved the ability of the police to manage crowd control situations without killings or serious injuries. In recent years, the police service in particular has come under severe criticism following incidents of police brutality, corruption, and negligence. Public confidence remains low and mobs attacked several police stations. In January the presidential Archer Commission issued a white paper critiquing police operations and providing specific directives as to how to address police manpower, training, and logistical needs. The Inspector General of Police publicly acknowledged these problems and attempted to address them through training in human rights and riot control.

On January 13, a farmer was fatally shot and 12 policemen injured during a riot at Juaso, outside of Kumasi in the Ashanti Region. A former chief held a year-end party for his supporters although the police prohibited the gathering. The 36-year-old farmer was reportedly hit by a warning shot fired by the police. The ex-chief and more than 60 townspeople were arrested by a joint police and military team in connection with the riot (see Section 5).)

On February 14, police fired live bullets indiscriminately into a Konkomba market crowd, while attempting to stop looting, killing a 15-year-old boy and injuring two other persons.

On June 24, an employee of the National Security Council allegedly shot and killed an agricultural officer following a traffic dispute near Abelemkpe in Accra. The suspect, who reported having shot an armed robber, was arrested and released on bail. The case is ongoing.

On August 12, the Deputy Superintendent of Police allegedly shot a vendor at Soe, near Bolgatanga in the Upper East Region, in a dispute over the siting of a kiosk. The vendor died 3 days later. One other person was injured by a stray bullet fired by police during the confrontation. The police are investigating. The Inspector General of Police (IGP) attended the vendor's funeral.

On August 19, a policeman allegedly shot and killed a passenger in a truck after the driver refused to stop when signaled to do so in Winneba in the Central Region. The policeman reportedly was on the lookout for armed robbers and tried to deflate the truck's tires with an AK–47, killing the victim by mistake. The incident is under investigation.

On September 25, a policeman reportedly shot and killed a driver at his residence in Korpeyia, near the border with Togo. The police maintain the deceased was a notorious criminal who threatened to kill a policeman who had gone into his house to arrest him and that the policeman shot him in self-defense.

On November 13, a plainclothes police inspector shot and killed the driver of a timber truck at a police barricade in the Ashanti region town of Barekese. Initial reports stated that the man was shot accidentally in a scuffle with the police, but eyewitnesses reported that there was no scuffle and the driver was killed deliberately. Police authorities suspended the inspector immediately and initiated an investigation that was underway at year's end.

On December 24, a patrol team of police and military personnel shot and killed two passengers in a taxi in Tema, a coastal town in the greater Accra region. The taxi driver reportedly failed to stop at a checkpoint, and the police were making spot checks on vehicles following a report of an armed robbery. The police say they fired warning shots, but witnesses said there were more than 10 bullet holes in the vehi-

cle and the tires were flat from the shooting. At year's end, there had been no further action.

In late 1998, the police established a special judicial tribunal to try officers suspected of unlawful and careless use of weapons. Of the fatalities that occurred in 1998, several remained under investigation, with the implicated police officers transferred. Police actions in the July 2, 1998 incident in the Brong Ahafo Region were determined to have been in self-defense. The case has been closed and the officer transferred to another region. In February the Government accepted the results of the inquiry into the October 28, 1998 murder of a man in Accra. The commander of the operation was found personally liable. The IGP instigated disciplinary action against all the policemen involved and ordered compensation for the victim's family. The Ministry of Interior acknowledged that police of all ranks needed to be retrained in the handling of weapons. The police officers involved filed a protest stating that they are not personally liable for the incident because they were performing official duties.

The committee investigating the police officer implicated in the May 31, 1998 killing of a bystander in Sekondi indicted the officer in charge. The police have not yet compensated the family of the victim.

The officers involved in the October 7, 1998 beating of a farmer in Pramkese were suspended pending investigation. At year's end, the case was still under investigation.

In June the Government released the report of the committee that investigated the March 1997 death of two youths. The deaths occurred when police opened fire on demonstrators in Kumasi. The committee found, and the Government concurred, that the police failed to follow riot control procedures and that the families of the deceased should be compensated with approximately $2,900 (10 million cedis) for each family. Disciplinary action was ordered against the police officer in charge during the riot.

In June the family of a man who died on November 9, 1998 in a Western Region police cell reasserted that the deceased was brutalized by police and detained in handcuffs for 5 days. In response to a family petition filed a week after the death, the regional police command denied that police mistreated the deceased.

The Government again refused to launch an independent inquiry into the deaths of four demonstrators during a May 1995 protest against government tax policy after having closed the case inconclusively. The police report was never released to the public.

The Government continued to refuse to investigate extrajudicial killings in the early years of PNDC rule, despite the July publication of the names of 199 alleged victims in an independent newspaper.

During the year, chieftancy disputes led to several deaths and a number of injuries (see Section 5).

The press reported numerous cases of vigilante style "instant justice" conducted by angry citizens and mobs on suspected criminals and suspected witches that led to a number of deaths and injuries.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that the dignity of all persons shall be inviolable and that no one shall be subjected to torture or other cruel, inhuman, or degrading treatment or punishment, or any other condition that detracts from human dignity; however, there were continued credible reports that members of the police and customs officials beat prisoners and other citizens. It is generally believed that severe beatings of suspects in police custody occur throughout the country but go largely unreported. On February 16, six soldiers from the 4th battalion reportedly stabbed a Kumasi man after one soldier stormed into his house and beat him. While the civilian was en route to the hospital with his brother, they both allegedly were assaulted by five more soldiers. The brother later lost hearing in one ear. In April another brother of the same man was brutalized and his room vandalized, allegedly by a forestry commission employee and hired "machomen" (private security enforcers). The incidents were reported to the Chief of Defense Staff and the Inspector General of Police. There were no reports of progress in these investigations.

Also in February, five Achimota police officers were suspended after detaining a woman in a cell with her husband and 15 other males. A local human rights group was instrumental in spurring the police administration to investigate. In July after a human rights activist alerted the CHRAJ, news media reported the story of a woman who had become pregnant by a suspected criminal also in police custody while she was held in remand for 16 months on an attempted murder charge in Anloga in the Volta Region. In August the police administration suspended the dis-

trict officer and launched an investigation into the breach of the policy that female suspects not be detained in cells with male counterparts.

On May 27, a man suffered gunshot wounds when Customs, Excise, and Preventive Service (CEPS) officers fired warning shots against a mob of angry youth at Dodo-Amanfrom in the Volta Region. The clash followed CEPS' seizure of goods believed to be uncustomed. A CEPS' investigation found that the officers had acted within the law in self-defense.

In June three soldiers and a district forestry officer shot and wounded six persons at Nkunkum in the Eastern Region for allegedly violating timber harvesting regulations.

On August 13, police used water cannons and tear gas to disperse a student demonstration against increased university fees. Police beat several students, who required medical attention (see Sections 2.a. and 2.b.).

On December 13, in the Western Region town of Abontiakoon near Tarkwa, soldiers and policemen reportedly shot and wounded nine people in a middle-of-the-night raid, apparently in response to a peaceful demonstration earlier that day. The demonstration was to protest the closing of an underground mine that had provided income for much of the community's youth. Press reports state the men arrested were severely beaten, and some of them had not returned to their homes by the end of December. In addition, police and soldiers allegedly destroyed personal property and beat many other citizens. A curfew was imposed on the town and its electricity cut off. The Western Regional Security Council denied knowledge of any brutalities committed by security forces sent to keep order in the town.

In mid-December, two youths were treated for gunshot wounds after a confrontation between police and youths in Zabzugu, in the Northern Region. The youths threw stones and created roadblocks to protest the District Chief Executive's (DCE's) alleged misuse of the district common fund. Security forces escorting the DCE attempted to disperse the demonstrators by throwing tear gas and firing warning shots. On December 24, the minister for the Northern Region established a committee to look into the situation.

Police set up illegal barriers to elicit bribes from motorists (see Section 2.d.). There were credible reports that police abuse their authority by arresting citizens in exchange for bribes from detainees' disgruntled business associates and demanding that money before granting bail (see Section 1.d.). Police received a public trust rating of 49.6 percent in a survey released during the year. In March the IGP banned police from firing warning shots. He also warned the police against demanding money from suspects as a precondition of their release on bail. The IGP dismissed a constable who had been found extorting money randomly from drivers.

A number of cases from 1998 remained open, with the implicated police officers suspended in most instances. The police officers involved in the November 2, 1998 shooting of two girls in an arrest attempt near Accra were dismissed from the police force. Police stated that the officers were performing an unauthorized action (which would not obligate the police to compensate the girls' families). Of the remaining detainees in the November 24, 1998 killing of 2 police officers in Ablekuma, 6 of the accused are pending trial, 6 were dismissed for lack of evidence, and 14 are still in remand.

Reports continued of isolated incidents in which Accra Metropolitan Assembly (AMA) operatives known as the Chameleon Bombers, allegedly inflicted injury and destroyed property. However, the degree of violence decreased following media attention. The AMA officially dissolved the group in late 1998 following repeated public criticism, but continued to "decongest" vendors from the streets and destroy unauthorized structures. Kumasi, Ghana's second largest city, reportedly deployed a similar force called the Sanitation and Decongestion Tigers to eject unlicensed street vendors from city streets.

"Machomen" and land guards, private security enforcers hired by citizens to settle private disputes and vendettas caused injury and property damage. The machomen are not legally constituted, but organized privately and operate outside the law. In both Accra and Kumasi, some were arrested following attacks on land developers but were not prosecuted.

During the year, chieftancy disputes led to numerous injuries. Off-duty soldiers reportedly took part in one clash (see Section 5).

Prisons are in most cases very poorly maintained, and conditions are extremely harsh. In 1996 the CHRAJ published a report on prison conditions. It described prisons as unsanitary, overcrowded, and poorly ventilated. Prisoners are malnourished. Reports of the daily food allowance per prisoner vary. In July the Minister of Interior informed Parliament that the country's prisons, with a total capacity of 5,000, house some 8,000 inmates. The Minister also reported that there were about 90 mattresses and few beds for the approximately 700 prisoners at the Kumasi cen-

tral prisons. Overcrowding contributes to a high prevalence of skin and other communicable diseases among prisoners. In April the prisoners' daily food allowance was raised from approximately $.41 (1,500 cedis) to about $.50 (1,800 cedis), bringing the total daily allowance to approximately $.83 (3,000 cedis), including housing, medical and clothing costs. Families still supplement prisoners' food and bribe prison guards for visitation rights. Prisoners also suffer from lack of medicine unless paid for or provided by the inmates or their families. The report concluded that prison conditions were "a flagrant violation of the individual's fundamental human rights." The CHRAJ's findings and recommendations continued to generate much press coverage and some changes; however, while the Government concurred with the 1996 findings, it stated that lack of funding prevented further improvements. In spite of a continued lack of funding, some improvements were made during the year: an increase in prisoners' food allowance and an amnesty to old and ill prisoners. Juveniles now more frequently are separated from the adult prison population. The Ghana Prisons Service Council has formed an assessment team to inspect facilities.

The Prison Service Council, established in 1998, visited Central and Volta Region prison facilities in early 1999. Following these inspections, the council suggested that prison authorities adopt a more humane approach to dealing with prisoners. The Council identified the number of remand prisoners due to the courts' inability to hear cases promptly as the greatest problem facing the prison system. The Council also criticized health hazards (including poor sanitation) and the state of prison structures.

While the CHRAJ has access to monitor the prisons, the Government resisted granting access to the press. In 1998 two journalists reported what they had experienced and observed during their 30-day incarceration. Inmates of the Sunyani Prison in the Brong-Ahafo Region demonstrated on September 2 to protest the alleged extortion of cash and seizure of food and belongings by some prison officials in the Central Region. Some suspects allegedly pleaded guilty in order to be sent to prison and leave the unsanitary conditions in the police remand cells. In a December 17 speech at a prison officers' graduation ceremony, President Rawlings stated that the Government is considering the introduction of parole, suspended sentences, and community service as a way to alleviate the overcrowding in prisons.

NGO's are not given access to prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are problems. The Constitution provides for protection against arbitrary arrest, detention, or exile and states that an individual detained shall be informed immediately, in a language that the detained person understands, of the reasons for the detention, and of the right to a lawyer and to an interpreter, at state expense. It also requires judicial warrants for arrest and provides for arraignment within 48 hours. In practice, however, many abuses occur, including detention without charge for longer than 48 hours and failure to obtain a warrant for arrest. Authorities do not routinely notify prisoners' families of their incarceration; such information is often obtained only by chance.

The court has unlimited discretion to set bail, which can be prohibitively high. The court may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. The Constitution allows judicial authorities to hold citizens for up to 48 hours without filing charges against them. However, in practice it is common to remand a prisoner to investigative custody. The Constitution requires that a detainee who has not been tried within a "reasonable" time be released either unconditionally or subject to conditions necessary to ensure that he appears at a later date for court proceedings. In June the CHRAJ reported that there were a number of remand prisoners held for periods ranging from 1 week to 8 years. The Kumasi central prison had 338 in 1996–97. As of early July, about 23 percent, or 1,840 of the 8,000 inmates nationwide, were remand prisoners.

Despite the provisions of the law, abuses occur. Persons sometimes are detained for trivial offenses or on unsubstantiated accusations. Twenty suspects in the November 24, 1998, murder of two policemen in Ablekuma remained in custody without bail since December 1998. Four others were granted, but did not fulfill the requirements of, bail on December 12.

The Government has not implemented any meaningful policy to reduce the numbers of pretrial detainees, although the independent press has called for reduction of harsh bail conditions for suspects who do not pose a threat to society. Many credible sources report that private citizens pay the police to arrest business associates in deals gone awry. The 1996 CHRAJ report on prison conditions recommended improvement in the administration of criminal justice, which currently denies many citizens their constitutional rights to be charged within 48 hours, to have bail posted

within the same period, and to a speedy trial. Similarly, in March the CHRAJ discovered that 10 Nigerian nationals, 2 Lebanese, and 4 Ghanaians were detained at the Osu police station for periods ranging from 1 to 5 weeks. No bail had been set, nor had the suspects appeared before court for allegedly committing various offenses, including immigration offenses. A farmer in the Volta Region has been in remand for 9 years. He is suspected of poisoning and killing another farmer, but has yet to be formally charged.

In December the IGP warned policemen not to refuse to grant bail to suspects in order to settle personal scores and reminded police that the law is there to protect citizens and not to harass them. Lawyers for a former army sergeant accused in an alleged 1994 plot to overthrow the Government continued their appeal of an Accra High Court decision to retry him for treason. His original trial ended in 1996, but judgment was postponed because of the illness and subsequent death of one of the trial judges. The defendant has been in custody since 1994.

In November, after a Muslim-Protestant conflict in the Central Region town of Agona Nyakrom, police arrested over 700 men and brought them to Accra for investigation (see Section 2.c.). Over 650 of them then signed bonds to be on good behavior. Thirty others, including a chief, were detained. The case still was pending at year's end. The Commissioner of the CHRAJ called for police to improve their ability to screen suspects at the scene of the crime rather than effect mass arrests.

Rural women can be punished with banishment by traditional village authorities for teenage pregnancy or suspected witchcraft. The press reported that hundreds of women accused of witchcraft were sent to penal villages in the Northern Region by traditional authorities such as a shaman. In 1997 2 villages contained 400 elderly women, and 1 village contained 2,000 women and family members, all sentenced by village authorities who claimed to have the power to divine witches. Although the women face no formal legal sanction if they leave, most fear that they would be beaten to death if caught outside the penal villages (see Section 5).

The Presbyterian Church sponsored a "go home" project to reintegrate into society women accused of witchcraft and forced to live at the Gambaga "witches" village. A total of 55 of 200 such women have reunited with their families. The project also provided for loans to enable the liberated women to become more financially independent and to contribute to the well being of their families.

The Government does not practice forced exile and encourages citizens, including dissidents, living abroad to return. Some former government and PNDC officials have returned and resumed careers and political activities.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary appears to be subject on occasion to executive influence. The Constitution allows the Government to nominate up to 15 members of the Supreme Court; confirmation is the responsibility of a Parliament currently dominated by the President's party. The Chief Justice is empowered to impanel the justices of his choice to hear cases. These provisions, along with a debilitating lack of resources, have called into question the court's role as a balance to the power of the executive branch and contributed to the perception that the judiciary is occasionally subject to executive influence.

This perception was furthered by the judiciary's crackdown on members of the privately owned press in 1998. In late July, the courts incarcerated two journalists for 30 days and fined the publishers heavily, following a contempt-of-court case widely viewed as legally flawed. Two other journalists, with criminal libel lawsuits pending, had their passports seized under court order. An editor was jailed for 9 days in another questionable contempt-of-court case in July 1998. All the affected journalists are known to be avowed opponents of the Government and aggressive in their highly personal criticism of the President and his family (see Section 2.a.).

The integrity of the legal system is compromised by a severe lack of financial, human, and material resources. There were no official charges of corruption on the part of judges; however, in September a privately owned paper published an alleged report by the Serious Fraud Office that found evidence of malpractice in the awarding of contracts by the judicial service. In August 1998, the BNI reportedly questioned a judge, the chairman of an Accra regional tribunal, about allegations that he and his staff accepted a $9,000 bribe to grant bail for a Nigerian woman arrested for drug smuggling. He has not been charged. A 1997 survey revealed that 66 percent of citizens believe that money influences the judicial system.

The Constitution establishes two basic levels of courts: superior and lower. The superior courts include the Supreme Court, the Appeals Court, the High Court, and regional tribunals. Parliament may establish lower courts or tribunals by decree. The CHRAJ provides a forum to which citizens with grievances against government agencies or private companies can bring cases for mediation and settlement (see Section 4).

The CHRAJ's charter provides for it to investigate alleged violations of human rights and take action to remedy proven violations. It continues to hold workshops to educate the public, traditional leaders, the police, and the military on human rights issues. It mediates and settles cases brought to it by individuals with grievances against government agencies or private companies.

The Chieftaincy Act of 1971 gives village and other traditional chiefs power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, a number of laws passed during the PNDC era (1981–92), as well as the 1992 Constitution, have eroded steadily the authority of traditional rulers and vested it in civil institutions, such as courts and district assemblies.

Legal safeguards are based on British legal procedures. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. In practice the authorities generally respect these safeguards.

There were no reports of political prisoners. The trial of five defendants for allegedly plotting to overthrow the Government in 1994 concluded. In February a special court sentenced four of the defendants to death after finding them guilty. The fifth defendant was acquitted for lack of evidence. Attorneys for the four condemned defendants appealed the judgment. A former army officer also alleged to be a part of the plot was arrested in Sierra Leone and flown to Ghana. He is in remand awaiting trial. At year's end, the defendants were still in prison and have appealed for a stay of judgment on the basis that the judgment was in error.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides that a person shall be free from interference within the privacy of his home, property, correspondence, or communication; however, this article has yet to be tested in court, and in practice the Government sometimes infringed on these rights. In April a combined municipal and military team demolished a private hotel in Accra, said to be blocking a drainage route. The owner of the hotel allegedly had fallen out with the ruling party prior to the demolition. The demolition occurred without due process. Although the law requires judicial search warrants, police do not always obtain them in practice. Observers assumed that the Government continued surveillance of citizens engaged in activities that it deemed objectionable, including monitoring of telephones and mail. Several opposition political activists reported being followed.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and in practice these provisions generally were respected, although the Government continued to pressure the media. Opposition political parties and others frequently criticize the Government, and the Government has allowed more control of print and electronic media to be transferred to the private sector. Nonetheless, the Government continued to pressure some journalists and media organizations, sometimes directly (e.g., through telephone calls), and increasingly by filing libel suits when it found coverage to be offensive. Consequently, some journalists exercised self-censorship. The criminal libel laws provide for 10 years' maximum imprisonment for reporting intended to injure the reputation of the State. At year's end, there were an estimated 120 libel suits before the courts, some of which had been in progress for over a year. Two of the pending suits were criminal libel suits filed by the Government, and the rest were filed by government officials in their personal capacities or by private individuals. A civil libel case brought by the First Lady was resolved successfully by the National Media Commission. In November the editor of the Free Press was sentenced to 90 days in prison and a fine of approximately $460 in a criminal libel case involving allegations about the First Lady.

There are more than a dozen newspapers including two government-owned dailies, two government-owned weeklies, and several privately owned newspapers published weekly, biweekly, or triweekly. One of the government-owned dailies has national circulation. However, most newspapers circulate only in regional capitals, and many of the smaller private newspapers are available only in the capital. Some independent newspapers claim that they are unable to obtain advertising revenues due to government pressure on businesses.

According to the National Communications Authority, Accra has 1 government-owned and 12 private FM radio stations, and there are about 40 private FM stations across the country. Most stations are independent and air a wide range of viewpoints. There are 12 regional television stations in Accra, Kumasi, and Takoradi, and one government-owned station that broadcasts nationwide. There are six Internet service providers in the country.

The Government-owned media occasionally reported charges of corruption or mismanagement in government ministries and government-owned enterprises, but they rarely criticized the Government's policies or President Rawlings' activities. In the past, the Government occasionally disciplined or dismissed journalists working in government-subsidized media for articles deemed unacceptable. The Government ended subsidies to the state-owned publishing companies, and the newspapers are published by profit-making printing companies but these have not been privatized.

In late October, a tape which appeared to implicate President Rawlings in several infamous extralegal actions of the predemocratic era, including murder, bombings, and arson, was published and broadcast by some private media. The Government denied the authenticity of the tape and arrested the journalists and publisher involved. The journalists were released on bail of approx. $3,000 (10.5 million cedis), and three of them, including an opposition Member of Parliament (the publisher), were provisionally charged with publication of false news. The private radio announcer who broadcast part of the audiotape was fired, allegedly for failing to abide by the station's procedures. By the end of the year, there had been no formal government investigations into the allegations on the tapes or prosecutions of the journalists.

Some privately owned newspapers were harshly critical of the Government's policies and of President Rawlings, his wife, and his regime generally, and some reporters and editors were alleged, at times, to have failed to abide by professional ethical guidelines. Parties affected by such lapses—most often Government officials—showed a tendency to go to court. The Government, government officials, and private individuals filed a record number of civil libel suits (over 120 before the courts), and one criminal libel suit remains in progress at year's end. The Government continued to prosecute two independent journalists under a rarely used sedition law for allegedly libeling President Rawlings and his wife, and, through them, the State. The trials, repeatedly postponed, were seen by many observers as a sign of press harassment. For example in July 1998, after being found in contempt of court, two newspaper editors were sentenced to 1 month's imprisonment and each publisher was fined approximately $4,350 (10 million cedis) (see Section 1.e.). According to the Minister of Communications, the criminal libel law and other such laws simply check the excesses of journalists. The National Media Commission is researching comparative freedom of information (FOI) legislation with the intent to propose draft FOI legislation for the Government's consideration. This draft legislation had not been presented to the Government by year's end.

In addition on November 11, after a 5-year libel trial, the editor of an independent paper, which had printed allegations against the First Lady, was sentenced to 90 days in prison. He was also fined approximately $460 (1.5 million cedis) for two counts of intentional libel. He was released on December 29 after serving his full term, including time in remand before his conviction and sentencing.

The Government readily granted accreditation to foreign journalists. The British Broadcasting Corporation (BBC) and Radio France International (RFI) have full-time FM rebroadcasting stations in Accra, and several foreign radio broadcasts, including Voice of America (VOA), have part-time affiliations with local stations in several cities. Foreign periodicals were sold in Accra and other major cities and circulated freely even when they contained articles critical of the Government. Most citizens obtain their news from the electronic media, the VOA, and the BBC radio service. Several companies have cable or satellite rebroadcasting stations that serve the country's three major cities.

The Government again refused to launch an independent inquiry into the deaths of four demonstrators during a protest against government tax policy in May 1995 and in 1997 finally closed its case inconclusively (see Section 1.a.). Some of the privately owned media renewed calls for a thorough investigation on the anniversary of the incident.

There was no restriction of academic freedom. Academics are allowed to publish and pursue research. The National Union of Ghanaian Students, one of the more vocal critics of the Government, is allowed to organize and hold meetings. However, in late 1997, following a serious student brawl, the public university in Accra imposed a ban on campus demonstrations, which remained in effect at year's end. In August students demonstrated against increased university fees, and police forcibly broke up the demonstration (see Sections 1.c. and 2.b.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respects this right in practice. The Government does not require permits for demonstrations. Parliament passed a public order law in late 1994 requiring that all organizers of "special events" or "processions" inform the police of their intentions at least 5 days in advance so that the police can institute precautionary measures. The law also provides

for curfews and arrest without warrants in specified instances. In November a presidential aide called street demonstrations by registered political parties "a provocative attempt to destroy the democratic order" and "a declaration of war on the national democratic order and an act totally against the national interest." Other government and ruling party officials echoed this view, as did other organized bodies who were widely believed to have done so at the Government's behest.

The Government dissuaded two groups from demonstrating during the year. In the first case, a popular radio personality and comedian, who has been openly critical of both the Government and opposition, was pressured not to hold a "million man march" in Accra in October. This march was supposed to show male opposition to violence against women, following a spate of murders of women in an Accra neighborhood. Although the organizer provided the requisite advance notice, police had indicated they could not provide adequate security for the march. Earlier in October, an opposition Member of Parliament (MP) was implored not to organize a demonstration against the unsolved murders of women in her constituency. The MP settled for a press conference and a limited march within the immediate area rather than throughout Accra. However, shortly thereafter, the National Council on Women in Development staged a government-sanctioned demonstration on the same issue (see Section 5).

In the second case, the Jubilee 2000 group (whose platform is debt forgiveness for developing countries) gave the greater Accra police the required 5 days' notice of their planned demonstration. The police denied them permission to demonstrate, stating that the police needed more time to investigate the Jubilee 2000 organization. Jubilee 2000 is considering legal action. The IGP later stated that the regional police command did not have the authority to refuse permission for the demonstration, which was scheduled at the end of a donors' meeting. In contrast demonstrations against those who publicized a tape alleging the President's role in several human rights abuses during the PNDC era (see Section 2.a.) occurred without the required 5 days' notice.

On September 23, concerned citizens marched in Kumasi to protest the continued tenure of the Kumasi chief executive, who had allegedly ordered the assault on an opposition Member of Parliament and a district assemblyman. Police used tear gas, water cannons, and rubber bullets to disperse the crowd that threw objects at the police. There were several injuries but no fatalities.

A joint opposition demonstration against alleged government mismanagement took place in Accra November 25, despite numerous calls to cancel the demonstration by government officials, local traditional leaders, and trade bodies, who reminded the planners of the fatal results of the 1995 anti-VAT demonstration. There were threats of a simultaneous counter-demonstration. In addition, the Government tightened security around the capital, in response to an alleged coup plot announced over the Internet for the following day. The demonstration took place without incident on a route announced by the police, but was sparsely attended. Organizers felt that government pressure had discouraged participants.

The 1997 ban on campus demonstrations remained in effect, but was not enforced, at the public university in Accra. On August 13, police used water cannons and tear gas to disrupt an off-campus protest against increased university fees. Several injuries resulted from alleged police beatings (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respects this right in practice. NGO's are required to register with the Registrar General's office and the Department of Social Welfare, but this registration is routine.

The Electoral Commission (EC) must accredit political parties. The parties must show evidence of a "national character," such as official representation in all 10 of the country's regions. The EC evaluates whether the party has shown evidence of a viable national support base before granting accreditation and can annul the registration of a party that fails to meet the criteria for being a viable party. In July the EC certified a breakaway faction of the ruling party as a political party in its own right.

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

Religious institutions that wish formal recognition are required to register with the Registrar General's Department. This is a formality only. Most traditional religions, with the exception of the Afrikania Mission, do not register. Formally recognized religions receive some tax relief. However, beyond a certain point the institutions are required to pay tax. In 1989 during the Provisional National Defense Council (PNDC) regime, which ruled the country from 1981 to 1992, a law requiring the registration of religious bodies was passed in an effort to regulate churches. The

Ghana Council of Churches interpreted this law as contradicting the concept of religious freedom in the country. The PNDC repealed the law in 1992.

About 35 percent of the country's estimated population of 18 million are at least nominally Christian. Christian denominations include Roman Catholic, Methodist, Anglican, Mennonite, evangelical, Presbyterian, African Methodist Episcopal Zionist, Christian Methodist, Evangelical Lutheran, F'eden, numerous charismatic faiths, the Church of Jesus Christ of Latter-Day Saints (Mormons), Seventh-Day Adventist, Pentecostal, Baptist, and the Society of Friends. Christianity often includes an overlay of traditional beliefs.

About 31 percent of the population adhere to traditional indigenous religions. These religions include a belief in a supreme being, referred to by the Akan ethnic group as Nyame or by the Ewe ethnic group as Mawu, and lesser gods who act as intermediaries between the supreme being and man on earth. Veneration of ancestors is also a characteristic, as they too provide a link between the supreme being and the living and may even be reincarnated at times. The religious leaders of those sharing these diverse beliefs commonly are referred to as priests and are trained in the arts of healing and divination. These priests typically operate shrines to the supreme deity or to one of the lesser gods, relying upon the donations of the public to maintain the shrine and for their own maintenance.

About 27 percent of the population are Muslim. Three principal branches of Islam are represented in the country: the orthodox Sunnis and Tijanis, and the less orthodox Ahmadis. The Shi'a branch is virtually absent from the country's Islamic community.

About 7 percent of the population practice other religions. This includes the Baha'i Faith, Buddhism, Judaism, Hinduism, Shintoism, Ninchiren Shoshu Soka Gakkai, Sri Sathya Sai Baba Sera, Sat Sang, Eckanker, the Divine Light Mission, Hare Krishna, Rastafarianism, and other international faiths, as well as some separatist or spiritual churches or cults, which include elements of Christianity and traditional beliefs such as magic and divination. Some consider the ethnic Ga tradition to be a religion.

The followers of the more traditional religions mainly dwell in the rural areas of the country. Both Christians and Muslims live throughout the country.

The Government lacks the resources to prevent seasonal clashes between traditionalists and some charismatic Christian churches and has not pursued suspects in such attacks (see Section 5).

There is no state-favored religion and no apparent advantage or disadvantage attached to membership in any particular sect or religion. Foreign missionary groups generally have operated throughout the country with a minimum of formal restrictions.

In November a dispute during a Central Region soccer game between an Islamic middle school and a Methodist middle school resulted in arson and other destruction of Muslim property (corn mills, livestock, approximately 100 houses, and 3 mosques) in the town of Agona Nyakrom. A group of youths also attacked Muslims in the area, including the headmaster of the Islamic school, who was severely beaten. Five people suffered gunshot wounds. Newspapers reported that as a result of the conflict large numbers of Muslims had moved out of the area (see Section 1.d.).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights as an aspect of the provision for personal liberty, and the Government generally respects these provisions in practice.

Citizens and foreigners are free to move throughout the country. Police checkpoints exist nationwide to prevent smuggling, but most are unmanned during daylight hours. There were numerous reports that police used checkpoints to solicit bribes. Citizen complaints about police harassment caused the Government to reduce the number of checkpoints from 125 to 38 in 1997 and to 31 by the end of 1998. Government roadblocks and car searches are a normal part of nighttime travel in larger cities. In February and August, taxi drivers struck in Koforidua to protest extortion by motor transport and traffic unit police. The police administration has admitted that the force has a problem with some members occasionally erecting illegal barriers to solicit bribes from motorists. Citizens are generally free to travel internationally and to emigrate or to be repatriated from other countries.

The Government cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, and the law conforms in all particulars to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Ghana has a liberal policy of accepting refugees from other West African nations. The Government provides first asylum. The country continued to provide first asylum to approximately 11,669 Liberians, 1,046 Togolese, 902 Sierra Leoneans, 102 Sudanese, 28 Nigerians, and 22 Rwandans. It

also provided first asylum to citizens of: Ethiopia (7), Libya (6), Burundi (6), Congo Brazzaville (5), Cameroon (3), Burkina Faso (3), Somalia (1), Uganda (1), and the Democratic Republic of the Congo (1).

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

The Constitution provides citizens with the right to change their government, and citizens exercised this right through a democratic process in presidential elections held in December 1996. The country continued its transition from a one-party state to a more established multiparty constitutional system. The political system includes recognized opposition parties, which express their views freely within Parliament.

President Rawlings was reelected in 1996 for a final 4-year term with 57 percent of the popular vote. The NDC retained control of the 200-member Parliament with 133 seats, while opposition parties took 67 seats. The NDC fell one seat short of commanding the two-thirds majority required to amend the Constitution. Three seats were disputed, including those of two opposition members and one NDC member. The courts found in favor of one of the opposition members in 1998. The courts initially found in favor of another opposition member in July 1997, but the NDC appealed the ruling, and the NDC MP continues to sit while the case is under appeal. In a third case, a high court found in favor of the NDC candidate in a Central Region constituency in November and ordered him to assume the parliamentary seat. A subsequent injunction blocked him from doing so. Attorneys for the opposition candidate sought a retrial before another judge, and the case was still pending at year's end. The opposition MP's vacating the seat would give the NDC a two-thirds' majority in parliament. Opposition members expressed frustration about impediments that the executive branch imposes by its refusal to support opposition amendments to proposed legislation. In two undisputed by-elections in March and May, voters elected Members of Parliament from the same parties as the previous incumbents. Parliament still is working to develop effective oversight of the workings of the executive branch. Although all Members of Parliament can introduce bills, not one has ever done so; however, some have introduced motions.

In 1998 citizens elected representatives to the district assemblies and, for the first time, unit committees, which form the basis of the local government structure. Of the 16,000 units, elections still must be held in the 3,724 units that failed to produce a quorum of candidates in 1998. These elections were held on a nonpartisan basis, as called for in the 1992 Constitution. However, opposition groups contend that the local government system is stacked in favor of the ruling party, which appoints approximately one-third of the district assembly and unit committee members, as well as the district chief executives (DCE). DCE's must be confirmed by two-thirds of the district assembly members. In May police and military forces were highly visible in Kintampo in the Brong Ahafo Region the day the district assembly was to vote on a controversial nominee for the DCE. The presence of security forces may have influenced some district assembly members to vote in favor of the ruling party's nominee, despite an earlier petition by the chiefs and residents of Kintampo against the nomination.

There are no legal obstacles to the participation of women in government; however, they constitute a small minority in government and politics. There are 19 female parliamentarians. Several ministers and Council of State members are women.

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

NGO's interested in human rights continued to grow in strength, and there were 18 NGO's in the field at the end of the year. These NGO's operated without government interference (see Section 2.b.). The Government appears to cooperate with and to be responsive to human rights NGO's, with the exception of granting access to prisons (see Section 1.c.). Prominent NGO's include the Red Cross, Amnesty International, the International Federation of Woman Lawyers (FIDA), Women in Law and Development in Africa, and Ghanalert. The Government cooperates with international humanitarian organizations, including the International Committee of the Red Cross.

Although not an NGO, the Commission on Human Rights and Administrative Justice's (CHRAJ) charter provides for it to investigate alleged violations of human rights and take action to remedy proven violations. The CHRAJ continues to hold workshops to educate the public, traditional leaders, the police, and the military on human rights issues. It mediates and settles cases brought to it by individuals with grievances against government agencies or private companies.

Parliament established the CHRAJ in 1993. By 1996 the CHRAJ had received a total of 12,409 petitions in its offices around the country and completed action on over 8,775. Forty percent of the cases were resolved through mediation. On average, the CHRAJ receives between 4,000 and 5,000 new petitions a year, steadily increasing each year. The majority of the complaints lodged with the Commission were from those who believed that they suffered injustice as a result of abuse of power, unfairness, and high handedness.

In October 1996, the Commission concluded its lengthy corruption probe of high government officials. The Commission's report, which detailed adverse findings against three public officials and exonerated a fourth, evoked an aggressive government rebuttal and a questioning of the scope of the CHRAJ's mandate that finally led the CHRAJ to request in 1996 a Supreme Court interpretation of its rights and responsibilities.

In 1997 the Government issued a white paper rejecting some of the adverse findings against the three government officials in the CHRAJ report and recommended that the Attorney General investigate the CHRAJ's rights and responsibilities. The CHRAJ issued a rebuttal to the white paper. In 1998 the Supreme Court decided in favor of the Commission concerning its right to investigate matters preceding the 1992 Constitution; however, the Court ruled that the Commission did not have jurisdiction to investigate property confiscated by the special courts or tribunals during the rule of the Armed Forces Revolutionary Council (AFRC), the military force that staged President Rawlings' first coup, and during the PNDC period.

The CHRAJ continues to investigate corruption allegations filed against public officials. In 1997 the CHRAJ issued a report on its investigations at the "witches" camps in the Northern Region. The report detailed the living conditions of the women in the camps and proposed their reintegration into society, involving an educational campaign in conjunction with the Center for National Culture and the House of Chiefs. The Commission also has provided periodic updates to various sections of its report on prison conditions.

The Commission operates with no overt interference from the Government. Its biggest obstacle is a lack of adequate funding. Low salaries and poor working conditions result in the loss of many CHRAJ-trained personnel to other government agencies that are able to pay their employees more. In late 1998, the Commission submitted a petition on this matter to the Government and had not received a response by the end of 1999.

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

The Constitution prohibits discrimination on the basis of race, sex, religion, disability, language, or social status. The courts are empowered specifically to order enforcement of these prohibitions, although enforcement by the authorities is generally inadequate, in part due to limited financial resources.

Women.—Violence against women, including rape and domestic violence, remains a significant problem. A 1998 study revealed that particularly in low-income, high-density sections of greater Accra, at least 54 percent of women have been assaulted in recent years. A total of 95 percent of the victims of domestic violence are women, according to data gathered by the International Federation of Women Lawyers (FIDA). These abuses usually go unreported and seldom come before the courts. The police tend not to intervene in domestic disputes. However, 1998 legislation doubled the mandatory sentence for rape. The media increasingly report cases of assault and rape. In late 1998, the police administration established a "women and juvenile unit" to handle cases involving domestic violence, child abuse, and juvenile offenses. In the first quarter of the year, this unit recorded 199 cases, including 30 assaults on women and 9 rapes. Located in Accra, the unit works closely with the Department of Social Welfare, FIDA, and the Legal Aid Board. In late 1998, a series of "mysterious" murders of women began to occur in the Mateheko area of Accra. Three of the 20 murders reportedly involved husbands' suspicion of their wives' infidelity. The men subsequently were arrested but not convicted. On several occasions, women of Accra demonstrated in a concerted effort to attract attention to violence against women (see Section 2.b.).

In 1998 Parliament passed legislation that amended the 1960 Criminal Code to provide additional protection for women and children. The legislation added new definitions of sexual offenses and strengthened punishments for others. The provisions of the bill ban the practice of "customary servitude" (known as Trokosi), protect women accused of witchcraft, double the mandatory sentence for rape, raise the age of criminal responsibility from 7 years to 12, criminalize indecent assault and forced marriages, and raise punishments for defilement, incest, and prostitution in-

volving children. In August the Cabinet endorsed the Government's proposal to appoint women to 40 percent of public office positions.

In January the CHRAJ announced its decision in the country's first sexual harassment case, involving a flight attendant for a private airline and her immediate supervisor. The CHRAJ determined that the 22-year-old attendant was terminated for her refusal to submit to her supervisor's sexual advances over a 10-month period. The CHRAJ awarded her compensation for legal costs. The company's chief executive, however, did not comply with the terms of the decision, and in December the CHRAJ went back to court to seek enforcement of the judgment.

Rural women can be punished with banishment by traditional village authorities for teenage pregnancy or suspected witchcraft. The press reported that hundreds of women accused of witchcraft were sent to penal villages in the Northern Region by traditional authorities, such as a shaman. In 1997 2 villages contained 400 elderly women, and 1 village contained 2,000 women and family members, all sentenced by a village authority who claimed to have the power to divine witches. Although the women face no formal legal sanction if they leave, most fear that they would be beaten to death if caught outside the penal villages (see Section 1.a.). Forced labor also occurs at the camps for women accused of witchcraft. Legislation passed in 1998 provides some additional protection to women banned from their communities for alleged witchcraft. The CHRAJ and human rights NGO's are mounting a campaign to end this traditional practice, which violates the victims' constitutional rights. The challenge lies not only in persuading custodians of the witches' homes to abolish the practice, but also in educating the community so the women will be allowed to return safely to their homes. In 1998 FIDA had persuaded custodians to abolish the Gambaga witches home in the Northern Region, contingent on the performance of "exorcism" rites and payment of accommodation and discharge fees. However, a few months later, there was an increase in the number of alleged witches banished to the home, largely due to the communities' belief that these women were responsible for an outbreak of cerebrospinal meningitis which claimed many lives in the region.

Women continue to experience societal discrimination. Women in urban centers and those with skills and training encounter little overt bias, but resistance to women entering nontraditional fields persists. Only about one quarter of university students are women, although women's enrollment is increasing. Women, especially in rural areas, remain subject to burdensome labor conditions and traditional male dominance. Traditional practices and social norms often deny women their statutory entitlements to inheritances and property, a legally registered marriage (and with it, certain legal rights), and the maintenance and custody of children.

Women's rights groups are active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. The Government also is active in educational programs, and the President and First Lady are among the most outspoken advocates of women's rights. However, a presidential aide spoke out against anti-Trokosi activists as being insensitive to indigenous cultural and "religious" beliefs and practices.

Children.—Within the limits of its resources, the Government is committed to protecting the rights and welfare of children. There is little or no discrimination against female children in education, but girls and women frequently drop out of school due to societal or economic pressures. The Government actively campaigns for girls' education and in 1997 established a girls' education unit within the basic education division of the Ghana Educational Service. Although the percentages of girls enrolled in school increased from 1996, participation is still low. Statistics for 1995 (the most recent available) show that from grades 1 to 6, 46 percent of pupils are girls; from grades 7 to 9, this drops to 43 percent. In grades 10 to 12, girls drop to 36 percent of students, and at the university level to 23 percent. Enrollment of women at the university level has increased by 5 percent from 1993 to 1998.

A 1997 country report by the Ghana National Commission on Children further substantiated the gap between enrollment of boys and girls, particularly at the high school level. In the eight districts examined, there were 22,418 boys and 14,318 girls enrolled at the high school level. In the report, officials attribute the lower female enrollment to the fact that many girls marry early or become pregnant.

There are several traditional discriminatory practices that are injurious to the health and development of young females. In particular, female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is a serious problem. According to one study, as many as 30 percent of women may have undergone this procedure. Most observers believe 15 percent to be more likely. A Ministry of Health survey conducted between 1995 and 1998 found that FGM is practiced among nearly all the northern sector ethnic groups. Officials at all levels have spoken out against the practice, and

local NGO's are making some inroads through their educational campaigns to encourage abandonment of FGM and to retrain practitioners. There were no reports of arrests in 1999. Five persons reportedly were arrested in 1998 for practicing FGM. One woman was arrested for performing FGM on two teenage girls in the Upper East Region. Another practitioner was jailed for performing FGM on three teenage girls. Two individuals were arrested for FGM involving five girls in the Upper East Region. In another case, a 60-year-old woman was arrested for performing FGM on 8 girls. In almost all of the cases, the victims actively sought out the practitioners, sometimes without their parents' knowledge, in a quest to become ready for marriage. Two practitioners were sentenced to a total of 8 years of hard labor.

Members of the legal community advocate legislation to close loopholes in the FGM law, including extending culpability to family members and others who aid in carrying out FGM and to Ghanaians who commit the crime outside the country's borders. Any person who conceals information about an instance of FGM would be liable. In addition, FGM would be banned no matter how medically safe the procedure is made—dispelling a belief by some that FGM is acceptable as long as the girls' health is protected. Traditional chiefs became more outspoken in their opposition to the practice of FGM.

Although the Constitution prohibits slavery, it exists on a limited scale. Trokosi, a traditional practice found among the Ewe ethnic group and in part of the Volta Region, is an especially severe abuse and a flagrant violation of children's and women's rights. It is a system in which a young girl, usually under the age of 10, is made a slave to a fetish shrine for offenses allegedly committed by a member of the girl's family. In rare instances, boys are offered. The belief is that, if someone in that family has committed a crime, such as stealing, members of the family may begin to die in large numbers unless a young girl is given to the local fetish shrine to atone for the offense. The girl becomes the property of the fetish priest, must work on the priest's farm, and perform other labors for him. Because they are the sexual property of the priests, most Trokosi slaves have children by them. Although the girls' families must provide for their needs such as food, most are unable to do so. There are at least 2,510 girls and women bound to various shrines in the Trokosi system, a figure that does not include the slaves' children. Even if released, generally without skills or hope of marriage, a Trokosi woman has continued obligations to the shrine for the duration of her life. When the fetish slave dies, the family is expected to replace her with another young girl for the fetish shrine.

In 1998 Parliament passed legislation that banned the practice of Trokosi in comprehensive legislation to protect women and children's rights. Human rights activists believe that the goal of eradicating the Trokosi practice is achievable with the new law. NGO's, such as International Needs, and government agencies, like the CHRAJ, have been campaigning against Trokosi for several years and are familiar with the locations of the fetish shrines and the numbers of women and children enslaved. Activists know the community leaders and fetish priests and, thus, know with whom to negotiate. The CHRAJ and International Needs have had some success in approaching village authorities and fetish priests at over 116 of the major and minor shrines, winning the release of 2,190 Trokosi slaves to date and retraining them for new professions. The organizations continue to work for additional releases.

There were reports that trafficking in children occurred, including children being sold into slavery either for forced labor or sexual exploitation (see Sections 5, 6.c., and 6.f.).

Another traditional practice that violates the rights of children is forced childhood marriage, which became illegal under the Children's Act.

Child prostitution, although illegal, also exists.

People with Disabilities.—The Constitution specifically provides for the rights of the disabled, including protection against exploitation and discrimination. In practice the disabled are not discriminated against in any systematic or overt manner. The Constitution also states that "as far as practicable, every place to which the public has access shall have appropriate facilities for disabled persons." However, in practice this provision has yet to be implemented.

Religious Minorities.—Tension arose between ethnic Ga traditionalists and members of some charismatic churches over the annual ban on drumming and noisemaking by those Christian churches prior to the Ga Homowo (harvest) festival. Traditionalists believed that their time-honored customs should be accorded due respect, while some Christians resented the imposition of taboos, which they believed infringed on their right to worship. The Government advocated mutual coexistence and understanding and alerted the population that police resources were insufficient

to protect all churches during the several-week ban on drumming. No suspects were charged following attacks on three churches in 1999 and one church in 1998.

On May 15, a group of men allegedly hired by the Ga traditional council entered the Living Light Ministry at Darkuman-Nyamekye in Accra during a worship service and began forcibly to remove music equipment. Some members of the congregation recognized individuals in the group and pleaded with them to leave the equipment, which they eventually did. There were no casualties.

On May 29, a group of heavily armed men identified as Ga Wulome council guards disrupted services at the Mount Zion prayer center at Abeka in Accra, wounding five members of the congregation. They stole the church's collection for the day and vandalized the church facility.

On May 30, a group of armed men attacked worshippers at the Odorkor branch of the Apostolic Faith mission in Accra. One member of the congregation was knocked unconscious and several others sustained minor injuries. The attackers seized musical equipment and allegedly stole money from members of the congregation. Police were called but did not respond, claiming that they were guarding other churches. At mid-year the committee of inquiry concluded its report on the May 1998 attack on the Lighthouse chapel. The report called for greater dialog between communities holding divergent beliefs.

National/Racial/Ethnic Minorities.—Although the Government plays down the importance of ethnic differences, its opponents occasionally complain that it is dominated by the Ewe ethnic group from the eastern part of the country. The President and some of his close advisers are Ewe, but most ministers are of other ethnic origins. In the 1997 International Foundation for Electoral Systems report on public opinion, 25 percent of the respondents said that they felt discrimination because of their tribal origins.

During the year, there were several violent confrontations between and within ethnic groups related to chieftaincy issues, particularly those of succession and land. In January a chieftancy dispute in Juaso in the Ashanti Region resulted in the death of a policeman, several injuries, the burning of the police station and the arrest of over 60 persons (see Section 1.a.).

In February a decades-old chieftancy dispute between two Volta region ethnic groups (Guans and Akans) led to a violent clash over the deaths and subsequent funerals of their respective chiefs and their actual burial sites. Two persons lost their lives and six were injured. Elders from both factions were arrested and detained and await prosecution.

On August 4, two factions clashed in a chieftancy dispute in Teshie, a suburb of Accra. At least five persons sustained gunshot wounds and one person was stabbed. One chief's residence was set afire. Property worth tens of thousands of dollars was destroyed. At immediate issue was which faction has the authority to perform customary rites to usher in the celebration of the ethnic Ga Homowo festival, a festival thanking the gods for providing food during the year. Since the 1995 death of the former chief, both factions had claimed to be the legitimate heir. The dispute currently is pending before the Ga traditional council.

A similar incident occurred on August 7 at Oshiye in the Ga district of Accra. Six civilians and two army officers were injured. One of the factions reportedly was led by an off-duty army sergeant, who, according to one report, enlisted the aid of over a dozen well-armed, off-duty soldiers, who clashed with inhabitants. The case is before the courts.

In 1994–95, an estimated several thousand citizens died in the north in a conflict driven by chieftancy and land issues dating from precolonial times. In 1998 a potential flare-up was averted following the murder of a member of one ethnic group by a member of another ethnic group.

In 1995 the Government created a permanent negotiating team made up of religious leaders, NGO representatives, Council of State members, and other interested parties to help resolve the continuing tensions between the Konkomba and other ethnic groups in the north. The Permanent Peace Negotiating Team (PPNT) is a facilitative body whose primary purpose is to mediate disputes.

In 1996 a series of highly publicized "peacemaking" ceremonies were held at which tribal leaders pledged to solve their differences through negotiations. In 1997 in response to reports of latent insecurity, the PPNT extended its activities to some northern parts of the Volta Region and supervised a peace accord among all parties to the conflict there. Since 1997 there have been organized seminars and workshops designed to promote dialog between two feuding factions. The Government has a ban on firearms in the Northern Region and northern part of the Volta Region. Government officials, Members of Parliament, and other prominent opinion leaders regularly call for peaceful coexistence. In February after 14 years of animosity, the Bimobas and the Konkombas of the East Mamprusi District of the Northern Region

held a pacification and reconciliation ceremony. In August the Northern Region Youth and Development Association, an umbrella group of all the ethnic groups in the area, organized a workshop on building peace at the grassroots level.

In January two factions of Kumasi's ethnic Moshie community signed a peace agreement at the behest of the then-regional minister. However, the long-standing dispute resurfaced on December 24 after the Supreme Court had ruled on the Moshie leadership issue December 15. One man died from a stab wound and another was injured.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association. This right is restricted formally, as the Trades Union Ordinance confers broad powers on the Government to refuse to register a trade union; however, the Government has not interfered with the right of workers to associate in labor unions and has encouraged pluralism in labor organizations. The Industrial Relations Act (IRA), initially enacted in 1958 and amended in 1965 and 1972, governs trade unions and their activities. A draft labor law, which is scheduled to be presented to Parliament in 2000, is designed to reconcile contradictory and outdated labor laws and conform to ILO standards. The percentage of workers belonging to unions appears to be decreasing from 9 percent in 1998 as more of the workforce enters the informal sector where there is no union activity. In August the Ghana Federation of Labor (GFL) was inaugurated. The GFL is intended to serve as an umbrella organization for several other labor unions, which were either previously part of or not encompassed by the Trades Union Congress (TUC), the original federation. The TUC, the largest labor organization in the nation, consists of 17 national unions.

Led by experienced union leaders, the TUC has been a vocal and constructive critic of the Government's economic policies when it felt it to be necessary. Civil servants have their own union, the Civil Servants Association, which operates outside of the TUC umbrella.

The law recognizes a right to strike, but there have been no legal strikes since independence. Under the IRA, the Government established a system of settling disputes, first through conciliation, then through arbitration. A union may call a legal strike if the Government does not call for formal arbitration. However, no union has ever gone through the complete process. There were numerous unsanctioned strike actions during the year, none of which met the requirements for a legal strike detailed in the IRA. The IRA prohibits retribution against strikers, and this law is enforced. The Government convened a committee to investigate reports that a gold-miners' strike in May was instigated by persons not employed by the mine. The committee completed its report in September, but the conclusions were not made public by year's end.

Unions have the right to affiliate with international bodies. The TUC is affiliated with the Organization of African Trade Union Unity headquartered in Accra and is also a member of the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The IRA provides a framework for collective bargaining and some protection against antiunion discrimination. Trade unions engage in collective bargaining for wages and benefits for both private and state-owned enterprises without government interference. However, the Government, labor, and employers negotiate together through a tripartite commission to set minimum standards for wages and working conditions. The law requires employers found guilty of antiunion discrimination to reinstate workers fired for union activities. No union leaders have been detained in recent years for union or other activities.

There is legislation that authorizes export processing zones (EPZ's), and a few EPZ's are in operation. Existing labor law applies in any EPZ, including the right to organize.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits slavery, and the law also prohibits forced or bonded labor, including that performed by children; however, at least 2,510 women and girls are bound to shrines through the localized Trokosi system (see Section 5). Forced labor also occurs at the camps in the north for women accused of witchcraft (see Section 5). Apart from the Trokosi system, it is difficult to determine the extent to which forced or bonded labor by children is practiced. There have been newspaper reports of children being sold into slavery for either sexual exploitation or labor, such as 10- to 12-year-old boys toiling in the service of fisherman in exchange for a yearly remittance to their families. A June report described this practice as rampant in 156 fishing villages along the Afram River and settlements along the Volta Lake in the Afram plains (see Section 6.f.). The International Labor Organization (ILO) continues to urge the Government

to revise various legal provisions that permit imprisonment with an obligation to perform labor for offenses that are not countenanced under ILO Convention 105.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Labor legislation sets a minimum employment age of 15 years and prohibits night work and certain types of hazardous labor for those under 18 years of age. In practice child employment is widespread, and young children of school age often perform menial tasks during the day in the market or collect fares on local buses. An ILO survey conducted in three rural districts between 1992 and 1993 concluded that 11 percent of school age children were employed for wages and another 15 percent work without remuneration (see Section 6.f.). The migration of children from rural to urban areas is increasing, due to economic hardship. Children are driven to the streets to fend for themselves, increasing child labor and the school dropout rate. Another ILO study in 1992 and 1993 found that almost 90 percent of the surveyed street children in Accra did not attend school. Observance of minimum age laws is eroded by local custom and economic circumstances that encourage children to work to help support their families. A 1996 ILO survey revealed that the economic activity of more than 75 percent of children between ages 5 and 14 takes place in the context of a family enterprise.

In late 1998, the President signed into law legislation to provide additional child labor protection and strengthen the punishment for violators under a comprehensive children's act. The act incorporates the existing labor legislation's minimum age for employment and prohibitions on night work and hazardous labor. In addition, the legislation allows for children age 15 years and above to have an apprenticeship whereby the craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. Fines and imprisonment for violators are increased considerably. The Government has also presented ILO Child Labor Convention 182 (concerning the Elimination of the Worst Forms of Child Labor) to the Cabinet for approval.

The law prohibits forced or bonded labor, including that performed by children; however, at least 2,510 women and girls are bound to shrines through the Trokosi system (see Section 6.c.).

Officials only occasionally punish violators of regulations that prohibit heavy labor and night work for children. Inspectors from the Ministry of Labor and Social Welfare are responsible for enforcement of child labor regulations. They visit each workplace annually and make spot checks whenever they receive allegations of violations.

e. *Acceptable Conditions of Work.*—In 1991 minimum standards for wages and working conditions were set by a tripartite commission composed of representatives of the Government, labor, and employers. In June the daily minimum wage increased from about $.55 (2,000 cedis) to about $.80 (2,900 cedis), but is still insufficient to provide a decent standard of living for a single wage earner and family. Furthermore, there is widespread violation of the minimum wage law. In most cases, households have multiple wage earners, and family members engage in some family farming or other family-based commercial activities.

The law sets the maximum workweek at 45 hours, with one break of at least 36 consecutive hours every 7 days. Through collective bargaining, however, the basic workweek for most unionized workers is 40 hours. In July the Government began compensating extra duty hours only for overtime actually worked, in accordance with labor equity, rather than as an automatic salary supplement.

In 1996 Spintex workers filed petitions with the CHRAJ, the Ministry of Employment and Social Welfare, and the Department of Labor concerning working hours. They have withdrawn the case from administrative review and, instead, taken the case to court. Hearings were in process at the end of 1997, but no decision has been made. There were no known developments in this case during the year.

Occupational safety and health regulations exist, and the Labor Department of the Ministry of Health and Social Welfare occasionally imposes sanctions on violators. However, safety inspectors are few and poorly trained. They take action if matters are called to their attention, but lack the resources to seek out violations. Workers have the right to withdraw themselves from dangerous work situations without jeopardy to continued employment, although they rarely exercise this right.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons.

Trafficking in persons reportedly occurred. Its most common form involved teenage girls from the rural areas being sent by relatives to work in the cities as housemaids for little remuneration. Often a guarantee is given that after several years' service, the housemaid will be sponsored to train in dressmaking or hairdressing. However, often an excuse is found to fire the housemaid before such apprenticeship begins. Over 100 boys were reportedly contracted out to Lake Volta fishermen (see

Sections 6.c. and 6.d.). There were also reports of children abducted to work either in the country or in neighboring countries. Women were lured into prostitution in Cote d'Ivoire and Togo, as well as Germany and the Netherlands. Citizens were reportedly lured to the Middle East, particularly to Lebanon, to work illegally in menial jobs. Traffickers in persons of other nationalities also reportedly used Accra as a transit point to Europe.

GUINEA

Guinea is a constitutional republic in which effective power is concentrated in a strong presidency. President Lansana Conte has ruled since 1984, when he led the only successful coup d'etat in the country's history, first as head of a military junta, and since 1994 as a civilian president elected in 1993. Guinea held its first multiparty legislative elections in 1995, delivering more than 60 percent of National Assembly seats to President Conte's Party of Unity and Progress (PUP). The PUP is one seat short of the number required to amend the Constitution. Although the PUP continues to dominate all three branches of government, opposition parties have on occasion persuaded PUP Members of Parliament, including the National Assembly leadership, to vote with the opposition on specific legislative matters. Conte won a second 5-year term in a December 1998 election that was marred by violence and civil unrest before and after election day, widespread and diverse irregularities that tended to favor the incumbent, and the arrest and detention of major opposition candidates during the vote-counting process. Nevertheless, the election was much more transparent and fair than the 1993 election. In the 1998 presidential election, the Government continued to dominate the electoral process and did not create an independent electoral commission as initially demanded by both opposition parties and ruling party dissidents; instead, it struck a compromise with the opposition and formed a High Council for Electoral Affairs, composed of representatives from many parties, but with authority limited to local vote counting and the transmission of results. A disproportionate number of public sector positions, including senior military and cabinet posts, are held by members of the President's own minority ethnic group, the Soussou. The judiciary is subject to executive influence, particularly in politically sensitive cases.

The gendarmerie and the national police share responsibility for internal security and sometimes play an oppressive role in the daily lives of citizens. Members of the elite Presidential Guard are accountable to almost no one except the President. Members of the security forces frequently committed human rights abuses.

About 85 percent of the country's population of 7.1 million engage in subsistence agriculture. Annual recorded per capita gross domestic product (GDP) was about $540 in 1997. More than 80 percent of export earnings come from mining, particularly bauxite, gold, and diamonds. Other exports include coffee and fruit. There has been modest economic growth in recent years, due in part to substantial assistance from international financial institutions. However, growth continued to be hindered by widespread corruption and limited but increasing transparency in government; in particular, corruption at the port and customs offices hampers effective collection of nonmining receipts.

The Government's human rights record was generally poor; although there were some improvements in a few areas, serious problems remained in many others. The Government's tight and sometimes partisan control of the electoral process, both in the 1998 presidential election and for upcoming local and national legislative elections, its refusal to create an independent electoral oversight mechanism, and its prohibition of nongovernmental broadcast media, reflectively restricted citizens' right to change their government. Major human rights abuses include: Extrajudicial killings; disappearances; use of torture by police and military personnel; police abuse of prisoners and detainees; inhuman prison conditions and frequent deaths due to these conditions and lack of medical care; and prolonged pretrial detention. Members of the security forces committed abuses with impunity. There was arbitrary arrest and detention. The Government failed to ensure access by attorneys to clients in prison, maintained the executive branch's influence over the judicial system and the electoral process and infringed on citizens' privacy rights. The Government restricted freedom of speech and of the press. The private print press criticized the Government, but the Government continued to monopolize the broadcast media, including radio, the most important medium of mass communication. The Government imposes cumbersome requirements for official recognition on associations, and infringes on freedom of movement. Other major human rights abuses included: Restrictions on freedom of assembly; violence and societal discrimination against

women; prostitution and genital mutilation of young girls; ethnic discrimination and interethnic violence; child labor; and vigilante actions by victims or others.

Rebels from Sierra Leone and armed attackers from Liberia committed a number of killings and other abuses, including the burning of homes.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and other Extrajudicial Killing.*—Security forces committed fewer killings than the previous year. On October 11, security forces killed two students when using unauthorized lethal force to bring a violent protest over an increase in gasoline and transportation prices under control. During the year there were fewer violent riots and instances of government overreaction, compared with 1998.

In December 1998, a soldier posted at Camp Alpha Yaya near Conakry died of injuries sustained in a beating ordered by his battalion commander, Panival Sama Bangoura, to punish him for having tried to vote outside the camp. Bangoura was reprimanded, and, on June 22, was transferred from the capital to Kankan, where he is chief of the third military region. A woman died of injuries inflicted by members of the security forces during suppression of riots after the soldier's body was returned to his hometown, Labe (see Section 3). Deaths in custody due to inhuman prison conditions and inadequate medical treatment remained frequent (see Section 1.c.).

In 1998 security forces clashed with residents of Conakry's Ratoma section during riots over the Government's destruction of illegally constructed buildings that left 100,000 persons homeless, mostly members of the Puhlar ethnic group (see Section 5). One gendarme and 8 civilians were killed; 40 persons were injured, and 59 were arrested, including 3 members of the National Assembly (see Sections 1.c. and 1.d.). Of those arrested, 24 subsequently were tried and sentenced to prison terms and fines. However, by early 1999, all of the persons imprisoned in connection with these riots had been released.

In late 1998, government officials used excessive force and killed a number of persons both in suppressing opposition party political rallies before the December 14 presidential election and in suppressing antigovernment demonstrations, riots, and interethnic violence in the wake of the election. On November 28, 1998, Jean Traore, subprefect of Banian in the southeastern region, shot and killed one man and wounded two other persons while attempting to disperse a gathering of supporters of the Rally of the Guinean People (RPG), an opposition party. Persons in the crowd then beat and killed Traore. Shortly after the election, members of the security forces reportedly shot and killed two RPG supporters in the largely pro-RPG town of Siguiri.

A mutiny by rebellious soldiers in February 1996 resulted in between 30 and 50 civilian deaths. In the subsequent trial of 30 to 40 alleged mutineers (March–August 1998), all defendants were given a chance to present their responses to government charges and were sentenced in October 1998 (see Section 1.e.). On March 22, 31 soldiers accused of participation in the mutiny were discharged from military service.

Government authorities continued to block efforts by human rights groups and NGO's to investigate political killings that took place in the 1970's under then-President Sekou Toure. However, NGO's representing the victims who died in Camp Boiro, the Conakry Prison where hundreds of political prisoners and intellectuals were detained or killed under the Toure regime, successfully walled off a cemetery in November 1998 to protect victims' burial plots from urban encroachment.

In December 1998, at the climax of the presidential election campaign, between four and six persons reportedly died during violence in Conakry between members of the Soussou, Puhlar, and Malinke ethnic groups (see Section 3).

Sierra Leonean rebels killed a number of civilians and members of the security forces in crossborder raids during the year, as they had done in 1998. Rebels from Sierra Leone killed two Guineans and seriously wounded eight in an April 19 attack on the border village of Mola, prompting villagers to blame and burn an adjacent refugee camp. On May 13, Sierra Leonean rebels killed two Guineans in the village of Dinde, near Forecariah. On May 25, rebels attacked the village of Tassine, killing four civilians and two soldiers, abducting five persons, and mutilating others. Despite a May 24 cease-fire in Sierra Leone, Sierra Leonean rebels again attacked Mola on May 25; they killed seven civilians and one soldier, cut off the arms or hands of at least five civilians, and abducted others. On September 10, armed attackers from Liberia killed 31 civilians in villages in Macenta prefecture. The Government blamed the Liberian Government for the attack, but the Liberian Government denied responsibility.

Many victims of crime fear that they may never receive justice because of judicial corruption and may resort to exacting their own form of retribution through vigilante violence. Some suspected criminals, notably thieves and rapists, are beaten to death or burned by their victims or others after being soaked with a flammable liquid.

b. *Disappearance.*—Opposition leaders, local NGO's, and the independent press routinely report cases of politically motivated temporary disappearances that usually ended with the eventual release of the prisoners who were held by security forces.

In months after the February 1996 mutiny, hundreds of soldiers and civilians disappeared during neighborhood sweeps conducted by armed members of the security forces, who often were masked to hide their identities. Dozens of soldiers were interrogated and transferred to judicial authorities for legal proceedings related to the mutiny. Prosecutors later released 63 detainees for lack of evidence; the others were sentenced in October 1998 (see Section 1.e.). Baba Sarr, a relative of reported mutiny ringleader Major Gbago Zoumanigui, remains missing since his detention following the mutiny. During the year, many of the persons missing after the 1996 mutiny were in self-imposed exile, according to family members.

Sierra Leonean rebels reportedly abducted a number of civilian hostages during crossborder raids in Faranah in November 1998, and in the villages of Tassine and Mola in May (see Section 1.d.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code and the Constitution prohibit torture and cruel, inhuman, or degrading treatment; however, both civilian and military security forces often use torture and beatings to extract confessions and employ other forms of brutality, including holding prisoners incommunicado without charges and under inhuman conditions. Local human rights organizations and former detainees stated that some prisoners are bound and hung by their feet before being beaten. There were no reported judicial proceedings against officers suspected of committing abuses. Many citizens view the security forces as corrupt, ineffective, and even dangerous. Police ignore legal procedures, and extort money from citizens at roadblocks (see Sections 1.f. and 2.d.). Refugees from Liberia and Sierra Leone report that some soldiers demand sex in exchange for entry into the country. There are also reports of sexual assaults on refugees (see Section 2.d.).

Defendants in the Ratoma riots' trial in 1998 reported neglect and torture during their detention at their trial proceedings in 1998 (see Section 1.a.). All since have been released.

Soldiers arrested for the 1996 mutiny reported being tortured at the Kassa prison by military personnel. According to the defendants, police temporarily transferred the soldiers from the Koundara prison to Kassa for interrogation and torture (see Section 1.a.).

Prison conditions are inhuman and life threatening. Family members and friends are responsible for feeding prisoners. Guards often demanded bribes in exchange for letting food through to those incarcerated. Standards of sanitation remained poor, and there were several dozen deaths due to malnutrition and disease. A former inmate held in the central prison in Conakry reported in 1998 being housed with between 60 and 80 prisoners in 1 cell, with 1 toilet and no beds. Prisoners reported threats, beatings, and harassment by guards. There are credible reports from prisoners that female inmates are subject to harassment and sexual assault by guards.

The Organisation Guineenne de Defense des Droits de L'Homme et du Citoyen (OGDH) determined that prisoners in at least one major prison, located in N'Zerekore, suffered more from neglect and lack of resources than from mistreatment. According to the OGDH, the N'Zerekore prison is a converted grain warehouse built in 1932 for 70 prisoners, but it currently houses 120. There is no electricity or running water.

The independent press, a local human rights organization, and a former prisoner reported in previous years that inmates routinely are beaten and subjected to other forms of abuse at the prison in Koundara in the north. Although the Minister of Justice has criticized inhuman prison conditions during televised visits to prison facilities, no concrete action has yet been taken to improve conditions.

The Government permits prison visits by local humanitarian and religious organizations, which offer medical care and food for those in severe need. A former prisoner reported that without this assistance those who do not have families or friends would starve to death.

On November 10, the International Committee of the Red Cross (ICRC) signed a detention accord with the Government for satisfactory access to prisoners. The ICRC, which had been negotiating for the accord over a 2-year period, regarded the agreement as a positive step by the Government.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remain persistent threats despite procedural provisions in the Penal Code designed to safeguard detainees. In practice administrative controls over the police are ineffective, and security forces rarely follow the Penal Code.

The Penal Code requires that the Government issue a warrant before an arrest can be made and charge detainees before a magistrate within 72 hours. However, many detainees are incarcerated for longer periods before being charged. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Release on bail is at the discretion of the magistrate who has jurisdiction. The Constitution proscribes incommunicado detention. The law provides for access by attorneys to their clients, but authorities frequently do not respect this provision.

On March 11, military troops entered the University of Kankan and arrested 800 students following a student riot that began after 1 student was killed in a car accident. Some of the students were beaten; however, all were released within a few days.

Bar Association attorneys, the independent press, and government sources describe a parallel system of justice run by unidentified uniformed personnel who conduct midnight arrests, detain suspects, and use torture in secret prisons to obtain confessions before transferring detainees to prosecutors (see Section 1.c.). In previous years, a member of a political opposition party, a soldier, a local human rights organization, and former prisoners all reported that the Government imprisons for political reasons persons considered a threat to state security at Kassa prison, allegedly located in a former French colonial structure on an island off the coast of Conakry. The Government denies the existence of the Kassa Prison and states that prisoners identified as political detainees have been incarcerated for criminal acts and are located in other prisons. In 1998 foreign diplomats visited the military installation on Kassa Island, where they saw nothing that resembled a prison or detention center.

Security forces detain citizens at roadblocks and extort money from them (see Section 2.d.).

On November 15, 1998, at the start of the presidential campaign, the prefects of Mandiana, Kerouane, Macenta, and Nzerekore arrested RPG supporters in those prefectures. On March 16, after a short trial on charges of incitement to violence, 13 RPG members, including 4 National Assembly representatives, were released from detention in Kankan for time served; 36 other RPG supporters detained in Baro were released on March 18.

On December 12, 1998, while suppressing interethnic violence in Conakry (see Section 1.a.), members of the security forces arrested and detained Marcel Cros, a leader of the minority PDA party and close advisor of Alpha Conde, leader of the RPG opposition party, on illegal-weapons charges. After a lengthy investigation, the Government dropped all charges and released Cros on February 10. Cros reported that he was permitted visits from his family and his lawyers while in detention in Conakry's central detention facility and said that he had been treated no worse than other prisoners.

On December 14, 1998 (Election Day), security forces reportedly arrested 30 RPG poll watchers in Boffa and 80 poll watchers of the Union for Progress and Renewal (UPR) opposition party in Gaoual and Koundara prefectures. The opposition poll watchers, some of whom were accused of being mercenaries by the security force members who arrested them, were released the day after the election.

On December 15, 1998, members of the security forces arrested Alpha Conde, the presidential candidate of the RPG opposition party, at the town of Lola on the Liberian border; the Government had closed the border there since December 9, 1998, as an election security measure. The Government detained Conde incommunicado until December 30, 1998, when it charged him with trying to leave the country illegally, resisting arrest, engaging in illegal foreign currency transactions, and training an armed force to overthrow the Government. During the year, foreign officials and diplomats, including the Senegalese Minister of Justice, and several foreign diplomats visited Alpha Conde in detention. Conde's lawyers reported that they had generally free access to their client as well as to the dossier of his case. Conde's doctor, but not his family members, also had access to him. During a July 21–22 visit by French President Jacques Chirac, the Government announced a mid-September trial date for Conde, but, the trial did not begin by year's end.

On December 28, 1998, security forces detained about 20 persons during their suppression of rioting in the town of Labe following the return of the body of a soldier, who had died of injuries suffered during a beating ordered by his commander to punish him for trying to vote outside the military camp where he was posted (see Sections 1.a. and 3).

The Government does not practice forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for the judiciary's independence; however, judicial authorities routinely defer to executive authorities and the executive branch in politically sensitive cases. Magistrates are civil servants with no assurance of tenure. Due to corruption and nepotism in the judiciary, relatives of influential members of the Government often are, in effect, above the law. In 1996 the Cabinet stated that it would pursue those who violate the law but avoid punishment due to judicial corruption, including the autonomous Presidential Guard; however, no action has been taken. Judges often do not act independently, and their verdicts are subject to outside interference. Influential persons often intervene on behalf of their relatives to prevent a negative judgment from being carried out.

The judiciary includes courts of first instance, the two Courts of Appeal, and the Supreme Court, the court of final appeal. Since 1988 civilian courts have rendered all judgments involving civilians under the Penal Code. A military tribunal prepares and adjudicates charges against accused military personnel, to whom the Penal Code does not apply. The Government announced in 1996 the creation of a Discipline Council for dealing with civil servants who abuse their positions as government employees, but by year's end, the Council still had not prosecuted any cases.

In 1997 Minister of Justice Maurice Zogbelemou Togba activated a special state security court to try alleged participants in the February 1996 military mutiny. Togba defended the Special Court's legality, citing statutes predating the 1992 Constitution. Members of political opposition parties and the independent press maintained that the Court is unconstitutional, arguing that the Fundamental Law of 1992 superseded related statutes. They also maintained that because the State presents evidence as well as makes final judgment, the Court infringes on the prisoners' due process rights. In October 1998, the special security court concluded its trials of the alleged mutineers. Of the 96 persons over whom the court exercised jurisdiction, 4 never were charged, 13 were released because the time they already had served in detention exceeded their sentences, 2 were released because of illness or immunity, 34 were acquitted, and 43 were sentenced to prison terms ranging from 3 to 20 years. The 20-year sentences were given to members of the armed forces who had fled the country and who were tried in absentia.

The judicial system is plagued by numerous problems, including a shortage of qualified lawyers and magistrates and an outdated and restrictive penal code. The Penal Code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision. Although in principle the Government is responsible for funding legal defense costs in serious criminal cases, in practice it rarely disburses these funds. The attorney for the defense frequently receives no payment.

The Government provided counsel for dozens of soldiers charged in connection with the February 1996 mutiny and the quasi-independent Bar Association started a permanent legal defense fund. Defense lawyers for the soldiers incarcerated in connection with the 1996 mutiny complained that they had difficulty obtaining permission to meet with their clients, that prison guards eavesdropped on their conversations and denied family visits to the detainees, and that the Government reduced their clients' salaries by as much as 60 percent to pay for prison meals.

Many citizens are wary of judicial corruption and prefer instead to rely on traditional systems of justice at the village or urban neighborhood level. Litigants present their civil cases before a village chief, a neighborhood leader, or a council of wise men. The dividing line between the formal and informal justice systems is vague, and authorities may refer a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case cannot be resolved to the satisfaction of all parties in the traditional system, it may be referred to the formal system for adjudication. The traditional system discriminates against women in that evidence given by women carries less weight (see Section 5).

Vigilante action by victims or others sometimes resulted in the beating to death of suspected criminals (see Section 1.a.).

At year's end, the Government held an unknown number of political prisoners. Such prisoners are individuals incarcerated for allegedly politically motivated acts, such as protests, meetings, and campaigns; but arrested and convicted under criminal laws such as those applying to creating disorder, inciting violence, and corruption. Some of these individuals consequently received disproportionately harsh punishment due to their political affiliation. Members of political opposition parties and a local human rights organization state that dozens of persons also are being detained or have disappeared for political reasons (see Sections 1.b. and 1.d.).

The Government denies holding any political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home, and judicial search warrants are required by law; however, police frequently ignore these procedures. Police and paramilitary police often ignore legal procedures in the pursuit of criminals. Private citizens frequently are detained at nighttime roadblocks set up by police and the military for purposes of security and extortion (see Section 2.d.).

It is believed widely that security officials monitor mail and telephone calls. Local businesses, including foreign companies, often complain of intimidation and harassment by public officials and authorities.

Sierra Leonean rebels burned homes, stole livestock and other goods, and took civilian hostages, during numerous crossborder raids in 1999 and 1998. Attackers from Liberia burned homes in Guinean villages on September 10 (see Section 1.a.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, subject to certain limitations; however, despite government statements in support of free speech and a free press, the Government employs a broad range of restrictions on these rights. The Government prohibits what it considers seditious talk or chants in public, has established defamation and slander as criminal offenses, and prohibits communications that personally insult the President, or incite violence, discrimination, or hatred, or that disturb the public peace. Opposition members of the National Assembly arrested in connection with the Ratoma riots were detained and convicted under these laws in 1998.

The Government publishes an official newspaper, Horoya, and operates the official television and radio (ORTG) stations. Reporters for the official press, who are government employees, practice self-censorship in order to protect their jobs. Several younger broadcast journalists reported critically about the Government and posed critical questions at official press conferences.

While the only daily newspaper L'Horoya is owned and operated by the state, there is a vocal private press that is critical of the President and the Government. For example, the weekly satirical newspaper Le Lynx publishes front-page cartoons lampooning the President and senior government officials. Five private newspapers (Le Lynx, La Lance, L'Oeil, L'Independant, and L'Independant Plus) publish weekly in Conakry, and up to 10 other publications appear sporadically, although hampered by technical and financial difficulties. One newspaper, L'Espoir, is affiliated with the governing political party, and several other newspapers are affiliated with opposition parties. Other newspapers offer news and criticism of both the Government and the opposition.

In contrast to 1998 and 1997, the Government did not detain or expel journalists during the year.

The Government owns and operates all domestic broadcast media including radio, which serves as the most important means of informing the public. Many citizens listen regularly to foreign-origin short-wave radio, and access to foreign television satellite broadcasts is growing. The Government does not restrict access to or distribution of foreign television programming via satellite or cable, although relatively few citizens can afford these services.

The country has had full Internet access since 1997. At year's end, there were three domestic service providers, two strictly private and one affiliated with SOTELGUI, a private telephone company that holds a monopoly on international telephone lines. The Government did not restrict Internet access. Storefront operations offering Internet access were common throughout downtown Conakry. However, a lack of reliable telephone lines inhibited home Internet access, even for the few who could afford it.

The state-owned media are not impartial; they provide extensive and almost invariably favorable coverage of the Government and ruling party, while providing little coverage of opposition party activities. The state-owned broadcast media monopoly did not give opposition candidates equal coverage or allow them equal access during the 1998 presidential election campaign (see Section 3).

Political tracts occasionally circulate in Conakry and other urban areas. Some tracts support the Government, while others specifically criticize senior officials. Foreign publications, some of which criticize the Government, often are available.

The Ministry of National Education and Scientific Research exercises limited control over academic freedom through its influence on faculty hiring and control over the curriculum. In general teachers are not subject to classroom censorship.

b. *Freedom of Peaceful Assembly and Association.*—The law restricts freedom of assembly, and the Government exercises its power to thwart unwanted political activity. The Penal Code bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." The Government requires

notification 72 hours prior to public gatherings, otherwise the events are considered illegal.

The Government bans all street marches except funerals. The law allows local authorities to cancel a demonstration or meeting if they believe that it poses a threat to public order. They may hold event organizers criminally liable if violence or destruction of property ensues.

On October 11, students protested in street demonstrations increased gasoline prices and transport fares and threw rocks at taxis and minibuses. In suppressing the violent demonstration, security forces shot and killed two students.

During the July 21–22 visit of French President Chirac, large crowds lined the streets of Conakry, many holding "Free Alpha" placards in support of jailed opposition party leader Alpha Conde. The demonstration remained peaceful, and security forces did not intervene.

In 1998 prior to the December presidential elections, security forces clashed with political party demonstrators on several occasions. In November and December 1998, ruling party supporters and government officials repeatedly attempted to prevent opposition party meetings in the capital and several provincial towns (see Section 1.a.). During the week following the 1998 presidential election, security forces in Conakry repeatedly used force to break up demonstrations protesting the Government's conduct of the election. Some of these demonstrations were already violent before security forces intervened; some were not.

Freedom of association is protected by law; however, the Government imposes, cumbersome requirements to obtain official recognition. Political parties must provide information on their founding members and produce internal statutes and political platforms consistent with the Constitution before the Government recognizes them. There are approximately 46 legally recognized political parties; deputies of 9 different parties are represented in the National Assembly.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion and permits religious communities to govern themselves without state interference, and the Government generally respects these rights in practice. The quasi-governmental National Islamic League (NIL) represents the country's Muslims, who make up 85 percent of the population. The Government requires that all recognized Christian churches join the Association of Churches and Missions in order to benefit from certain government privileges, such as tax benefits and energy subsidies. Missionary groups are required to make a declaration of their aims and activities to the Ministry of Interior or to the National Islamic League.

The NIL states that it supports peaceful coexistence with other religious denominations and actively attempts to facilitate dialog to eliminate ethnic and religious tensions. Although the Government and the NIL have spoken out against the proliferation of Shi'a fundamentalist sects, which they alleged were "generating confusion and deviation" within Guinean Islam, they have not restricted these groups. Foreign missionaries and church-affiliated relief agencies operate freely.

Government support of the powerful, semi-official NIL has led some non-Muslims to complain that the Government uses its influence to favor Muslims over non-Muslims, although non-Muslims are represented in the Cabinet, administrative bureaucracy, and the armed forces. Conversions of senior officials to Islam, such as that of the Defense Minister, are ascribed to the NIL's efforts to influence the religious beliefs of senior government leaders. The Government refrains from appointing non-Muslims to important administrative positions in certain parts of the country, in deference to the particularly strong social dominance of Islam in these regions.

In April for the first time, the Government required government ministers to take an oath on either the Koran or the Bible, which provoked criticism from those who saw the gesture as incompatible with the secular nature of the State.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to travel freely within the country and to change their place of residence and work; however, authorities infringe on these rights in some respects. The Government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints. Travelers face harassment by police and at military roadblocks, particularly late at night. The private press and local NGO's reported that travelers often are pressured to pay bribes to allow passage. Government officials state that the corruption is being perpetrated by a few rogue soldiers; however, abuse at official checkpoints is systematic.

Although the Government permits foreign travel for its citizens, it retains the authority to limit it for political reasons.

From December 9 to December 20, 1998, the Government closed all land borders by decree as a security measure related to the presidential election. Following an August 13 release into Guinea of humanitarian workers held hostage in Kolahun,

Liberia, by a dissident group, the Government closed its border with Liberia (see Section 1.d.) As of year's end, the border remained officially closed.

The Government cooperates fully with the U.N. High Commissioner for Refugees (UNHCR), the World Food Program, other humanitarian organizations, and donor countries to assist refugees. The Government provides first asylum in accordance with U.N. and Organization of African Unity conventions. On June 19, the UNHCR released the results of its census, stating that approximately 480,000 Liberian and Sierra Leonean refugees were registered with UNHCR for assistance by the international community. The Government claims that many more refugees are present in the urban areas of the country. Refugees account for half or more of the populations of the forest region cities of N'Zerekore, Gueckedou, and Macenta. According to the UNHCR, more than 200,000 Sierra Leoneans entered Guinea since January 1998 and are mostly in the Forest region.

The Government has provided school buildings, access to local medical facilities, and land for farming to assist those designated as refugees. However, relief organizations report that some local authorities have demanded portions of donated fuel and food from delivery convoys. The security forces' closure of a road in the forest region in June and July 1998, in response to a crossborder raid by Sierra Leonean rebels, briefly prevented the UNHCR and NGO's from delivering supplies to refugees near the border.

The Government generally has been hospitable toward refugees. Reports that police and border patrol guards demanded bribes before allowing refugees into the country and that some border officers demanded sex from women who lacked money to pay bribes, have become rare, an improvement over previous recent years.

International NGO's stated that refugees are subject to arbitrary arrests, but they conclude that the harassment is not targeted specifically at refugees. The UNHCR reports that detainees, who often are held for having insufficient identification or being suspected rebels, are charged before a magistrate within 72 hours as required by law. UNHCR officials reported being denied access to refugees that security forces suspected of being rebels. Security forces arrested suspected rebels at the border as they tried to enter the country.

There were no reports of the forced return of persons with a valid claim to refugee status to a country where they feared persecution, although authorities in some instances turned suspected rebels over to the Government of Sierra Leone. In tense periods following the crossborder attacks on Guinean villages (Section 1.a.), the authorities were aggressive in checking identification, temporarily detaining persons for questioning, and transporting refugees from urban areas (particularly Conakry) to refugee camps. At most other times, refugees have had freedom of movement similar to that of citizens. In a September 16 meeting Guinean President Conte, Sierra Leonean President Kabbah, and Liberian President Taylor, announced an agreement to share lists of names of dissidents. Following the announcement, numerous Liberian refugees reported that they feared expulsion from the country. At year's end, there were no reports of expulsions.

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

Although the 1990 Constitution provides for a popularly elected President and National Assembly, the ability of citizens effectively to exercise this provision is restricted. The Government's tight and sometimes partisan control of the electoral process and lack of an independent electoral oversight mechanism call into serious doubt the ability of citizens to change their government peacefully.

Although opposition political parties have been legal since 1991, the Government has continued to dominate the electoral process; General Conte has remained President, and his PUP party has retained a majority in the National Assembly. The Government controlled the first multiparty presidential election in 1993 and the first multiparty legislative elections in 1995, limiting the opposition to a subordinate role.

The country's second multiparty presidential election, was held on December 14, 1998, under a somewhat improved electoral process; however, the campaign was limited by the Constitution to the 30 days up to 2 days before the election, and the Government continued to refuse to establish a national election commission independent of the Government, which opposition leaders demanded. In September 1998, the Government and the CODEM, an umbrella group of opposition parties formed in 1995, agreed to establish a Superior Council for Electoral Affairs (SCEA) and local vote counting commissions, composed of CODEM as well as government and ruling party representatives, with oversight authority over local vote counting and transmission of local results to Conakry. However, the Government retained ex-

clusive control of all registration and election procedures up to and including the casting of votes, as well as of the national tabulation of election results.

According to the Government's tabulation of results, General Conte was elected to a second 5-year term as President, receiving 56 percent of the 2.7 million votes cast, while Bah Mamadou of the UNR received 25 percent and Alpha Conde of the RPG received 17 percent. Had no candidate received a majority of votes cast, the Constitution would have required a second election between the two leading candidates.

The election was much more transparent and fair than the 1993 presidential election. Observers from various organizations affiliated chiefly with developing countries issued a statement that found no fault with the election-day vote-casting process; however, observers from European and other credible foreign organizations did not endorse that statement, which was issued before the election results were announced and did not address the registration, campaigning, and vote-counting processes.

The 1998 presidential election was marred by violence and disruption of opposition campaigning before the polling, by civil unrest after the polling, by widespread and diverse irregularities that tended to favor the incumbent, and by the arrest and detention of major opposition candidates during the vote-counting process.

There were credible reports during the 1998 election campaign that ruling party supporters and government officials used force to prevent or disrupt opposition party meetings in Conakry and in provincial towns during the campaign. In one such incident, a government official shot and killed a man and wounded two other persons in a confrontation at an RPG party meeting; the official then was attacked and killed by the crowd (see Sections 1.a. and 2.b.).

Violence between PUP and opposition party supporters, as well as violent interethnic clashes with political overtones in Conakry, was frequent and widespread during the election campaign (see Section 5). On December 12, 1998, for example, between four and six persons were killed, following a large pro-Conte PUP rally, as mobs with different ethnic and political affiliations fought, and a proopposition mob looted a marketplace before being dispersed by the security forces (see Section 1.a.).

Opposition candidates suffered from inferior access both to state election funds and to coverage by the state-monopolized domestic broadcast media, although the Government allotted each candidate an equal amount of television and radio broadcast time each day throughout the 1998 campaign.

On election day, international observers noted a shortage of ballots for opposition candidates in some districts of Conakry, but an abundance of ballots for President Conte. There were no charges of widespread, systematic obstruction of pollwatchers, but opposition pollwatchers were often absent from heavily pro-Conte areas, suggesting at least selective obstruction. Opposition party officials charged that security forces arrested and detained over 100 opposition pollwatchers on election day (see Section 1.d.); manipulated voting procedures in some areas; and overlooked irregularities in voter registration and in ballot-counting procedures.

Members of the armed forces were required to vote on the premises of the military installations to which they were posted and were subject to strong pressures to vote for General Conte. Approximately 200 soldiers assigned to Camp Alpha Yaya in Conakry attempted to vote outside the camp, and many were beaten severely by order of their battalion commander, Panival Sama Bangoura; one soldier died of injuries sustained in this beating (see Section 1.a.).

The Government postponed the announcement of its tabulation of the election results from December 16 to December 17, 1998. During the interim, there was violence and looting in Conakry, PUP and opposition supporters clashed violently in Mamou, and members of the security forces shot and killed two RPG supporters in Siguiri (see Section 1.a.). On December 15, 1998, members of the security forces arrested RPG presidential candidate Alpha Conde (see Sections 1.d. and 2.d.). From December 17 until December 20, 1998, gendarmes were posted to confine two other presidential candidates to house arrest.

On December 28, 1998, antigovernment violence occurred in Labe, the hometown of the soldier who had been beaten and killed for trying to vote outside the army camp to which he was posted, after his body was returned to the town. A crowd burned the local office of the ruling PUP party and a vehicle belonging to the state-owned broadcast media monopoly and damaged a house owned by a PUP officer. In suppressing this violence, members of the security forces arrested about 20 persons and killed 1 woman (see Sections 1.a. and 1.d.).

Members of the PUP continued to hold 60 seats in the unicameral National Assembly, 1 short of the supermajority required to amend the Constitution.

The President continues to hold the power to appoint the governors, prefects, and their deputies to administer regions and subregions respectively. Most of these offi-

cials are members of the PUP or of parties allied with it. However, reorganization of these offices in August 1998 reflected a growing sense of accountability to the public by government officials regarding the performance of their official duties. The prefects and governors who retained their jobs or received promotions were those who had been rated as above average administrators by the Minister of the Interior in an open letter in the private press. All the prefects and governors who lost their jobs had received an unsatisfactory rating.

However, opposition party officials and the independent press continued to charge that the Government used public funds to build its electoral base within traditional opposition strongholds in anticipation of the 1998 presidential elections.

Although initially scheduled for December, local and communal elections were postponed, perhaps to coincide with June 2000 legislative elections. Local governments generally have limited autonomy. Although they have some financial resources with which to fund local programs, most of their funds are controlled by the central Government. However, local government staff members, such as deputy prefects, are hired and can be fired by local authorities and are not considered central government employees.

Women are underrepresented in the Government. Only 2 women hold seats in the 26-member Cabinet, in the low-profile Ministry of Social Affairs and Promotion of Women, and the Ministry of Youth, Sports, and Culture. There are only 9 female deputies in the 114-member National Assembly. There are few women at senior levels below minister, and there are no women in the senior ranks of the armed forces. Women also play a minor role in the leadership of the major political parties.

The Cabinet and armed forces leadership includes representatives of all major ethnic groups. However, a disproportionate number of senior military officers are Soussou, the President's ethnic group.

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

Local NGO's primarily interested in human rights issues include: The Guinean Organization for the Defense of Human Rights; the Guinean Human Rights Association; the Children of the Victims of Camp Boiro; S.O.S. Burial Grounds; the Association of Victims of Repression; Humanitarian Assistance for Prisons; Defense of Prisoners' Rights; Women Jurists for Human Rights; the Committee for the Defense of Civic Rights; and the Coordinating Committee on Traditional Practices Affecting Women's and Children's Health. Government officials are generally cooperative and responsive to their views. Various officials have blocked private efforts to memorialize victims of the Sekou Toure regime that ruled Guinea from independence until 1984.

In 1998 the International Committee of the Red Cross (ICRC) conducted a seminar on human rights in conjunction with the Ministry of Security for members of the security forces and civil servants.

A human rights office within the Ministry of Defense, International Humanitarian Rights, has conducted over 100 human rights seminars since 1994 to teach military personnel about human rights recognized by international and regional agreements.

On November 10, the ICRC signed a detention accord with the Government for full access to prisoners. The ICRC, which had been negotiating for the accord over a 2-year period, described the agreement as a positive step by the Government.

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

The Constitution states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the Government does not enforce these provisions uniformly.

Women.—Violence against women is common, although estimates differ as to the extent of the problem. Wife beating is a criminal offense and constitutes grounds for divorce under civil law. However, police rarely intervene in domestic disputes.

Although the Government has made regular statements in the media against sexual harassment, women working in the formal sector in urban areas complain of frequent sexual harassment. The social stigma attached to rape prevents most victims from reporting it. The Government has not pursued vigorously criminal investigations of alleged sexual crimes.

The Constitution provides for equal treatment of men and women, and the Ministry of Social Affairs and Women's Promotion works to advance such equality. However, women face discrimination, particularly in rural areas where opportunities are limited by custom, and the demands of child-rearing and subsistence farming. Women are not denied access to land, credit, or businesses, but inheritance laws also favor male heirs over females. Government officials acknowledge that polygyny

is practiced commonly, although it is prohibited by law. Divorce laws generally tend to favor men in awarding custody and dividing communal assets. Legal evidence given by women carries less weight than that given by men (see Section 1.e.). The Government has affirmed the principle of equal pay for equal work, but in practice women receive less pay than men in most equally demanding jobs.

Children.—The Constitution provides that the Government has a particular obligation to protect and nurture the nation's youth, and the Government allocates a significant percentage of the budget to primary education. The President appoints a Minister of Youth and a cabinet minister to defend women's and children's rights. The Government provides free, compulsory primary school education for 8 years. Approximately 50 percent of all eligible students are enrolled in primary school, including 66 percent of eligible boys but only 35 percent of eligible girls. The Government spent 25 percent of its national operating budget on education in 1997.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is very widespread. It is widely practiced in all regions and among all religious and ethnic groups. FGM is illegal under the Penal Code, and senior officials and both the official and private press have spoken against the practice; however, there have been no prosecutions for violations of the Code. FGM is performed on girls and women between the ages of 4 and 70, but exact figures on this procedure are difficult to establish due to its private nature. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a recent decline in the percentage of females subjected to FGM, estimating the figure to be between 65 and 75 percent. Expert estimates vary between 65 and 90 percent. The lower figure, if accurate, would represent a decline over recent years due to education of the population by women's rights groups about the health risks involved with the practice. However, infibulation, the most dangerous form of FGM, still is performed in the forest region. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continues, seriously affecting many women's lives. FGM also increases the risk of HIV infection since unsterilized instruments are shared among participants.

The Government has made efforts to educate health workers on the dangers of this procedure and supports the CPTAFE's efforts. The CPTAFE reports high rates of infant mortality and maternal mortality due to FGM. In March 1997, working in collaboration with the World Health Organization, the Government initiated a 20-year strategy to eradicate FGM.

A growing number of men and women oppose FGM. Urban, educated families are opting increasingly to perform only a slight symbolic incision on a girl's genitals rather than the complete procedure. In November the CPTAFE held a large public ceremony celebrating the "laying down of the excision knife" in which some traditional practitioners of FGM pledged to discontinue the practice. However, most of those who perform FGM oppose its eradication since it is quite lucrative for them.

The CPTAFE, in conjunction with the Government, local journalists, and international NGO's, also is promoting an education campaign to discourage underage marriage. Although such marriages are prohibited by law, parents contract marriages for girls as young as 11 years of age in the forest region.

Prostitution exists in the informal economic sector and employs girls as young as 14 years of age. The Government does not take action even if prostitution of minors is brought to its attention and does not monitor actively child or adult prostitution.

People with Disabilities.—The Constitution provides that all persons are equal before the law. There are no special constitutional provisions for the disabled. The Government has not mandated accessibility for the disabled, and few disabled persons work, although some develop opportunities in the informal sector.

National/Racial/Ethnic Minorities.—The country's population is ethnically and regionally diverse. No single ethnic group constitutes a majority nationwide. The largest ethnic groups are the Puhlar, also called Peuhl or Fulani (about 40 percent of the population), the Malinke (about 30 percent), and the Soussou (about 20 percent). Each group speaks a distinct primary language and is concentrated in a distinct region: The Soussou in lower Guinea; the Puhlar in middle Guinea; and the Malinke in upper Guinea.

While the Constitution and the Penal Code prohibit racial or ethnic discrimination, ethnic identification is strong. Mutual suspicion affects relations across ethnic lines, in and out of government. Widespread societal ethnic discrimination by members of all major ethnic groups is evident in private sector hiring and buying patterns, in urban neighborhoods that tend to be segregated ethnically, and in the relative paucity of interethnic marriage, even in cities. The proportion of public sector

positions occupied by Soussous, particularly at senior levels, is perceived widely as exceeding their share of the national population.

The ruling PUP party, although generally supported by Soussous, has transcended ethnic boundaries more effectively than the major opposition parties, which have readily identifiable ethnic and regional bases; the UNR's main base is the Puhlar, while the RPG's main base is the Malinke. Soussou preeminence in the public sector and Malinke migration into the traditional homelands of smaller ethnic groups in the Forest region have been major sources of political tensions that sometimes have erupted into violence. In June 1998, President Conte fired the non-Soussou Secretary-General of Labor and Public Services as well as several non-Soussou directors in his department, replacing them with members of his ethnic group, the Soussou.

Both the February-March 1998 riots in protest of demolitions in Conakry's Ratoma neighborhood of mainly Puhlar population (see Section 1.a.) and the December 1998 riots in Conakry (see Section 3) were as much incidents of interethnic violence between Soussous and Puhlar, as they were incidents of political violence between the Government and opposition party supporters. The soldier beaten to death by order of his commander for having tried to vote outside his army post in the presidential election and many participants in the antigovernment violence that occurred in that soldier's hometown of Labe in December 1998 were members of the Puhlar ethnic group (see Sections 1.a. and 3).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of employees to form independent labor unions and prohibits discrimination based on union affiliation. Only an estimated 5 percent of the work force is unionized. Most union members are employees of the Government, national utilities (electric, water, and telephone companies), or foreign-controlled companies.

The Labor Code states that all workers, except military and paramilitary personnel, have the right to create and participate in organizations that defend and develop their individual and collective rights as workers. It requires elected worker representatives for any enterprise employing 25 or more salaried workers.

The National Confederation of Guinean Workers (CNTG) was the sole trade union before the Labor Code was enacted. Although there are now other trade unions and labor confederations, the CNTG remains the largest confederation.

The CNTG is funded indirectly by the State, although dissident members seek to increase the Confederation's freedom from government control. Independent unions and confederations have gained popularity, such as the Free Union of Teachers and Researchers of Guinea, the Professional Union Federation for Education, and the National Organization for Free Trade Unions of Guinea. Several dissident groups within the CNTG left the Confederation in 1996 citing corruption among its leadership. These groups joined with some independent unions to form the United Syndicates of Guinean Workers.

The Labor Code grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike. It prohibits strikes in sectors providing "essential services" (hospitals, radio and television, army, and police).

After a nationwide public-school teachers' strike immobilized the education sector for 2 weeks beginning in April 1997, in August 1997 President Conte granted an 8 percent pay raise for all state employees, including teachers, who also received the right to claim seniority benefits for any past training or internships.

Unions may affiliate freely with international labor groups. The Government continues to designate the CNTG to represent workers in the International Labor Organization conference.

b. *The Right to Organize and Bargain Collectively.*—Under the Labor Code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations. The law protects the right to bargain collectively concerning wages and salaries without government interference. Work rules and work hours are established by the employer in consultation with union delegates. The Code also prohibits antiunion discrimination. Union delegates represent individual and collective claims and grievances with management. Individual workers threatened with dismissal or other sanctions have the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court, which convenes weekly to hear such cases. In the interior, civil courts hear labor cases.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code specifically forbids forced or compulsory labor, and there is no evidence of its practice. The Labor

Code specifically forbids forced and bonded labor by children, and the Government enforces this prohibition effectively.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—According to the Labor Code, the minimum age for employment is 16 years. Apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 are not permitted to work at night, for more than 12 consecutive hours, or on Sundays. The Labor Code also stipulates that the Minister of Labor and Social Affairs must maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice enforcement by ministry inspectors is limited to large firms in the modern sector of the economy. The Ministry of Planning estimated in 1997 that in rural areas, approximately 66 percent of children between the ages of 7 and 14 were employed; the rate jumped to 91 percent in the 15 to 19 age group. In urban areas, approximately 19 percent of children between the ages of 7 and 14 were employed; the rate jumped to 50 percent for children between the ages of 15 and 19. Child labor in factories is not a prevalent problem because of the low level of manufacturing. Working children are found mostly in the informal sector areas of subsistence farming, petty commerce, and small-scale mining.

The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Labor Code of 1988 provides for the establishment by decree of a minimum hourly wage; however the Government has not done so. Prevailing wages were often inadequate to provide a decent standard of living for a worker and family. There are also provisions in the Code for overtime and night wages, which are fixed percentages of the regular wage.

According to the Labor Code, regular work is not to exceed 10-hour days or 48-hour weeks, and there is to be a period of at least 24 consecutive hours of rest each week, usually Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least 2 workdays per month of work. In practice the authorities enforce these rules only in the relatively small modern urban sector.

The Labor Code contains provisions of a general nature regarding occupational safety and health, but the Government has not elaborated a set of practical workplace health and safety standards. Moreover, it has not issued any of the ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the Labor Code. The Ministry of Labor and Social Affairs is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health. However, enforcement remained more a goal than a reality. Labor inspectors acknowledge that they cannot even cover Conakry, much less the entire country, with their small staff and meager budget.

Under the Labor Code, workers have the right to refuse to work under unsafe conditions without penalty. Nevertheless, many workers fear retaliation should they refuse to work under unsafe conditions. Employees in high-risk professions, such as night guards, drivers, and police, have protested conditions without result.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

GUINEA-BISSAU*

A military coup in May resulted in minor changes in the Government of National Unity that was set up in February under the November 1998 Abuja peace accords, drove President Bernardo Vieira into exile in Portugal, and ultimately led to the country's second multiparty national elections on November 28. The Government of National Unity inaugurated in February conducted the November elections with the assistance of a U.N. peace-building office (UNOGBIS) in accordance with a schedule established prior to the May coup, and initiated efforts to reverse the civil war's devastating effects. The November elections were considered generally free and fair by international observers, although they reported some irregularities. The elections significantly changed the composition of the 102-seat National Assembly, and the top two contenders among 12 candidates for President faced a runoff election on January 16, 2000. General Ansumane Mane, who began a rebellion in June 1998 after Vieira fired him as Armed Forces Chief of Staff and blamed him for illegal

*On June 14, 1998 the United States Embassy suspended operations in the midst of heavy fighting in Bissau and all official personnel in the country were evacuated. This report is based on information obtained by embassies in neighboring countries and from other sources.

arms trafficking to rebels in the Casamance region of Senegal, played a role in the interim government as the head of a self-declared military junta. Mane and the Junta consistently declared that they would stay out of politics once a new civilian government was elected, but 2 weeks before the elections a "Magna Carta" was published demanding a 10-year role for the Junta. The Junta denied authoring the "Magna Carta" and repeated its commitment to return to the barracks after the elections; however, adequate and timely payment of soldier and veteran benefits is a continuing concern. The Constitution provides for an independent judiciary; however, it is subject to political influence and corruption. The judiciary, which ceased to function at the onset of fighting in June 1998, resumed minimal responsibilities with the inauguration of a government of national unity in February.

The police, under the direction of the Ministry of the Interior, have primary responsibility for the nation's internal security. However, following the June 1998 revolt, the police became ineffective, as the Military Junta, Economic Community of West African States Military Observer Group (ECOMOG) peacekeeping forces, and troops defending President Vieira were better equipped and openly carried arms on highly visible patrols and checkpoints. Following Vieira's ouster in May, the withdrawal of all foreign troops, and efforts of the interim government to reinstate the rule of law, the police resumed many of their responsibilities; however, lack of resources and training continue to hamper their effectiveness. The armed forces are responsible for external security and may be called upon to assist the police in internal emergencies. A clear majority of soldiers joined the rebellion against President Vieira. Those who remained loyal, numbering no more than 300, generally took a secondary role to Senegalese and Guinean troops who entered the conflict at Vieira's request. ECOMOG peacekeeping forces were introduced and all Senegalese and Guinean troops were withdrawn by the end of March as agreed in the Abuja accords. ECOMOG forces were withdrawn in June following the defeat of loyalist forces and Vieira's departure to exile. The police, the military (both loyal and rebel), the Senegalese, and the Guineans were responsible for serious human rights abuses.

The population of 1.2 million relies largely upon subsistence agriculture and the export of cashew nuts. Both activities were affected negatively by the fighting. Annual per capita gross domestic product (GDP) prior to 1998 has been estimated at $840. Due to the conflict, GDP declined by 28 percent in 1998 but was expected to reach 80 percent of pre-1998 levels by the end of the year. Exports of cashew nuts returned to 70 percent of preconflict levels. Commercial banks and other monetary institutions, which had ceased operations with the outbreak of hostilities in June 1998, reopened in July. The country remains burdened by heavy external debt and massive underemployment.

There continued to be serious problems in the Government's human rights record; however, the human rights situation improved during the year. Citizens were allowed to vote in generally free and fair elections. However, government forces, particularly under President Vieira, committed extrajudicial killings. The police and loyalist forces continued to use beatings, physical mistreatment, other forms of harassment, and arbitrary arrest and detention by police. The Government did not punish any members of the security forces for abuses. Prison conditions are poor. The Government at times used incommunicado detention. The judiciary is subject to political influence and corruption. The Government infringed on citizens' privacy rights. The Government at times limited freedom of the press, and journalists practiced self-censorship. The Government at times restricted freedom of movement. Violence and discrimination against women are problems. Female genital mutilation is widely practiced. Child labor and some forced child labor persist.

The conflict that ended with the May coup caused massive civilian dislocation and hardship, but by June most of the 350,000 internally displaced persons had returned to their homes. Over 1,000 persons who sought refuge in neighboring countries repatriated spontaneously, and another 1,000 who fled are receiving assistance from international organizations to repatriate. About 1,800 refugees remain in Guinea and 720 remain in Gambia.

An estimated 2,000 persons were killed during the 11-month conflict. Reports continue of deaths and injuries from land mines and unexploded shells that remain in populated areas.

Rebel forces were responsible for killings, beatings, other forms of harassment, detention, robbery, and looting.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political and extrajudicial killings occurred.

Troops loyal to or allied with President Vieira killed an unknown number of civilian noncombatants prior to the May coup.

Prior to the May coup, President Vieira took no action to encourage forces allied with him to minimize the loss of life among prisoners of war and the civilian population. During the May coup, reports indicate that loyalist forces based in the Marinha district of the capital Bissau fired at advancing rebel forces and killed 60 civilians who had sought refuge in a nearby mission school. Overall, an estimated 2,000 persons were killed during the 11-month conflict.

No suspect has yet been named in the August 22 murder of Nicandro Barreto, Justice Minister under President Vieira. Barreto was strangled at his home in Bissau.

The Interior Ministry never released the results of an internal investigation into the police shootings of two African deportees following demonstrations in 1996; one of the deportees died. To date no one has been charged with the shootings.

The 1992 death of Ussumane Quade, an army officer beaten to death while in police custody, remains unsolved. Two police officers were arrested in connection with the death in 1997, but neither was ever charged formally and both were released.

A mass grave uncovered on October 8 contained the remains of 28 persons and was believed to include those of former Vice President Paolo Correia, former Attorney General Viriato Pa, and military officers sentenced to death in 1985 by a military tribunal on charges of an attempted coup.

Rebel forces loyal to General Mane committed numerous killings. The attack by rebel troops on the presidential palace in May reportedly left 70 persons dead. Reports indicate that indiscriminate rebel shelling in civilian neighborhoods killed noncombatants.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits cruel and inhuman punishment, and evidence obtained through torture or coercion is invalid; however, prior to the May coup, the Government often ignored these provisions, and security forces beat, mistreated, and otherwise abused persons. Security and police authorities historically have employed abusive interrogation methods, usually in the form of severe beatings or deprivation. The Government rarely enforced provisions for punishment of abuses committed by security forces.

Forces loyal to Vieira engaged in widespread harassment, including stopping civilians and subjecting them to degrading body searches without cause. After the fighting in January, there were reports that Senegalese soldiers entered the Simao Mendes hospital in Bissau and removed a junta soldier who had been wounded in the conflict. The soldier was returned the next morning with several cuts and what appeared to be cigarette burns, as well as gangrene, which may have been related to his original combat wound. The soldier died within a few days.

Human rights monitors reported several incidents in which police accused of rape or the mistreatment of prisoners prior to the May coup were not prosecuted.

There were credible reports that rebel soldiers beat and harassed civilians suspected of government sympathies.

Prison conditions are poor but generally not life threatening. Beatings and deprivation were used as a means of coercion. The June 1998 rebellion effectively stopped a program aimed at halting such methods. Prison authorities had very little control over inmates, many of whom simply left during the day. Following a request in 1998 by the Interior Minister for international donor assistance to rehabilitate the prisons, the European Union renovated two of them. However, many prisons were damaged during the fighting, the inmates escaped, and have not been recaptured.

The Human Rights League was given access to most prisoners, including 600 loyalist troops detained as prisoners of war following the May coup.

d. *Arbitrary Arrest, Detention, or Exile.*—Security forces arbitrarily arrested and detained persons.

The law provides for procedural rights, such as the right to counsel, the right to release if no timely indictment is brought, and the right to a speedy trial. In practice the judicial system generally failed to provide these rights.

Police detained suspects without judicial authority or warrants, occasionally through the device of house arrest. Prior to the May coup, the Government held detainees without charges or trial for extended periods of time, sometimes incommunicado. The authorities did not routinely observe bail procedures.

Following the May coup, the Government detained as prisoners of war about 600 of the loyalist forces who had defended Vieira; 180 of these soldiers were released immediately, and another 50 were released within a month. More than 385 remain in detention. On October 7, the Attorney General announced that 80 of these would be released soon, but they remained in detention at year's end.

The Government does not use forced exile. Following the May coup, the Military Junta allowed President Vieira safe passage to leave the country for Gambia to receive medical treatment, reportedly with the understanding he would return to Guinea-Bissau to stand trial on charges of corruption and human rights abuses. After leaving the country, Vieira traveled to Portugal and was granted asylum. In October, the Attorney General traveled to Portugal to present evidence of human rights abuses by Vieira and to request his return to Guinea-Bissau to stand trial. The Government of Portugal stated that it had not received a request for Vieira's extradition.

In October former President Luis Cabral, who had been living in exile since being deposed in a 1980 coup, was issued a passport, and he returned to Guinea-Bissau in November.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, judges are trained and paid poorly, and sometimes are subject to political pressure and corruption. The Supreme Court is especially vulnerable to political pressure, as its members are appointed by the President and serve at his pleasure. The judiciary is reluctant to decide cases of a political nature. Cases against several former and current members of the Government were delayed. The Supreme Court failed to deal impartially with highly charged political cases. In 1997 the Court took up the issue of the constitutionality of the manner in which the President named his new Government. The decision ultimately rendered was in favor of allowing the Government to remain in office, but was issued only after the President brought significant pressure to bear on the Court.

Trials involving state security are conducted by civilian courts. Under the Code of Military Justice, military courts try only crimes committed by armed forces personnel. The two Senegalese who, prior to the rebellion, were supposed to be tried in a military court in violation of the law escaped or were released during the fighting in 1998; the Government is not pursuing the case. The Supreme Court is the final court of appeal for both military and civilian cases. The President has the authority to grant pardons and reduce sentences.

Citizens who cannot afford an attorney have the right to a court-appointed lawyer.

Traditional law still prevails in most rural areas, and urban dwellers often bring judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. The police often resolve disputes.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Home, or Correspondence.*—The Constitution provides for the inviolability of domicile, person, and correspondence; however, the Government does not always respect these rights. The police do not always use judicial warrants and have forced entry into some private homes.

Loyalist forces reportedly searched private residences in Bissau without cause and without warrants. Loyalist forces allegedly were guilty of theft from both private homes and stores.

International and domestic mail at times was opened; however, this violation was by poorly paid postal employees in search of money or other valuables, not by security personnel. Limited mail service resumed in June after a 1-year shutdown following the destruction of the country's main post office building during the 1998 rebellion.

Rebel forces allegedly stole from private homes and stores.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, the Government at times limited these rights in practice, and journalists continued to practice self-censorship.

Prior to the outbreak of hostilities in June 1998, the print media consisted of one independent daily, three independent weeklies, one government-owned biweekly, and one independent monthly. All of the newspapers were published sporadically due to financial constraints. The national printing press, the only facility for publishing newspapers in the country, often lacked the raw materials to publish them. In late August, sporadic publication of one government-owned biweekly and one independent monthly resumed.

Prior to the rebellion, there were three independent radio stations and one government-controlled station in Bissau. In addition Radio Portugal and Radio France International broadcasts were received from Lisbon and Paris. There were also three community radio stations run by the indigenous NGO Action for Development. One independent station rebroadcast the British Broadcasting Corporation and another rebroadcast the Voice of America.

The government-controlled national radio transmits from Radio Mavegro facilities that it took over in June 1998. The Voice of the Military Junta broadcasts from fa-

cilities that formerly broadcast Radio Bombolom, whose owner sympathized with the rebels. Neither Radio Pidjiguiti nor the NGO-assisted community stations have resumed operations.

Unlike the previous year, there were no reports of harassment of journalists by government or allied troops, by rebel forces, or by ECOMOG troops. Many foreign journalists were able to circulate and report on the fighting and associated political developments.

Academic freedom generally was observed until the outbreak of fighting. Schools and research institutions that ceased to function after the June 1998 rebellion reopened in most parts of the country in March.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respected this right in practice. Government approval is required for all assemblies and demonstrations. Prior to the June 1998 rebellion and following the May coup, the Government approved all such requests. There were no public assemblies or demonstrations between June 1998 and May. Following the May coup, numerous organizations held rallies, some of which were critical of the Government. In November and December, unarmed soldiers conducted unannounced 1-day protests of nonpayment of salaries by blocking roads and access to schools and businesses.

The Constitution provides for freedom of association, and the Government respected this right in practice. The Government did not prohibit or discourage the formation of associations; however, all private associations were required to register with the Government. There were no reports of associations being denied registration.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respected this right in practice. While religious groups must be licensed by the Government, no applications were refused. There are no recent reports that any applications have been made. Various faiths, including Jehovah's Witnesses, continued missionary activities during the year. The Government includes members from all major religious groups. There were no indications that either the Government or the rebel forces attempted to interfere with religious freedom following the outbreak of fighting.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Prior to the June 1998 uprising, the Government generally did not restrict movement within the country, foreign travel, or emigration; however, checkpoints and police harassment occurred frequently. After the outbreak of fighting, vehicle traffic was curtailed severely. Both government and rebel forces blocked the road from Bissau to the interior and interfered with the free movement of traffic. The Government carefully controlled movement within Bissau, prohibiting most traffic. Movement in the interior was less restricted but still subject to occasional interference by both government and rebel forces. The land borders with Senegal were closed to travelers during the early stages of the conflict. Later, Senegal allowed humanitarian convoys to transit the border. Land borders with Guinea generally remained open. The national airport, which had remained under rebel control after the outbreak of fighting, was reopened to commercial traffic in May.

Passports are issued by the Minister of the Interior. In February the issuance of passports resumed, after having ceased with the outbreak of hostilities in June 1998. Citizens have the right to return and are not subject to political revocation of their citizenship.

The conflict that ended with the May coup caused massive civilian dislocation and hardship, but by June most of the 350,000 internally displaced persons had returned to their homes. Over 1,000 persons who sought refuge in neighboring countries or Europe repatriated spontaneously, and another 1,000 who fled are receiving assistance from international organizations to repatriate. About 1,800 refugees remain in Guinea and 720 remain in Gambia.

Prior to the conflict, the Government allowed refugees to stay if they feared persecution at home. There are no formal provisions to recognize refugee status, but it was granted on a case-by-case basis. No refugees were deported forcibly to a country where they feared persecution. Foreign refugees who fled Bissau with the outbreak of fighting are believed to have done so voluntarily. The Government provided first asylum to refugees from the conflicts in Liberia, Sierra Leone, and the Casamance region of Senegal. A January 1998 U.N. High Commissioner for Refugees (UNHCR) census revealed the presence of just under 5,000 Senegalese refugees in Guinea-Bissau. The majority of these were found along the country's western border with Senegal. Prior to the outbreak of hostilities, the UNHCR established a refugee camp south of the border region at Jolomete, which housed about 700 refugees. After the May coup, the UNHCR continued efforts to relocate these refugees, most of whom were displaced internally when the fighting erupted within Guinea-Bissau.

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

In November voters were able to choose their government freely for the second time in the nation's history. The African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC), the country's only legal party from 1974 to 1991 and the majority party in the National Assembly until the November elections, won 24 of the 102 seats in the National Assembly, while opposition parties gained a majority. The Partido de Renovacao Social (PRS) won 38 seats, and the Resistencia da Guine-Bissau (RGB) won 29 seats, while 4 other parties will split the remaining 11 seats. The elections, which included candidates from 13 parties, as well as several independents, were judged to be generally free and fair by international observers, although they reported some irregularities. Local elections have been promised since 1995, but they had not been held by year's end, and no substantive progress has been made to prepare for them.

In preparation for the elections, the National Electoral Commission, with the assistance of the UNOGBIS, conducted a voter registration program among the estimated 1.2 million population. Compared with 395,000 voters registered for the country's first multiparty elections in 1994, the current rolls show 525,367 voters. About 400,000 persons voted in the November 28 elections.

PRS leader Koumba Yala and interim President Malan Bacai Sanha of the PAIGC led a field of 12 candidates for president. Neither candidate secured an absolute majority as required by law, and Yala and Sanha will face each other in a second round of voting on January 16, 2000. The inauguration of the new government is expected to follow soon thereafter.

Joao Bernardo Vieira, who had been elected President in the country's first multiparty elections in 1994, fled to exile in Portugal following the May coup. He had ruled the country since taking power in a 1980 coup. Prior to the November 28 elections, the PAIGC held 62 of 100 seats in the National Assembly, where 4 other parties were represented.

General Mane and the Junta consistently declared that they would stay out of politics once a new civilian government was elected, but 2 weeks before the elections a "Magna Carta" was published demanding a 10-year role for the Junta. The Junta denied authoring the "Magna Carta" and repeated its commitment to return to the barracks after the elections; however, adequate and timely payment of soldier and veteran benefits is a continuing concern.

Women are underrepresented in the National Assembly, where they occupy only 9 of the 102 seats. In the Government of National Unity inaugurated in February, 1 of 10 cabinet ministers was a woman.

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

The Government did not interfere with the Guinea-Bissau Human Rights League (LGDH), and international human rights groups continued to investigate human rights abuses without government harassment. International and nongovernmental human rights groups, which effectively ceased operations with the outbreak of hostilities in June 1998, resumed activities following the inauguration of a government of national unity in February.

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

The Constitution and law prohibit discrimination on the basis of sex, race, and religion. However, in practice, the Government does not enforce these provisions effectively.

Women.—Physical violence, including wife beating, is an accepted means of settling domestic disputes. Although police intervene in domestic disputes if requested, the Government has not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

Discrimination against women persists, although officially it is prohibited by law. Women are responsible for most work on subsistence farms and have limited access to education, especially in rural areas. Women do not have equal access to employment. Among certain ethnic groups, women cannot own or manage land or inherit property.

Children.—The Government allocates only limited resources for children's welfare and education.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is widely practiced within certain ethnic groups, especially the Fulas and the Mandinkas. The practice is increasing as the population becomes more Muslim, and is being per-

formed not only on adolescent girls, but also on babies as young as 4 months old. The Government has not outlawed the practice. However, it has formed a national committee, which is conducting a nationwide education campaign to discourage it. International NGO's, including the Swedish group Radda Barnen and Plan International, as well as several domestic NGO's, such as Friends of Children and Sinim Mira Nasseque, are working through the national committee to eliminate FGM. The efforts of both domestic and international groups, largely suspended after the outbreak of fighting in June 1998, resumed in many parts of the country in February.

People with Disabilities.—There is no legislation mandating accessibility. The law does not prohibit discrimination against the disabled specifically, and the Government does not ensure equal access to employment and education. The State has made some efforts to assist disabled veterans through pension programs, but these programs do not address adequately veterans' health, housing, and food needs.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides all civilian workers with the freedom to form and join independent trade unions. However, the vast majority of the population works in subsistence agriculture. Most union members are government or parastatal employees; only a small percentage of workers are in the wage sector and are organized.

The Government registers all labor unions. There are 11 labor unions registered and operating. All unions are officially independent of the Government, but seven unions are affiliated with the National Trade Union Confederation (UNTG), which retains close informal ties with the PAIGC. The law does not favor UNTG-affiliated unions over others. The Constitution provides for the right to strike and protection for workers from retribution for strike activities.

The only legal restriction on strike activity is the requirement for prior notice. Legal strikes have been conducted by several unions, with no retribution against the strikers in the past; there were no strikes during the year.

Both enforcement of the law and the functioning of the formal economy, which largely ceased after the outbreak of hostilities in June 1998, returned to preconflict levels following the inauguration of a government of national unity in February.

All unions are able to affiliate freely with national confederations and international labor organizations of their choice.

b. *The Right to Organize and Bargain Collectively.*—The Constitution does not provide for or protect the right to bargain collectively, and there were no instances of genuine collective bargaining. Most wages are established in bilateral negotiations between workers and employers, taking into consideration the minimum salaries set annually by the Government's Council of Ministers.

The Government's provisions for the protection of workers against antiunion discrimination have very little effect due to low union membership. Although the Government adopted no laws to establish penal sanctions against employers practicing such discrimination, no workers have alleged antiunion discrimination, and the practice is not believed to be widespread.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor, including that performed by children, is prohibited by law, and these prohibitions generally are enforced in the formal sector; however, children often are forced by their parents or guardians to work as street traders or agricultural laborers in the informal sector (see Section 6.d.). The Government has not taken action to combat such practices.

In 1996 the Armed Forces Chief of Staff, General Ansumane Mane, was arrested after several children died in an explosion that occurred when they were forced to prepare shell cases for sale to Casamance rebels. Mane was placed under house arrest, but never formally charged; he ultimately was pardoned and reinstated by President Vieira.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The General Labor Act of 1986 established a minimum age of 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. These minimum age requirements generally are followed in the small formal sector, but the Ministry of Justice and Labor does not enforce these requirements in other sectors. Children in cities often work in street trading, and those in rural communities do domestic and field work without pay. The Government does not attempt to discourage these traditional practices.

Forced or compulsory labor by children is not permitted by law; however, while this prohibition generally is enforced in the formal sector, such labor occurs in the informal sector (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Government's Council of Ministers annually establishes minimum wage rates for all categories of work but does not enforce them. The lowest monthly wage is approximately $15 (9,000 cfa francs). This wage is insufficient to provide a decent standard of living for a worker and family, and workers must supplement their income through other work, reliance on the extended family, and subsistence agriculture. The maximum number of hours permitted in a normal workweek without further compensation is 45, but the Government does not enforce this provision. With the breakdown of the formal economy in June 1998, most of the country returned to barter, and both the Government and the private sector lacked the funds to pay salaries. Following the inauguration of a government of national unity in February, activity in the formal economy started to return to preconflict levels, and the Government was able to pay most salary arrearages.

The Ministry of Justice and Labor establishes legal health and safety standards for workers, with the cooperation of the unions, which are then adopted into law by the National Assembly. However, these standards are not enforced, and many persons work under conditions that endanger their health and safety.

Workers do not have the right to remove themselves from unsafe working conditions without losing their jobs. In view of high unemployment, a worker who left for such reasons would be replaced readily.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

KENYA

Kenya is a republic dominated by a strong presidency. President Daniel Arap Moi, who has led the Kenya Africa National Union (KANU) and served as President since 1978, was reelected most recently in 1997, in the country's second general election since the restoration of multiparty politics in 1991. Since independence in 1963, no president ever has left office in consequence of an election, and KANU has controlled both the presidency and the national legislature continuously, although other parties were illegal only from 1982 to 1991. KANU again won a majority in the 1997 legislative elections and at year's end, after KANU victories in all by-elections held during the year, KANU members held 118 of 222 seats in the unicameral National Assembly. While there were numerous flaws in the 1997 elections, observers concluded that the vote broadly reflected the popular will. In addition to his role as President, Moi is the commander in chief of the armed forces and he controls the security, university, civil service, judiciary, and provincial, district, and local governance systems. The judiciary is subject to executive branch influence.

In addition to the armed forces, there is a large internal security apparatus that includes the police Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS, formerly the Directorate of Security and Intelligence, DSI), the National Police, the Administration Police, and the paramilitary General Services Unit (GSU), which details members on a rotating basis to staff the 700-man Presidential Escort. The CID investigates criminal activity and the NSIS collects intelligence and monitors persons whom the State considers subversive. Members of the security forces continued to commit serious human rights abuses.

The large agricultural sector provides food for local consumption, substantial exports of tea, coffee, cut flowers, and vegetables, and approximately 70 percent of total employment. Although many sectors continued to be dominated by state-owned monopolies, the nonfarm economy includes large privately owned light manufacturing, commercial, and financial sectors. Tourism was second only to tea exports as the largest single source of foreign exchange. Since 1997 major international financial institutions have suspended nonproject assistance due to widespread government corruption associated with a lack of transparency and accountability. During the year, annual per capita gross domestic product remained virtually unchanged in real terms, at an amount equivalent to about $278. The spread of HIV/AIDS, which was estimated to have infected about 14 percent of the adult population, as well as drought and famine in some rural areas during the year, exacerbated economic problems.

The Government's overall human rights record was generally poor, and serious problems remained in many areas; while there were some signs of improvement in a few areas, the situation worsened in others. Security forces committed an increased number of extrajudicial killings, and continued to torture and beat detainees, use excessive force, rape, and otherwise abuse persons. Prison conditions remained life threatening. Police arbitrarily arrested and detained persons. The Gov-

ernment arrested and prosecuted a number of police officers for abuses; however, most police who perpetrated abuses were neither investigated nor punished. Lengthy pretrial detention is a problem, and the judiciary is subject to executive branch influence. The authorities infringed on citizens' privacy rights. The Government limited freedom of speech and of the press, and carried on a campaign of harassment, intimidation, and economic pressure against newspapers that often were critical of the Government. Police repeatedly harassed and arrested journalists. However, the Government partially relaxed its domination of domestic broadcast media. The Government repeatedly restricted freedom of assembly, and police used force to disperse demonstrators and protestors. The Government restricted freedom of association. Police disrupted public meetings, and security forces harassed and arbitrarily detained political dissidents, including opposition party legislators. The Government at times interfered with the activities of religious groups. Police shot and killed five unarmed worshippers at a mosque, and the Government published a report accusing several religious denominations and other groups of satanism. Citizens' ability to change their government peacefully has not yet been demonstrated fully. The Government continued to limit the independence of its Standing Committee on Human Rights, and the President continue to criticize nongovernmental human rights organizations. Violence and discrimination against women and abuse of children remained serious problems. Female genital mutilation (FGM) remained widespread, child prostitution increased as economic conditions deteriorated, and the spread of AIDS created many orphans. There was some discrimination against the disabled, and discrimination and violence against religious and ethnic minorities remained problems. The Government continued to exacerbate ethnic tensions by discriminating against many ethnic groups; interethnic tensions continued to result in numerous violent conflicts and some deaths. There were reports of an increasing number of ritual murders associated with traditional indigenous religious practices, which contributed to growing public concern about satanism. The Government continued to limit some worker rights. Child labor remained a problem, and there were instances of forced child labor. Violence by mobs and by nongovernmental armed groups from neighboring countries also resulted in many deaths.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Security forces continued to use lethal force and committed a number of extrajudicial killings. According to government figures, police killed 63 suspected criminals and another 151 suspects/detainees died in police custody from January to October. However, the nongovernmental Kenyan Human Rights Commission (KHRC) reported that police killed 187 persons from January to September (compared to 164 persons during the same period in 1998), including at least 24 by torture. The Independent Medico-Legal Unit, which observes and performs postmortems on suspected victims of torture, recorded 39 cases of death from "internal hemorrhage due to external trauma" (i.e., torture) of individuals in police custody during the first 8 months of the year. Police lacked restraint in employing lethal force, and the Government generally failed to take appropriate action against members of the security forces accused of extrajudicial killings. Although Assistant Commissioner of Police Stephen Kimenchu apologized to citizens at a human rights meeting in December 1998 for police torture and abuse, which he said occurred at the behest of politicians, the Police Commissioner's office withdrew the apology 2 days later.

In January police opened fire on a crowd of rice farmers in Mwea who were protesting the rice purchasing and selling practices of the National Irrigation Board, a state-owned entity that monopolizes rice distribution; police killed two of the farmers.

In March police shot and killed Ibrahim Kullow Hussein and nearly killed his brother, apparently while arresting them for robbery. The surviving brother, who denied the robbery charges, accused police of taking him and his brother to a remote location to execute them summarily.

In June police in Mombasa shot and killed two suspected criminals, Victor Polo and Vincent Odhiambo, during an arrest.

On August 13, police killed five Muslim worshipers in the Anas Bin Malik Mosque in Chai village, near Mombasa. A dozen policeman went to the mosque during a religious ceremony to arrest a man accused of assault. One policeman, Peter Ndirangu, entered the mosque to make the arrest. An altercation ensued, and other police officers shot indiscriminately through the windows and killed Imam Mohamed Ali Mwatakucha, Said Ali Mwajefwa, Ali Mohamed Mwadida, Neru Bakari Marika, and Alfan Matano Mwagoga. As the worshippers fled, someone slashed Ndirangu

with a farm tool, killing him. Muslim leaders accused police officials of taking two of the victims, who they believe survived the mosque shooting, to a remote location, and of killing them. Post mortem studies indicate that at least two of the worshipers died from gunshot wounds to the head, fired from a distance of less than 6 feet. The Government charged two police officers, Julius Mugambi M'nabere and Stephan Musau Kilonzo, with murder. The case is pending before the court.

In September police ambushed, shot and killed two armed men as they arrived at a bank in downtown Nairobi; the police had been informed in advance that they intended to rob the bank.

Most police killings occurred during the pursuit of criminal suspects; however, a number involved innocent bystanders. Ahluwalia Subir Ahluwalia died in April when police, responding to his family's report of a burglary at their home, opened fire on him, his mother, and sister as they rushed Ahluwalia's father to the hospital for gunshot wounds suffered at the hands of the robbers. The family claims that, although it was late at night and the police could not see the victims, the police began shooting without warning. On September 15, Mwanzia Mutuku, a Nairobi bank worker, was shot and killed when police raided and opened fire on a night club below Mutuku's apartment.

Some of the persons who died in police custody apparently were victims of torture. According to the KHRC, David Muragi, a grammar school student, died at home on February 3 after spending a night in the Rumuriti town prison. Before dying, he told his family that a police officer had beaten him. Police claimed that a mob had beaten Muragi for theft prior to his arrest. Elijah Kimani Mwaura's family alleged that police beat him to death in February while he was in custody in the Webuye police station. Francis Muchai claims to have witnessed two Kiambu police officers torture and beat to death Peter Kariuki on July 17 while he was in police custody. The 25-year-old Kariuki was arrested for theft a few hours earlier. According to press reports, four warders at the Kamiti Maximum Security Prison beat Kennedy Ouko Nyanoti in July, then dropped him off at a hospital, where he lay in a coma for 6 days before dying. On July 9, Jacob Anaseti (also known as Jacob Wanyoni Masese) and Ramadhani Barula (also known as Ramadhan Bakari) died of internal bleeding while in police custody in Bungoma; they were among 78 passenger van touts arrested during a countrywide strike by passenger van drivers (see Section 6.a.). Ephantus Njagi Nguthi died in late December 1998 from a fractured skull and other injuries that he reportedly received while in custody in Matanya, Laikipia district. Police reportedly had beaten his testicles. Two officers were arrested in the case.

In December 1998, Godwin Mukhwana, a member of the Presidential Escort, reportedly shot and killed Jamal Abedi and Henry Musyoka, the driver and tout of a passenger van driver, after their vehicle blocked a Presidential Escort vehicle; Mukhwana was arrested and charged with two counts of murder on December 16, 1998. The case was pending at year's end.

At year's end, several other cases of 1998 extrajudicial killings remained unresolved. Police opened an investigation into the June 1998 shooting death of Pastor Simeon Kiti Mwangoma (or Mwangalee) by Kilifi police, but took no further action; police maintain Mwangoma was the leader of a notorious gang. Police opened no investigation into the 1998 police shooting death of Simon Githinji Kigera, also a policeman, in Nairobi; police maintain they shot in self defense. The State opened no investigation and took no other action in the death of Vincent Nyumba Kiema due to a police beating; in the death after torture by army personnel of Sheik Mohammad Yahyah; and in the death in police custody in Kitui of Muthoka Mukele after he apparently was beaten. Army officer Aden Almi and police officers Faneis Malaba Mbiya and Kennedy Bitange faced charges of murder in connection with the death in police custody in Garissa of Ali Hussein Ali; the case was pending at year's end. The trial of the suspects in the 1998 murder of Seth Sendashonga was ongoing at year's end. In separate cases, Kitui authorities charged assistant chief Simeon Mwandingga with inciting the 1998 mob killing of Kamwila Kamungu, and another assistant chief, Josephine Matalu, with instigating the 1998 beating death of Kiema Mwisuve (see Section 5). There were no known developments in the case of the 1998 death of Alfred Kang'ethe after beatings by the Uthiru police.

A public inquest into the January 1997 death of Catholic lay brother Larry Timmons in Njoro had not concluded at year's end. The inquest into the death of University of Nairobi student Solomon Muruli resulted in a court ruling that he most likely committed suicide. Inquests also continued into the 1997 deaths in police custody of Moses Macharia Gicheru and Lomurodo Amodoi. There were no investigations into the 1997 deaths in police custody of Joseph Muangi Muiruri, Irungu Kimani, Noah Njunguna Ndung'u, Joseph Ndung'u Njoroge, James Gitau Kuanju, or Julius Mwangi Njoroge.

There were no effective police investigations into many other cases of extrajudicial killings by members of the security forces. The authorities usually attribute the absence of an investigation into an extrajudicial killing to the failure of citizens to file official complaints. However, the form required for filing complaints is available only at police stations, which often lack the forms or are not forthcoming in providing them. There also is considerable public skepticism of a process that assigns the investigation of police abuse to the police themselves.

Hundreds of prisoners died in custody due to life-threatening prison conditions, including inadequate food and medical treatment (see Section 1.c.). The Government recorded 196 deaths in prisons from January to October.

Interethnic violence in rural areas continued to cause many deaths (see Section 5).

Mob violence increased. According to the KHRC, 157 persons were killed in mob violence between January and September, compared with 139 such deaths in all of 1998. The Government recorded 183 deaths due to mob violence between January and September. Human rights observers attribute mob violence to a lack of public confidence in the police and the judicial process. The great majority of mob violence victims, who died by lynching, beating, or burning, were persons suspected of criminal activities, including robbery, cattle rustling, and membership in terror gangs. However, the social acceptability of mob violence also provided cover for personal vengeance under the guise of "mob justice." On November 9, a group of about 100 students at the Sang'alo Institute of Science and Technology beat and killed the Institute's principal, whom the students accused of mismanagement.

Occasionally, mobs killed members of their communities on suspicion that they practiced witchcraft (see Sections 2.c. and 5). There were no known statistics about the number of deaths during the year due to mob violence against persons suspected of practicing witchcraft, which resulted in 16 deaths in 1998.

In January in the town of Moyale, near the Ethiopian border, a group of armed men in uniform shot and killed an Islamic cleric, assistant kadi Haji Hassan Muhammad, who reportedly sympathized publicly with the Oromo ethnic insurgency in Ethiopia. Residents of the area have long alleged that members of the armed forces of the Government of Ethiopia often cross into the country to kill or kidnap alleged sympathizers of the Oromo Liberation Front (OLF).

b. *Disappearance.*—George Matata, a student protest leader at state-owned Moi University in Nairobi, reportedly disappeared on October 20; students rioted to protest his reported disappearance and authorities briefly closed the university. Matata reappeared a few days later and claimed that police in Eldoret had abducted, tortured, and released him; however, no evidence in support of that allegation was reported. There were no other reports of politically motivated disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that "no one shall be subject to torture or degrading punishment or other treatment;" however, security forces continued to use torture and physical violence as methods of interrogation and to punish both pretrial detainees and convicted prisoners. Although police authorities periodically issue directives against the use of torture by police, the problem persists. Human rights organizations and the press highlighted scores of cases of torture, and several cases of indiscriminate beating of groups of persons by police during the year. Common methods of torture practiced by police included hanging persons upside down for long periods, genital mutilation, electric shocks, and deprivation of air by submersion of the head in water. The KHRC counted 24 torture related deaths in the first 9 months of the year (see Section 1.a.).

There were numerous allegations of police use of excessive force and torture. The KHRC recorded 323 cases of police brutality in the first 9 months of the year. Detainees routinely claimed that they had been tortured, making it difficult to separate real from fabricated incidents. Among the more credible allegations of police torture reported by the KHRC and the press were the cases of: Jeremiah Kasuku, who was assaulted and illegally detained in January in Keiyani by GSU officers and District Officer S. Kepketch (see Section 1.d.); Peter Macendu, who was whipped and beaten unconscious by six policemen in February in Kerugoya; Julius Muhoro Mugo, who was tortured for 2 days by CID officers sometime before March; Duncan Ndwega, a CID officer, who was tortured by the Flying Squad (a quick response, antitheft unit of the police force) in April; Geoffrey Mbuthia Nduati, who claims that police unleashed dogs on him while he was in custody in September in Nyeri's Karatina Police Station; and Johnnes Musyoka Kimonyi, who attributes his loss of eyesight to beatings by police in Buru Buru.

In February David Makali, the editor of Expression Today, a Nairobi-based newspaper, reportedly was kidnaped by a group of unidentified men who drove him to Karura Forest outside Nairobi and tortured him there. Makali later identified one

of his assailants as a man shown in press photographs engaged in beating the Reverend Timothy Njoya during a protest march on June 10, and asserted credibly that he is a member of the Jeshi la Mzee group of KANU Youth organized and employed by Fred Gumo of the Office of the President (see Section 2.a.). Makali's assailants allegedly demanded information about the whereabouts of the author (then in hiding) of an article published in Expression Today that asserted the complicity in drug trafficking of senior government officials including Gumo.

According to organizations that work with street children, police also beat and abuse street children (see Section 5). The WEMA Street Girls Center sought to press charges against two Mombasa police officers for raping a 13-year-old street girl in May. The girl identified the officers, Mwinge Chula and Peter Ndwiga, who were arrested in May and await trial.

Residents of Balessa and El Hadi in the north credibly accused security forces, both army and police, of beating or torturing residents of those villages on May 22–23, during an operation to flush out OLF insurgents who crossed the border from Ethiopia. A group of five persons, including a Catholic priest and two nurses who visited Balessa and El Hadi on May 23, documented the beatings and torture of six of the most seriously injured persons both through photographs and in detailed written accounts of the victims' oral statements; some of this evidence was published in a Nairobi newspaper, together with letters of protest from village leaders, on May 29. Although a military team dispatched to investigate the incident found no evidence to substantiate the claims, the army's rules of engagement for joint security operations reportedly permitted the use of nonlethal force, including beatings, to obtain from noncombatants information needed to achieve operational objectives.

Police repeatedly used excessive force in breaking up demonstrations and beat citizens (see Sections 2.b. and 6.a.).

During the vote counting following a January 16 National Assembly by-election in Eastern province, police used wooden clubs and tear gas to disperse a crowd outside the vote counting hall that was protesting the announcement of a narrow victory by the KANU candidate based on the counting of contested ballot boxes (see Section 3); police then entered the vote counting hall and beat opposition members of the National Assembly and the leading opposition candidate in the election.

On January 30–31, police in Nairobi used tear gas, beatings with wooden clubs, stones, and rubber bullets to disperse a demonstration by university students that became violent after being blocked by police; the students were protesting senior government officials' transfer of public land in Karura Forest near Nairobi for free or at prices far below market prices to persons who had allegedly supported KANU financially in the 1997 elections (see Sections 2.b. and 3). Severe police beatings injured dozens of students, including several who were hospitalized.

On February 26, police used tear gas and police dogs to block National Assembly Members of Parliament (M.P.'s) and farmers from holding a rally in Eldoret (see Section 2.b.).

On April 13, in Nyanza province, police beat and then arrested opposition M.P. James Orengo, who was speaking publicly in a town market place against unaccountable transfers of public land by provincial and county government officials (see Sections 1.d., 2.a. and 2.b.); police also used tear gas to disperse Orengo's audience.

Squads of "KANU Youth," including the Jeshi la Mzee squad allegedly organized and paid by Fred Gumo of the Office of the President, and Nairobi police used beatings and tear gas to disrupt a peaceful rally staged by various religious and civil society groups on June 10 to protest the Government's handling of the constitutional review process (see Section 3). Presbyterian Reverend Timothy Njoya was one of several persons who were beaten and seriously injured. After the KANU Youth initiated violence, police joined them in beating protesters, whereupon students and unemployed youths joined the protest, which degenerated into street battles and looting.

On June 20, in Machakos, police resorted to tear gas and force to break up a public meeting held by KANU and opposition M.P.'s to discuss issues of concern to the Kamba ethnic group (see Sections 2.b. and 5). In a separate event the same day, the Meru police chief, in an attempt to stop M.P.'s from holding a public meeting, reportedly punched and kicked opposition M.P. James Orengo (see Section 2.b.).

On October 21, police used force to disperse a demonstration by students of the Kabete Technical Insititute protesting an allegedly illegal allocation of public land to a local church; the demonstration became violent and students threw rocks at police after the police prevented the students from leaving the campus and then entered the grounds of the Institute (see Section 2.b.).

During the year the Government investigated some allegations of police use of excessive force and torture, and prosecuted several police officers. According to the Government, 12 police officers were charged and sentenced during the first 9

months of the year, and the Government recorded only five reported cases of torture during that same period. In October the High Court awarded Elias Mbabu approximately $70,000 (4.8 million shillings) for police brutality he suffered in 1994. The court also ordered the arrest of the offending officers.

Caning continued to be used as punishment in cases such as rape (see Section 5).

Prison conditions are often life threatening, due both to a lack of resources and to the Government's unwillingness to address deficiencies in the penal system. Prisoners are subjected to severe overcrowding, inadequate water, poor diet, substandard bedding, and deficient health care. Police and prison warders subject prisoners to torture and inhuman treatment (see Section 1.a.). Rape of both male and female inmates, primarily by fellow inmates, is a serious problem, as is the increasing incidence of AIDS. Disease is widespread in prisons and the death rate is high. Prisons do not have resident doctors, and only one prison had a doctor permanently assigned. Prisoners sometimes are kept in solitary confinement far longer than the maximum 90 days allowed by law.

According to the Government, 196 prisoners died in jails during the first 9 months of the year, compared with 536 in 1998 and 631 in 1997, due chiefly to anemia, heart attack, malaria, typhoid fever, dysentery, tuberculosis, and AIDS. The country's 83 prisons are severely overcrowded, averaging 30 percent above holding capacity, with a daily average of 33,610 inmates in 1998 (latest available figures).

Officially, men, women, and children are kept in separate cells. However, there are reports of men and women being placed in cells together. Women sometimes lack access to sanitary napkins and often have only one change of clothes, leaving them naked during washing of their laundry. Young teenagers frequently are kept in cells with adults in overcrowded prisons and detention centers. Youth detention centers are understaffed, and inmates have minimal social and exercise time. Some young inmates remain for years in the centers, as their cases await resolution. Prisoners and detainees report that they frequently are denied the right to contact relatives or lawyers (see Section 1.e.).

In July press reports highlighted the substandard conditions in the prisons. Although in August Shariff Nassir, who was then Minister for Home Affairs and in charge of the prison system, stated that prisons were heavily congested and that the Government intended to present a bill to Parliament to improve prison conditions, no action was taken by year's end.

The Government does not permit independent monitoring of prison conditions, although some independent NGO's work with the Government in evaluating torture cases and performing autopsies on deceased prisoners. In October officials of Kimiti Maximum Security Prison denied U.N. Special Rapporteur for Torture Nigel Rodley access to that facility, despite a government agreement to grant him full access (see Section 4). The Government apologized and claimed that this happened because Rodley had arrived at the prison at a time different from his scheduled appointment. There were reports of torture at Kamiti Prison; however, Rodley had not released his report by year's end.

d. *Arbitrary Arrest, Detention, or Exile.*—Despite constitutional protections, police continued to arrest and detain citizens arbitrarily. The Constitution provides that persons arrested or detained shall be brought before a court within 24 hours in noncapital offenses and within 14 days in capital cases. The Penal Code specifically excludes weekends and holidays from this 14-day period. The law does not stipulate the period within which the trial of a charged suspect must begin. Suspects often are held for weeks, even months, before being brought to court. The Government has acknowledged cases in which persons have been held in pretrial detention for several years.

The KHRC reported that murder suspect Timothy Karani has been in custody in Embu for 12 years without being charged, a claim that the Government has neither confirmed nor denied.

The law provides that families and attorneys of persons arrested and charged are allowed access to them, although this right often is not honored. Family members and attorneys may visit prisoners only at the discretion of the State. This privilege often is denied. For those who have been charged, it often is possible to be released on bail with a bond or other assurance of the suspect's return.

The Community Service Order Act passed by Parliament in 1998 subjects those convicted and sentenced to less than 3 years to community service rather than custodial sentence, thus potentially reducing the prison population; however, the Government has yet to implement the act.

Police arrested and briefly detained many students in connection with the late January ecological and political protests against nontransparent transfers of public

land in Karura Forest by senior government officials (see Sections 1.c. and 3). Police released the students soon after the protest without charging them.

On February 2, police arrested three opposition M.P.'s who were prominent critics of the Karura Forest land transfers (see Sections 1.c. and 3): James Orengo, Njehu Gatabaki, and David Mwenje. The Government charged them with inciting riots in connection with violence that arose from late January protests against those land transfers.

On February 7, 81 members of the small traditional Mungiki religious order of the largely pro-opposition Kikuyu ethnic group were arrested and held without bail until March 16, on charges of coercing members to take illegal oaths to oppose the Government, holding illegal meetings, and possessing offensive weapons (see Section 2.c.).

On April 13, police in Nyaza province beat and arrested prominent opposition M.P. James Orengo, who introduced a motion of no confidence in President Moi in the National Assembly in 1998 (see Section 1.c.). Orengo and his supporters were arrested while he spoke publicly in a town market against nontransparent transfers of public land by provincial and county officials and were charged with disturbing the peace and with malicious damage to property. Orengo was released on bail the next day, following protests by other opposition M.P.'s. The case was pending at year's end.

In September CID officers arrested opposition M.P. George Kapten for defaming a public official. He had accused the President of being at the heart of a major financial scandal, in an interview published in August in Finance Magazine. Kapten was released on bail, but in November he was charged for subversion in connection with the same interview; he died at his home on December 25 (see Sections 1.e. and 2.a.).

Police arrested a number of journalists on charges of publishing information "likely to cause alarm to the public" (see Section 2.a.).

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary is subject to executive branch influence. The President has extensive powers over appointments, including those of the Chief Justice, the Attorney General, and Appeal and High Court judges. The President also can dismiss judges and the Attorney General upon the recommendation of a special presidentially appointed tribunal. Although judges have life tenure (except for the very few foreign judges who are hired by contract), the President has extensive authority over transfers.

The court system consists of a Court of Appeals, a High Court, and two levels of magistrate courts, where most criminal and civil cases originate. The Chief Justice is a member of both the Court of Appeals and the High Court, which undercuts the principle of judicial review. Military personnel are tried by military courts-martial, and verdicts may be appealed through military court channels. The Chief Justice appoints attorneys for military personnel on a case-by-case basis.

There were some indications of executive interference. Several cases involving opposition M.P.'s have been ongoing for years, with the courts repeatedly postponing the hearings, thereby requiring the M.P.'s to appear periodically in court or risk fines or imprisonment. In early August, the courts fined several publishers of small, pro-opposition weeklies for printing without proper licensing (see Section 2.a.); the courts had not invoked this colonial-era law in many years. Opposition M.P. George Kapten was charged in September with defamation of a public official, and in November with subversion, for stating that President Moi was the prime suspect in the Goldenberg financial scandal, involving businesspersons who reportedly defrauded the Government of hundreds of millions of dollars with the apparent complicity of senior government officials (see Section 1.d.).

Judges who ruled against the Government in the past sometimes were punished with transfer or nonrenewal of contracts, although during the year no retaliatory action against justices was reported.

However, judges occasionally demonstrated independence. For example, in June Justice Richard Kuloba acquitted Merekoi Ole Kokoyo of murder charges and criticized the Attorney General's office for not presenting any evidence, creating unwarranted delays, and making unjustified requests for adjournment.

Another problem has been the Attorney General's constitutional power to discontinue proceedings in private prosecution cases. Arguing that citizens must first notify his office before initiating private prosecution, Attorney General Amos Wako has used this authority on a number of occasions to terminate cases against government officials.

President Moi's appointment of chief public prosecutor Bernard Chunga as Chief Justice of the Supreme Court upon Zachaeus Chesoni's death in September was widely criticized in the legal community as tending further to reduce the independ-

ence of the judiciary; Chunga was widely perceived as having been zealous in prosecuting critics of the Government, and as having primary loyalties to the President personally. After Moi's 1998 appointment of Chunga as lead counsel of the Commission on Ethnic Clashes, the Commission was less vigorous in calling witnesses to testify about the role of government officials in instigating and allowing ethnic violence (see Section 5).

The judiciary faced many accusations of corruption. In March Chief Justice Zaccheus Chesoni was accused of taking a $450,000 (30 million shilling) bribe to rule in favor of a plaintiff in a case. Soon thereafter, a businessman accused Justice Richard Kuloba of taking a $75,000 (five million shilling) bribe. In 1998 the Chief Justice appointed a special judiciary commission chaired by Justice Richard Kwach to report on the problems of the judiciary. The Kwach Commission cited "corruption, incompetence, neglect of duty, theft, drunkeness, lateness, sexual harassment, and racketeering" as common problems in the judiciary. The Commission recommended amending the Constitution to allow for the removal of incompetent judges, introducing a code of ethics, improving the independence of the judiciary, overhauling the Judicial Services Commission (the administrative branch of the judiciary), and shifting prosecutorial responsibilities from the police to the judiciary. Upon receipt of the report, the Chief Justice in late 1998 appointed another commission to investigate modalities of implementing the Kwach Commission's recommendations for improving the judiciary. No action was taken on those recommendations by year's end.

There are no customary or traditional courts in the country. However, the national courts use the customary law of an ethnic group as a guide in civil matters affecting persons of the same ethnic group so long as it does not conflict with statutory law. This is done most often in cases that involve marriage, death, and inheritance issues and in which there is an original contract founded in customary law. For example, if a couple married under national law, then their divorce is adjudicated under national law, but if they married under customary law, then their divorce is adjudicated under customary law. Citizens may choose between national and customary law when they enter into marriage or other contracts; thereafter, however, the courts determine which kind of law governs the enforcement of the contract.

Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and for defendants to have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the High Court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the High Court judge. The assessors are taken from all walks of life and receive a sitting allowance for the case. Although the assessors render a verdict, their judgment is not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel, except in capital cases. For lesser charges, free legal aid is not usually available outside Nairobi or other major cities. As a result, poor persons may be convicted for lack of an articulate defense. Although defendants have access to an attorney in advance of trial, defense lawyers do not always have access to government-held evidence, as the Government can plead the State Security Secrets Clause as a basis for withholding evidence. Court fees for filing and hearing cases are high for ordinary citizens. The daily rate of at least $25 (2,000 shillings) for arguing a case before a judge is beyond the reach of most citizens.

Critics of the Government—politicians, journalists, lawyers, and students—have been harassed through abuse of the legal process. In a 1997 study of the judiciary, the International Bar Association found "a persistent and deliberate misuse of the legal system for the purpose of harassing opponents and critics of the Government." Authorities continued during the year to arrest opposition M.P.'s and student leaders (see Sections 1.b. and 1.d.), and a number of opposition M.P.'s, student leaders, and human rights activists still had one or more court cases pending, often for months or even years.

In July the High Court dismissed a legal challenge to President Moi's 1997 reelection filed by Mwai Kibaki, chairman of the Democratic Party; Kibaki's brief alleged that Moi had rigged the election through the Electoral Commission (see Section 3). The High Court dismissed Kibaki's electoral petition on the grounds that he had failed to comply with a legal requirement to serve a copy of the petition on the President personally, despite acknowledging the factual accuracy of Kibaki's claim that presidential security consistently had denied him personal access to Moi. In December the Court of Appeal upheld the High Court's decision on the same grounds.

In August the Court of Appeal sentenced Post on Sunday editor Tony Gachoka to 6 months in prison for contempt, stemming from articles he wrote in February

alleging that Supreme Court Chief Justice Zaccheus Chesoni and other members of the judiciary took large bribes to rule in favor of businesspersons implicated in the Goldenberg scandal. The court refused to allow Gachoka to present oral evidence. Among the panel of seven judges he faced were three he accused by name in his writings. The contempt prosecution of Gachoka was initiated by Attorney General Amos Wako, whom Gachoka also had identified in his published writings, as having conspired to cover up the Goldenberg scandal. Because the highest court had original jurisdiction over the case, the editor could not appeal its decision (see Section 2.a.). However, the President pardoned Gachoka, who was released on November 3, after serving 74 days of his sentence.

In November the High Court suspended the court martial of an army major accused of stealing stationery on the grounds that the army had denied him his choice of attorney—opposition M.P. James Orengo. In response the army contended that the constitutional right to representation by counsel of one's choice did not extend to members of the armed forces.

Gachoka was the only political prisoner reported during the year.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—At times authorities infringed on citizens' privacy rights. Although the Constitution provides that "no person shall be subjected to the search of his person or his property or the entry by others on his premises," it permits searches without warrants "to promote the public benefit." The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" their investigation. Although security officers generally obtain search warrants, they occasionally conduct searches without warrants to apprehend suspected criminals or to seize property believed to be stolen.

During the year, Nairobi police searched the offices of several tabloid publications and one NGO, the National Convention Executive Council, without warrants. The police continued repeatedly to conduct massive warrantless searches ("sweeps") for illegal immigrants and firearms in residential neighborhoods of major cities (see Section 2.d). The KHRC recorded 3,280 arrests during sweeps between January and August. Residents complained that police who entered homes on the pretense of searching for weapons often asked for radio, television, and video receipts and permits and demanded bribes to refrain from confiscating those items in the absence of such documents.

Security forces have monitored closely the activities of dissidents, following or otherwise harassing them. They employ various means of surveillance, including a network of informants to monitor the activities of opposition politicians and human rights advocates. Some opposition leaders, students, journalists and others continued to report that the Government subjected them to surveillance, telephone wiretaps, or interference with written correspondence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government broadly interprets several existing colonial-era laws to restrict free expression. Reforms passed in late 1997 have improved the degree of freedom of speech and of the press, which while still limited is substantially greater than either 5 or 10 years ago, and the number of periodicals critical of the Government continues to grow. During the year, the Government also partially relaxed its domination of domestic broadcast media. Nonetheless, the Government sporadically harassed elements of the print media; there were also several incidents of harassment and beating of journalists. Police repeatedly dispersed demonstrators to prevent criticism of the Government (see Sections 1.c. and 2.b.). Some independent periodicals reported that the business community came under pressure from the Government to refrain from advertising in these magazines, keeping some on the edge of insolvency. In spite of these pressures, the press, civic organizations, and the opposition continued to present their views to the public, particularly in the print media. Government pressure led journalists to practice some self-censorship.

On the whole, the print media remained candid and independent. There is a large variety of weekly tabloid publications highly critical of the Government. Reporting in these tabloids ran the gamut from revealing insider reports to unsubstantiated rumor mongering.

The mainstream print media include four daily newspapers that report on national politics. The largest newspaper, the Nation, is independent and often publishes articles critical of government policies. The second largest newspaper, the East African Standard, is controlled by an investment group with close ties to the Government and the ruling KANU party. It is generally, although not automatically, supportive of the Government. The third daily newspaper, The People, formerly a weekly, is owned by an opposition politician and is highly critical of the

Government. The fourth daily, the Kenya Times, which has a small circulation and is struggling to keep afloat financially, reflects KANU party views.

A pattern of sporadic government harassment of the print media continued. On December 20, President Moi, speaking to delegates to a KANU conference in Nairobi, criticized The Nation and The People newspapers, stating that they practiced "terrorism and distortion." Moi advised the delegates not to buy those newspapers. Moi was widely quoted as saying that the media are the worst enemies of democracy. Moi's remarks were broadcast nationally on state-owned radio. Energy Minister Lotodo told a gathering of political supporters that no journalist "should set foot" in West Pokot (an area of intense cattle rustling), and that any journalist who went there risks harsh punishment. An assistant minister in the Office of the President, Fred Gumo, a member of the Luhya ethnic group, threatened in February to have journalists who publish articles critical of his ethnic group beaten. A few days earlier, a group of thugs abducted, beat, and released Expression Today editor David Makali (also a Luhya), saying that they were angry about and sought to find the author of an article that Makali published in February, which asserted that government officials were complicit in narcotics trafficking. Makali subsequently identified one of his aggressors, and asserted that he has been employed by Gumo (see Section 1.c.), but later withdrew a request that Gumo and the alleged assailants be prosecuted. In May the Kenya Union of Journalists and the Media Institute issued a statement that alleged that during the preceding 12 months there had been a "steady rise in cases of open violence against journalists by state agents and lately, by gangs of the payroll of powerful individuals."

The Government also has attempted to intimidate the pro-opposition press by selective prosecution of journalists under a colonial-era section of the Penal Code that criminalizes the publication of information likely to cause fear or alarm. Johan Mwangi Wandeto, a journalist for the People, was arrested on March 8 for publishing a story that alleged that bandits held up the presidential escort. People journalist Mohammed Sheikh was arrested in June for publishing an "alarming" article. The editor of The Dispatch, Maneno Mwikwabe, is facing similar charges for articles he wrote in 1998.

Harassment of the tabloid press continued. In early July, police raided the offices of the Nairobi printing firm Junior Graphics and confiscated films and four printing plates for The Concord Weekly, the Weekly Express, the Metropolitan, the Dispatch and the Citizen. The Concord publisher Paul Kimani subsequently faced charges of publishing without proper licensing. In August police raided the offices of the Metropolitan, arresting employees Oliver Litodo and Mula Mulamula for similar reasons. Police made a sweep of Nairobi print media vendors in September, confiscating sexually oriented magazines.

A weekly and a biweekly publication—the Post on Sunday and Finance—which were refused registration in 1998, continued publishing in early 1999 without apparent restraint. However, The Post on Sunday was forced to suspend publication in August, following the conviction of its editor Tony Gachoka and the associated fine of about $14,000 (Ksh 1 million) imposed on the publication (see Section 1.e.). On August 20, Gachoka received a 6-month jail sentence from the Court of Appeal for contempt of court (libel against the judges), stemming from articles he wrote accusing government officials of corruption (see Sections 1.d. and 1.e.).

CID officers arrested opposition M.P. George Kapten, and he was subsequently charged with defaming a government official and with subversion, in connection with an interview, published in August in Finance Magazine, in which he indicated that President Moi was implicated in the Goldenberg finance scandal (see Section 1.d.).

The Government maintained tight control over the electronic broadcast media—particularly radio, the principal news medium for most citizens. It controls the Kenya Broadcasting Corporation (KBC), which operates the country's premier radio, broadcast television, and cable television networks. KBC stations do not criticize the Government and give a large share of news time to government or KANU party functions and scant coverage to opposition activities. KANU supporters also own three other television networks—Kenya Television Network (KTN), which airs news programs with somewhat more balanced political coverage, Stellavision, and Citizen TV, which began broadcasting during the year. The KTN is restricted to the Nairobi metropolitan area. Citizen Radio covers much of central Kenya, whereas Citizen TV can be viewed only in parts of Nairobi. Their news programs during the year were quite objective. Family TV and Radio, a Christian broadcasting network, began broadcasting television and radio in the Nairobi metropolitan area in midyear. Nation Radio began broadcasting in October, and Nation Television followed in December, providing independent media coverage.

The Government continued to delay action on a large number of radio and television license applications through most of the year, reflecting the arbitrariness of the broadcast licensing process. The Ministry of Information, Transport, and Communication, formerly the Ministry of Information and Broadcasting, explained that it was waiting for the recommendations on media liberalization from the Attorney General's Task Force on Press Law. That Task Force made its initial report in December 1998, but still has several outstanding issues to resolve, including the manner of selection of the 13-member Media Commission, which would act as an independent body issuing broadcast licenses. In 1997 the Government issued four broadcast licenses, three to friends of the ruling KANU and one to the British Broadcasting Corporation (BBC). In May 1998, after a delay of 7 years, the Government finally issued a radio and television broadcast license to the Nation Media Group, the country's largest media organization. However, it restricted the license area to Nairobi, and it delayed issuing broadcast frequencies until late the same year. Nation Media Group received in 1999 authorization for radio broadcasts in Nairobi, Mombasa, Kisumu, and Nakuru, and began radio transmission to Nairobi in October and television broadcasts to the capital in December. Nation also sued the Government for permission to broadcast radio and television nationwide, but the case was still before the courts at year's end. The Ministry for Information, Transport and Communication has licensed a total of 12 television and 20 radio stations to date, although only 5 private television stations (KTN, Citizen, Family, Nation, and Stellavision) and 7 private radio stations (Citizen, Family, Sayare Rehema, Capital, Nation Radio, BBC Nairobi, and BBC Mombasa) are operational. In 1998 the Ministry approved radio and television broadcast licenses for a Muslim group and for a Christian group. In March the Ministry of Information, Transport, and Communication licensed four religious organizations to operate a radio station and three television stations: one Islamic station, and three Christian stations in the coastal, central and western regions. At year's end they had been assigned broadcasting frequencies, but had not yet begun to broadcast.

The KBC remained the only domestic source of current information for most persons outside the Nairobi area. This continued severely to limit the ability of opposition leaders and other critics of the government to communicate with the electorate.

During the 1997 election campaign the Electoral Commission directed that the KBC accord equal treatment to all political parties; however, this directive was not implemented fully. KBC coverage remained heavily biased in favor of KANU and President Moi. Moreover, the KBC's limited coverage of the opposition was generally negative, compared with uniformly positive coverage of KANU. Opposition politicians accused the Government of using similar tactics in the year's by-elections.

Representatives of the international media remained free to operate.

The Government does not restrict access to the Internet. There are about 20 domestic Internet service providers, which generally are privately owned. Internet access is limited only by economic and infrastructual factors, and is fairly widespread in urban areas.

A total of 79 publications remained banned, including such works as "The Quotations of Chairman Mao Zedong" and Salmon Rushdie's "Satanic Verses." The courts lifted the ban on the Catholic periodical Inooro in 1997, and in December 1998 lifted the ban on opposition leader Kenneth Matiba's "Return to Reason." The 1997 reforms eliminated sedition as a ground for censorship of publications, and directed that a board be established to review existing, and future, publication bans. The Prohibited Publications Review Board was established in 1998.

Despite constitutional provisions for free speech, school administrators and the security forces continued to limit academic freedom. They frequently took harsh action against even peaceful student demonstrations, whether over political or bread-and-butter issues, forcefully dispersing and sometimes arresting students (see Sections 1.c., and 2.b.). Although private universities were not prohibited and some existed, the State owned, subsidized, and administered most universities and other institutions of higher education, and most post-secondary students attended institutions owned, administered, and subsidized by the State, due in part to their lower fees. President Moi, as chancellor of all state universities, appoints the vice chancellors, who managed the institutions under the supervision of the Ministry of Education. A number of student activists have been expelled from universities in recent years because of political activities, and most have been refused readmission. Student leaders report that government security forces sometimes follow them (see Sections 1.c. and 1.f.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricts the right in practice. The Public Order Act, which the Government used for many years to control public gatherings and to restrict this right, was amended in 1997; the requirement that public

meetings be licensed was replaced by the less restrictive requirement that organizers notify the local police in advance of planned public meetings. In 1998 government disruptions of public meetings declined significantly; however, this improvement was not sustained during the year. Authorities repeatedly disrupted public demonstrations about which organizers duly informed the police in advance; government officials claimed that the organizers lacked authorization to hold public gatherings, whereas there no longer appeared to be any basis in domestic law for requiring specific authorization. In September President Moi stated that government officials should deny "permits" (for public demonstrations) to politicians who use public rallies to abuse other leaders; however, officials now have legal authority to cancel planned public gatherings only if there are simultaneous meetings previously scheduled for the same venue, or if there are specific security threats.

Some public assemblies that police dispersed, such as many assemblies of passenger van drivers and touts during their work stoppage in July, were already violent before police disrupted them (see Section 6.a.). However, other public assemblies that police disrupted, including some student and political protest demonstrations, either were nonviolent or became violent only after police forcibly and egregiously restricted their attempted exercise of freedom of assembly (see Section 1.c.); however, demonstrating students repeatedly initiated violence.

In mid-January, during the vote counting following a National Assembly by-election in Eastern province, police forcibly dispersed a nonviolent although verbally abusive crowd outside the vote counting hall that was protesting perceived election-rigging (see Sections 1.c. and 3). In late January, police in Nairobi forcibly dispersed a demonstration by university students protesting the nontransparent transfer of public land in Karura forest by senior government officials; the demonstration became violent after police blocked its march (see Sections 1.c. and 3). In February police forcibly blocked opposition M.P.'s and farmers from holding a rally in Eldoret (see Section 1.c.). On April 13, in Nyanza province, police forcibly dispersed an assembly in a town marketplace of persons who were listening to a speech by opposition M.P. James Orengo (see Sections 1.c., 1.d., and 2.a.). In June in Nairobi police and groups of hired "KANU Youth" violently disrupted a march by religious and NGO leaders protesting the Government's handling of the constitutional review process; only after the police and KANU Youth initiated violence did this peaceful protest grow and become violent (see Sections 1.c., 2.c., and 3.). Also in June, police in Machakos forcibly broke up a public meeting organized by a group of KANU and opposition M.P.'s to discuss issues of concern to the Kamba ethnic group; police said that the participants had no permission to gather (see Section 1.c.). Also in June, the Meru police chief, in an unsuccessful attempt to stop M.P.'s from holding a public meeting, reportedly punched and kicked opposition M.P. James Orengo (see Section 1.c.). On July 11, police used tear gas to break up several impromptu gatherings that four opposition M.P.'s held in Embu and Meru, saying they had no permission to hold a public meeting. Also in July, police in Nakuru disrupted gatherings of supporters of the political group Saba Saba Asili, and police in Keiyo disrupted a public meeting organized by opposition M.P. Tabitha Seii. In October police in Kabete forcibly dispersed a demonstration by students of the Kabete Technical Institute protesting an allegedly illegal allocation of public land; the demonstration became violent after the police forcibly blocked a planned student march off the campus (see Section 1.c.).

The Government continued to use the Societies Act to restrict freedom of association. The act requires that every association be registered or exempted from registration by the Registrar of Societies. For years after opposition parties again were legalized in 1992, the Government refused to act on a number of political party registration applications. However, since the enactment of reform legislation in 1997, the Government has acted on some long-pending applications, increasing the number of registered political parties from 12 to 23. However, the Government continued to refuse to reverse its 1994 denial of registration of the Islamic Party of Kenya (IPK), which was involved in a number of violent confrontations with police in 1992 (see Sections 2.c. and 5). The United Democratic Movement and Saba Saba Asili political parties still are awaiting registration, the latter since 1997.

The Government continued to criticize publicly and intimidate NGO's, many of which it accuses of being "subversive" and of working with the opposition to overthrow the Government. The Government NGO Coordination Board under the NGO Act registers NGO's. The Government has used this structure to put pressure on the nongovernmental National NGO Council. In 1997 the Board directed the Council to compile a list of "political NGO's," presumably to carry out President Moi's threat to deregister all "political NGO's," but the Council refused. In March President Moi again publicly stated that NGO's were trying to destabilize the country by channeling foreign funds to antigovernment student and labor organizations and

using foreign funds to organize seditious mass protests. In early April, the Office of the President instructed all district governments to monitor NGO's within their districts with a view to ensuring that NGO's either advance government-approved objectives or cease to operate; however, NGO's did not subsequently report an increase in government monitoring (see Sections 4 and 6.a.).

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, while groups generally were allowed to worship freely, the Government at times interfered with other activities by religious groups.

The Government requires religious organizations to register with the Registrar of Societies, which reports to the Office of the Attorney General. The Government allows traditional indigenous religious organizations to register, although many choose not to do so. Once registered, religious organizations enjoy tax-free status and clergy are not subject to duty on purchased goods. Religious organizations generally receive equal treatment from the Government; however, some small splinter groups have found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization. The Government has not granted registration to the Tent of the Living God, a small Kikuyu religious group banned during the single party-era.

The Government at times disrupted public meetings that religious groups organized or participated in for political reasons. On June 10, police and hired groups of KANU Youth violently broke up a demonstration arranged by Protestant, Catholic, and Muslim organizations to protest the Government's intention to have Parliament revise the Constitution. Police and KANU Youth beat some clergy participating in the demonstration, including the Reverend Timothy Njoya (see Sections 1.c., 2.b., and 3).

In March the Government for the first time issued broadcasting licenses to religious organizations; three Christian stations and one Islamic station were licensed, but did not begin broadcasting during the year (see Section 2.a.).

Muslim leaders continued to charge that the Government is hostile toward Muslims. Muslims complain that non-Muslims receive better treatment when applying for proof of citizenship. According to Muslim leaders, government authorities more rigorously scrutinize the identification cards of persons with Muslim surnames and require them to present additional documentation of their citizenship (i.e., birth certificates of parents and, sometimes, grandparents). The Government has singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members are required to carry an additional form of identification to prove that they are citizens. Ethnic Somalis must produce upon demand their Kenyan identification card and a second identification card verifying screening. Both cards also are required in order to apply for a passport. Although this heightened scrutiny originated as an attempt to deter illegal immigration, a senior official of the Supreme Council of Kenya Muslims alleged that it increasingly affects all Muslims.

Despite 1997 legal reforms and the subsequent registration of a large number of political parties, the Government refused to reverse its 1994 denial of registration of the Islamic Party of Kenya (IPK) on the grounds that the IPK had been involved in a number of violent confrontations with police in 1992 (see Section 2.c). On March 6, Muslim groups demonstrated in Machakos against alleged religious persecution by city authorities. The Muslims claimed that the municipal authorities had confiscated equipment used by the Ukunda Muslim Propagation Group. The town clerk claimed that the group had conducted open-air meetings without seeking authority from the city council and had disparaged Christianity verbally, although permission to assemble publicly no longer is required by domestic law, and the Constitution provides for freedom of speech (see Sections 2.a. and 2.b.). In August police killed five Muslim worshipers in the Anas Bin Malik Mosque in Chai village, near Mombasa (see Section 1.a.). In December some Muslim leaders objected to the Government's announcement that it would demolish a mosque in the town of Embu in the central highlands; however, the Islamic community was divided over this issue, because the mosque was built under controversial circumstances (see Section 5).

The Government continued to arrest and prosecute members of a religious group based in the largely pro-opposition Kikuyu ethnic group (see Section 5). On February 7, 81 members of the small traditional Mungiki order were arrested and refused bail (see Section 1.d.). The Government accused them of requiring adherents to take illegal oaths, holding illegal meetings, and possessing offensive weapons. They were released in mid-February. The Government also continued to deny registration to another small Kikuyu religious group, the Tent of the Living God, whose leader the Government arrested in the late 1980's. The Tent's membership has diminished greatly since opposition political parties again were legalized in 1992.

Purporting to practice witchcraft reportedly is a criminal offense under colonial-era laws; however, persons generally are prosecuted for this offense only in conjunction with some other offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of which the causes were unknown. Although many traditional indigenous religions include or accommodate belief in the efficacy of witchcraft, they generally approve of harmful witchcraft only for defensive or retaliatory purposes and purport to offer protection against it. The practice of witchcraft is widely understood to encompass attempts to harm others not only by magic, but also by covert means of established efficacy such as poisons.

In August the Government presented to Parliament and thereby effectively published the 1994 report of Presidential Commission of Inquiry into Devil Worship, which President Moi appointed in 1994 in response to public concern, articulated chiefly by Christian clergy, about a perceived resurgence of witchcraft, ritual murders, and other ostensibly "satanic" practices associated with aspects of traditional indigenous religions (see Section 5). The widely-publicized document included numerous reports of ritual murder, human sacrifice, and cannibalism, and of feats of magic allegedly done by using powers acquired through such acts. It also reported that "satanists" had infiltrated nonindigenous religious groups including Jehovah's Witnesses, the Church of Jesus Christ of the Latter-Day Saints (Mormons), and the Church of Christ Scientist (Christian Scientists) as well as other organizations including the Masonic Order (Freemasons) and the Theosophical Society, making them "doorways" to satanism. Most members of the commission were senior members of mainline Christian churches; a deputy director of the CID also served on the commission.

It was learned during the year that the State dropped cattle rustling charges against Francis Tulel, the secretary of the Catholic Peace and Justice Commission for Eldoret Diocese, shortly after arresting him in April 1998.

In January in Moyale, a town near the Ethiopian border, a group of armed men in uniforms shot and killed an Islamic cleric, assistant kadi Haji Hassan Muhammad, who reportedly sympathized publicly with the OLF (see Section 1.a.).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—By law citizens may travel freely within the country and there were no reported violations of this right. However, police routinely stop vehicles and check vehicles' safety and drivers' documents on roads throughout the country. Many vehicles often are in disrepair, and many drivers often lack required documentation. Police often demand bribes at such checkpoints.

The Government does not restrict emigration or foreign travel. However, the law requires a woman to obtain her husband's or father's permission in order to obtain a passport (see Section 5). However, in practice, adult women often are able to circumvent this restriction by claiming to be unmarried. Civil servants and M.P.'s must get government permission for international travel, which is granted routinely.

Many of the rural residents displaced by the violent ethnic clashes in Rift Valley in 1991–93 still have not returned to their homes and remain displaced in urban areas. Some of the several thousand persons displaced by ethnic clashes in Rift Valley in 1998, and in the Pokot-Marakwet region throughout the year, have not returned to their homes due to fear of renewed violence (see Section 5).

The Government offers first asylum and provided it to the approximately 180,000 refugees registered by the United Nations High Commissioner for Refugees (UNHCR), who lived in official UNHCR camps. An undetermined number of refugees live outside the camps in cities and rural areas. Somalis accounted for about 80 percent of the total refugee population, followed by large numbers of Sudanese, and a scattered number of other nationalities from across the region. Approximately 2,000 refugees, mostly of Ethiopian or Somali ethnic background, were repatriated during the year. Police periodically performed nighttime sweeps in urban areas in part to round up illegal immigrants and refugees who remain outside the designated camps illegally (see Section 1.f.); police arrested about 2,000 persons during a single August sweep in Mombasa and more than 600 during a September 2 sweep in Nairobi. However, many persons arrested in sweeps bribe their way out of detention. Those with refugee status are sent to refugee camps. Very few are prosecuted, and fewer still are repatriated.

The law provides for the grant of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, since 1991 the Government has suspended the process by which it once ruled on applications for refugee status or asylum. Since then, a handful of affluent individuals effectively have purchased refugee status but, for all practical purposes, an official asylum or refugee application process has ceased to exist. The UNHCR provides qualified applicants with refugee status mandate letters, which government officials recognize, pending enactment of legislation that the Gov-

ernment has drafted to reestablish a mechanism for granting refugee status or asylum.

Since 1997 the UNHCR, at the direction of the Government, has closed five refugee camps near the coastal city of Mombasa and relocated over 7,000 camp residents against their wishes to camps near the Somali and Sudanese borders. In August the UNHCR transported 480 Somali refugees from Mombasa to a camp in Kakuma.

On July 5 and again on August 22, the Government closed the border with Somalia; it subsequently intensified its nighttime sweeps in urban areas in an effort to stem inflows of weapons, illegal goods, and persons. The border remained officially closed at year's end. However, many applicants for refugee status continued to enter the country overland from Somalia.

Incidents of rape of women and young girls in refugee camps continued to occur (see Section 5). Acts of violence, including carjackings and banditry, occur sporadically in and around the camps and the Dadaab camps near the Somali border, and resulted in several injuries to refugees. There was an incident of ethnic violence among Sudanese refugees of different clans in the Kakuma camp in the northwest (see Section 5).

President Moi repeatedly has made public statements blaming refugees for increases in violent crime and arms smuggling and repeatedly has issued decrees ordering refugees to leave the country. Pursuant to these decrees, authorities often have confiscated UNHCR letters that affirm their status from refugees and issued deportation orders. Nevertheless, there were no reports of the forced expulsion from the country of persons with a valid claim to refugee status.

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

The Constitution provides citizens with the right to change their government through free and fair multiparty elections; however, their ability to do so has not yet been demonstrated fully. The National Assembly has never had an opposition majority. The December 1997 general elections, despite numerous logistical and other flaws, generally reflected the will of the electorate. They were marked by much less violence and intimidation, less fraud, and less overt use of government resources to assist KANU candidates, than the 1992 polls; due to greater fragmentation, the opposition was widely perceived to pose less of a challenge to Moi's reelection than it had in 1992. Opposition candidates won 60 percent of the vote, but these votes were split among four main and several fringe parties, thereby enabling Moi to win reelection for another 5-year term and giving KANU a narrow majority in the unicameral National Assembly. KANU victories in 1998 and 1999 by-elections (four caused by the deaths of sitting opposition M.P.'s and one by a defection to KANU) increased KANU's majority in the National Assembly to 118 of 222 seats. The High Court required one by-election by overturning a 1997 opposition victory; the court continued not to take action on any opposition challenges to KANU victories in 1997.

During the year, courts dismissed on technical grounds a legal challenge to Moi's 1997 reelection filed by Mwai Kibaki, chairman of the opposition Democratic Party, who contended that Moi's reelection was rigged; the courts refused to hear Kibaki's challenge on the grounds that he had failed to fulfill a legal requirement to serve a petition on President Moi personally, while acknowledging the factual veracity of Kibaki's claim that presidential security consistently denied him personal access to Moi (see Section 1.e.).

At the local level, the President exercises sweeping power over the administrative structure. The President appoints both the powerful provincial and district commissioners and a multitude of district and village officials. In elections many local officials actively assist the ruling KANU. There were allegations of partisan electoral abuses by local officials in several of the by-elections in late 1998 and 1999.

At the national level, the Constitution authorizes the President to dissolve the legislature and prohibits debate on issues under consideration by the courts. This prohibition, in conjunction with a ruling by the Speaker of the Assembly that the President's conduct is inappropriate for parliamentary debate, has limited the scope of deliberation on controversial political issues. M.P.'s are entitled to introduce legislation, but in practice it is the Attorney General who does so. The President significantly influences the legislative agenda. However, in November the National Assembly amended the Constitution to give the National Assembly the power to hire its own staff and to vote its own budget, despite President Moi's long-expressed opposition to this amendment.

The Government continued to use both physical beatings and arbitrary arrest and prosecution to harass and intimidate opposition M.P.'s and to restrict their freedom

of speech and assembly (see Sections 1.c., 1.d., 1.e., and 2.b). The Government's domination of domestic broadcast media, especially outside major urban centers, continued to restrict severely the ability of opposition politicians to communicate with citizens, especially with inhabitants of rural areas (see Section 2.a.). Several credible reports indicate that in recent years, including 1997, KANU electoral campaigns received substantial financing derived from the nontransparent transfer of state assets organized by the Office of the President with the knowledge of President Moi. There were credible detailed reports that senior government officials transferred public land in Karura Forest for free or at far-below-market prices to persons who financially or otherwise supported KANU in the 1997 elections, including employees of the Office of the President, such as advisor Joshua Kulei, and members of Moi's informal circle of advisors drawn predominantly from his Kalenjin ethnic group. The recepients reportedly resold that land at much higher prices to the National Social Security Fund and to private developers. Companies linked to Rashid Sajjad, one of KANU's principal financiers, reportedly received particularly large amounts of land in Karura Forest. These nontransparent transfers of public land in Karura Forest were the subject of several protest demonstrations during the year, including a student demonstration in January, in connection with which police arrested three opposition M.P.'s (see Sections 1.c. and 1.d.). Such transfers of public lands were not limited to Karurua Forest. In February the mayor of Mombassa, Najib Balala, lost central government support and resigned his office after various problems reportedly including his unsuccessful efforts to block nontransparent transfers of public land in Mombassa; the land reportedly was transferred to Rasid Sajjad and to a clergyman of the African Inland Church, of which President Moi is a member. KANU reportedly also had received nontransparent financing in recent years in connection with large, unrecorded, and therefore duty-free imports of sugar by Sajjad. Opposition parties lacked comparable sources of election campaign financing.

Reforms enacted in 1997 ameliorated the lack of independence of the presidentially appointed Electoral Commission, which oversees elections, by nearly doubling its size to include members nominated by the opposition. Five parliamentary by-elections were held during the year, with KANU winning all the seats. Vote buying occurred and reportedly was widespread, police prevented some opposition politicians from holding political rallies during some by-election campaigns, and police forcibly dispersed a crowd protesting perceived election rigging outside a hall where votes were being counted (see Sections 1.c., 2.a., and 2.b.). During an April by-election, KANU Youth members reportedly stoned and injured opposition M.P. Charity Ngilu, who was detaining a KANU Youth member she had caught distributing money at a polling place. KANU candidates benefitted materially from targeted preelection government spending on public works and free government food handouts in by-election districts, from more ample campaign financing, and from preferential coverage on state-owned radio, which remained, in most rural areas, the only domestic radio and the principal medium of public communication (see Section 2.a.). Although the voting process generally went fairly smoothly and was run efficiently, after the September by-elections the Electoral Commission called on authorities to investigate allegations of vote buying and fraud.

Since 1996 a broad coalition of NGO's and religious organizations has mobilized public opinion in support of a reform of the Constitution to reduce the power of the presidency. In 1997 the National Assembly enacted the Constitution of Kenya Review Act, which was amended in 1998 to create a Constitutional Review Commission (CRC) to recommend changes in the Constitution. In late January, the Government announced that it would convene the CRC in February; however, the constitutional reform process stalled in mid-February, when political parties were unable to agree how seats on the CRC should be divided among the parties. In 1998, when the legislation creating the CRC was enacted, KANU and opposition party leaders had agreed that the KANU would have five seats and opposition parties would have eight; however, in February the KANU insisted on having a majority of the seats, to reflect its majority in the Parliament. On February 21, the Catholic Archbishop of Nairobi publicly accused KANU of deliberately derailing the constitutional review process; President Moi denied that KANU was to blame, warned against "dancing to the tune of foreigners," attacked NGO's for subversive and antisocial activities, and noted that the National Assembly had full authority to amend the Constitution. In May Moi proposed that the constitutional reform process be transferred to the KANU-dominated National Assembly. On June 10, in Nairobi, religious groups, NGO's, opposition parties, and students demonstrated against Moi's proposal; police and squads of KANU Youth including the Jeshi la Mzee squad allegedly organized by assistant minister Fred Gumo of the Office of the President brutally dispersed the demonstration and widespread rioting ensued (see Sections 1.c., 2.b., and 2.c.).

Although demands by religious leaders and NGO's to restart the stalled constitutional reform process mounted during the second half of the year, Moi continued to insist that only the National Assembly was competent to review the Constitution, and the constitutional reform process remained stalled at year's end. However, in December the National Assembly created a Parliamentary Select Committee to review the existing Act and help form a Commission; a church-led group formed the next day, creating a parallel process.

In August county council elections in Garissa County reportedly were marred by fighting between members of the Aulyan and Abduwak clans of the Somali ethnic group, during which persons were killed (see Section 5).

Elected local councils exist, but the executive branch of the central Government has arrogated most of the revenues and functions that they had at independence. Although rural and municipal councils are authorized by law to provide a wide range of health, education, and infrastructure services, in practice their functions have been reduced to some oversight of nursery schools, secondary and tertiary roads, markets, and natural resources such as forests. Most councils lack sufficient financial autonomy and revenues to perform adequately even these limited services.

Although there are no legal restrictions, traditional attitudes circumscribe the role of women in politics. Women are underrepresented seriously at decision making levels in the Government. The new National Assembly included eight female M.P.'s (four elected and four nominated), up from seven in the last session. The Women's Political Caucus, formed in 1997, continued to lobby over issues of concern to women and to increase the influence of women on government policy. A constitutional amendment that would have reserved one-third of parliamentary seats for women was defeated in 1997. However, in 1998 the National Assembly reserved for women one-third of the 25 seats on the Constitutional Review Commission.

Although the President's Cabinet included persons from many ethnic groups, approximately one-third of the ministers were either Kalenjin or Luhya. At year's end there were only two ministers from the country's largest ethnic group, the Kikuyu, and no minister from the third-largest ethnic group, the Luo; both the Kikuyus and the Luos tend to support opposition parties. The President continued to rely on an inner circle of advisors, drawn largely from his Kalenjin ethnic group. However, in April Moi appointed to the long-vacant position of vice president a person affiliated with the largely pro-opposition Kikuyu ethnic group (see Section 5). There is one nominated Asian M.P.

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

The number of human rights organizations continued to grow. These include NGO's such as the Kenya Antirape Organization, the Legal Advice Center, the Catholic Justice and Peace Commission, the Protestant National Council of Churches of Kenya, the Center for Governance and Development, People Against Torture, the Independent Medico-Legal Unit (IMLU), and the Release Political Prisoners pressure group. An array of legal organizations, including the International Commission of Jurists-Kenya, the International Federation of Women Lawyers (FIDA)-Kenya, the Law Society of Kenya, and the Public Law Institute, advocate human rights.

Several NGO's maintain comprehensive files on human rights abuses. A number of attorneys represent the poor and human rights defendants without compensation, although they can handle only a small percentage of those who need assistance, and are concentrated chiefly in Nairobi and other large cities.

The President instructed government officials to monitor NGO's carefully, and government officials including the President continued to intimidate, and threaten to disrupt human rights organizations and other NGO's (see Section 2.b.). In March President Moi publicly alleged that FIDA-Kenya supported prostitution and other things that he considered social evils, and said that this was proof that NGO's were interested in subverting and destroying African moral values. According to a KBC news report, he added that he soon would reveal a list of names of subversive NGO's and their antisocial activities; however, the President did not release such a list by year's end.

The Government allowed human rights organizations to witness some autopsies of persons who died in police custody. The Attorney General's Office generally responded in detail to foreign embassies' human rights inquiries.

The KHRC produces a "Quarterly Human Rights Report" (formerly the "Quarterly Repression Report") that catalogs the human rights situation in the country, as well as special reports on pressing human rights issues. During the year, it published a report on women refugees in Kenya. The Institute for Education in Democracy

and other NGO's monitor elections in cooperation with the Electoral Commission and diplomatic missions.

The 10-member Government Standing Committee on Human Rights established in 1996 is empowered to "investigate alleged violations of constitutional freedoms," including abuse of power by public officials. It is tasked with drafting recommendations on human rights problems and providing these to the government agencies under whose purview the problems fall. However, it is subordinate to the Office of the President, its chairman is a longstanding KANU loyalist, it has received sufficient funds to fill only 8 of its 27 authorized staff positions, and it has been relatively inactive. Since its inception, the Committee has maintained a low profile and kept its distance from most contentious human rights problems. In October the chairman of the Committee asked the National Assembly to enact legislation giving the Committee greater autonomy and independence; no such legislation was enacted by year's end. In December the Committee launched a human rights journal, Haki Zetu.

In October 1998, the Parliament passed a resolution to create an Ombudsman's office that would be charged with addressing complaints about inefficiency, corruption, nepotism, and abuse of power by public servants. As of year's end, the Attorney General had not drafted a bill to turn the resolution into law.

The Government generally facilitated a 10-day fact-finding visit in September by the U.N. Special Rapporteur on Torture; however, officials at the Kamiti Maximum Security Prison denied him access (see Section 1.c.).

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

The Constitution prohibits discrimination on the basis of a person's "race, tribe, place of origin or residence or other local connection, political opinions, color, or creed;" however, government authorities did not enforce effectively many of these provisions. There is credible evidence that the Government sponsored large-scale ethnic violence during the early 1990's; there are some indications that some government officials have at least tolerated and in some instances instigated ethnic violence on a smaller scale during the late 1990's.

Women.—Violence against women is a serious and widespread problem. According to the Government, 1,329 cases of rape were reported to the police during the first 9 months of the year, compared to 903 in all of 1998. The available statistics probably underreport the number of incidents, as social mores deter women from going outside their families or ethnic groups to report sexual abuse.

The law carries penalties of up to life imprisonment for rape, although actual sentences are usually no more than 10 years. The rate of prosecution remains low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, wife beating is prevalent and largely condoned by much of society. Traditional culture permits a man to discipline his wife by physical means and is ambivalent about the seriousness of spousal rape. There is no law specifically prohibiting spousal rape. Throughout the year, the media reported a steady stream of cases of violence against women, including widespread spousal abuse. The Nation, a leading Nairobi daily, for several months reserved a full page in each issue for coverage of domestic violence. The resulting publicity and public criticism often forced the police to take punitive action against the perpetrators.

There were continued incidents of rape of refugee Somali women at the Dadaab refugee camps, where women were assaulted outside camp perimeters in the course of gathering firewood, and occasionally within the camps themselves (see Section 2.d.). A KHRC report noted a yearly average of over 100 reported cases of rape among refugee women. The UNHCR initiated a program to distribute firewood to refugees. The program reduced the incidence of rape outside the camps, but such crimes remain a problem.

Women experience a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second class citizenship. The Constitution extends equal protection of rights and freedoms to men and women, but only in 1997 was the Constitution amended to include a specific prohibition of discrimination on grounds of gender. However, constitutional provisions allow only males automatically to transmit citizenship to their children. The Government has not passed domestic enabling legislation to implement international conventions on women's rights. The Task Force on Laws Relating to Women, established by the Attorney General in 1993, has yet to make its report. Parliament passed in May a motion on gender equality, although the resolution has no power of law.

Levels of education and literacy for men and women differ widely. Although the number of boys and girls in school is roughly equal at the primary level, men substantially outnumber women in higher education. Seventy percent of illiterate persons in the country are female.

Women continue to face both legal and actual discrimination in other areas. For example, a married woman legally is required to obtain the consent of her husband before obtaining a national identity card or a passport.

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children; however, in practice most inheritance problems do not come before the courts. Women often are excluded from inheritance settlements, particularly if married, or given smaller shares than male claimants. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent.

Most customary law disadvantages women, particularly in property rights and inheritance. For example, under the customary law of most ethnic groups, a woman cannot inherit land, and must live on the land as a guest of male relatives by blood or marriage.

Women make up about 75 percent of the agricultural work force, and have become active in urban small businesses. Nonetheless, the average monthly income of women is about two-thirds that of men, and women hold only about 5 percent of land titles. Women have difficulty moving into nontraditional fields, are promoted more slowly than men, and bear the brunt of layoffs. Societal discrimination is most apparent in rural areas. Rural families are more reluctant to invest in educating girls than in educating boys, especially at the higher levels.

The nation's best known women's rights and welfare organization, Maendeleo Ya Wanawake ("Development of Women" in Swahili) was established as a nonpolitical NGO during the colonial era, but now is aligned closely with the ruling party. A growing number of women's organizations are active in the field of women's rights, including FIDA, the National Council of Women of Kenya, the National Commission on the Status of Women, the Education Center for Women in Democracy, and the League of Kenyan Women Voters.

Children.—The system of free education in the early years of Kenya's independence has given way to a "cost-sharing" education system in which students pay both tuition and other costs. These are a heavy burden on most families. Although the law mandates that schooling be available for all up to grade 12, there is a very high dropout rate in part because of large educational expenses. There are an estimated 4 million children between 6 and 14 years of age who are out of school. The legally mandated universal schooling also does not occur in practice because of a shortage of schools. The health care system for school children, which once provided periodic medical checkups and free milk, is now defunct. Human Rights Watch released in September a report on corporal punishment in Kenya, which cited widespread excessive caning and abuse of pupils by teachers. According to September press reports, teachers at the Mobamba Secondary School in Kisii so severely beat a student that the boy died of internal injuries.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced by certain ethnic groups and remains widespread, particularly in rural areas. The press reported severe injuries to several girls from the practice of FGM. Health officials estimate that as many as 50 percent of females nationwide have suffered FGM. According to Maendeleo Ya Wanawake, the percentage is as high as 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley provinces. FGM usually is performed at an early age. President Moi has issued two presidential decrees banning FGM, and the Government prohibits government-controlled hospitals and clinics from practicing it; however, no law bans FGM.

Economic displacement and the spread of AIDS continued to fuel the problem of homeless street children. The number of Nairobi's street children is over 50,000, and the Government estimates that their numbers grow at 10 percent per year. These children often are involved in theft, drug trafficking, assault, trespassing, and property damage. According to a 1997 Human Rights Watch report, street children face harassment as well as physical and sexual abuse from the police and within the juvenile justice system. They are held in extremely harsh conditions in crowded police station cells, often without toilets or bedding, with little food, and inadequate supplies. They often are incarcerated with adults and frequently beaten by police. In May the director of a Mombasa street girls center sought to sue two police officers accused of raping a 13-year-old street girl (see Section 1.c.).

The problem of child rape and molestation is growing. There are frequent press reports of rape of young girls by middle-aged or older rapists. There were repeated reports of molestation or rape of children by schoolteachers, mostly in rural areas.

Legally, a man does not "rape" a girl under age 14 if he has sexual intercourse with her against her will; he commits the lesser offense of "defilement." The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is up to 5 years' imprisonment. Men convicted of rape normally receive prison sentences of between 5 and 20 years, plus several strokes of the cane.

Child prostitution is a major problem in Nairobi and Mombasa, often connected with the tourist trade. Child prostitution has grown considerably due both to economic contraction and to the spread of AIDS, which has created many orphans. Residents in Kisumu have formed the Organization for the Protection Against Child Prostitution to combat the growing problem.

There were reports that children were killed for body parts by persons practicing healing rituals associated with traditional religions.

People With Disabilities.—Government policies do not discriminate officially against the disabled with regard to employment, education, or state services. However, disabled persons frequently are denied licenses to drive. There are no mandated provisions of accessibility for the disabled to public buildings or transportation.

Religious Minorities.—About 38 percent of the population are at least nominally Protestant Christians, and about 28 percent are Roman Catholic. Between 10 and 20 percent of the population, concentrated in the coastal, eastern and northern regions, practice Islam.

Muslims increasingly perceive themselves to be treated like second-class citizens in a country that is predominantly Christian. Some Muslims believe that not only the Government but also the business community deliberately have impeded development in predominantly Muslim areas, notably the coastal region. They also believe that the national business community, dominated by largely Christian ethnic groups from inland "up-country" areas including the Kikuyu, deliberately allocates to non-Muslims most of the jobs it creates in predominantly Muslim areas including the coastal area. Capricious assertion of authority by largely Christian security forces in the bandit-infested northeast, which is largely Islamic, has long contributed to Muslim mistrust. In recent years, the absence of effective government in southern Somalia and the OLF insurgency in southern Ethiopia have strained Christian-Muslim relations further by causing the Government to increase security force presence and operations in northeast, where many security force members may find it hard to distinguish Kenyan Muslims from ethnically and culturally similar members of Somali militias or the OLF (see Sections 1.a and 1.c.).

There continued to be instances of sporadic violence between Christians and Muslims. In April a large fight broke out between Christians and Muslims in Eldoret. The two sides exchanged insults and then fought during simultaneous open-air prayers held in the town square. Although some persons reportedly were stabbed with knives, no fatalities were reported. In December following the Government's announcement that it intended to demolish a mosque in a town in a predominantly Christian region, some Muslim leaders in the coastal region threatened publicly to destroy all Christian churches in predominantly Islamic areas; however, the Islamic community was divided on this issue (see Section 2.c.).

During the year there were reports of ritual murders associated with aspects of traditional indigenous religions. The victims, generally teenaged children, reportedly were killed and parts of their bodies removed for use in traditional rituals by persons seeking renewed youth or health. The Report of the 1994 Presidential Commission of Inquiry into Devil Worship, presented to the Parliament in August, contained similar reports from recent years (see Section 2.c.).

Mob violence against persons suspected of practicing witchcraft resulted in the deaths of at least 16 persons in 1998. In one instance a mob in a Kisii village beat and burned to death 10 rumored "witches." Some local Christian ministers praised the perpetrators for "saving" the villages from Satan. No statistics on the number of mob killings of suspected witches during the year were known. However, unsubstantiated accusations of the practice of witchcraft or satanism appeared increasingly common.

National/Racial/Ethnic Minorities.—The country's population of almost 29 million was divided into more than 40 ethnic groups, among which there were frequent and credible allegations of discrimination, as well as sporadic interethnic violence. In general each ethnic group has a distinct primary language and is concentrated in a distinct region; however, the languages of some groups are very similar to the languages of related ethnic groups. In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group when able to do so. Neighborhoods in large cities tended to be segregated ethnically, although interethnic marriage has became fairly common in urban areas. Political cleavages tended to correlate with ethnic cleavages.

According to the 1989 government census, the Kikuyu are the largest ethnic community, constituting 21 percent of the population. Luhya, Luo, Kamba, and Kalenjin follow, each with more than 11 percent of the population.

Ethnic-regional differences continue to pose obstacles to political and economic liberalization. Members of President Moi's Kalenjin ethnic group (a coalition of nine small ethnic groups) and other traditionally pastoral Nilotic ethnic groups are represented disproportionately and hold key positions in the Government, the ruling KANU party, the GSU and the Presidential Escort. Many members of these groups appear to believe that economic and political liberalization would be likely to harm their groups, and to favor other groups. The Kikuyu and the closely related Kamba, Meru, and Embu groups make up more than a third of the country's population; members of these groups also dominate much of private commerce and industry and have tended to support opposition parties since they again were legalized in 1992. The Kikuyu, the largest, best-educated, and most prosperous ethnic group, dominated the country under its first president, Jomo Kenyatta, a Kikuyu.

It is estimated credibly that during the 1990's more than 400,000 persons were forced to relocate or were displaced within the country by ethnic violence, fear of ethnic violence, or dispossession. Most of these expulsions occurred between 1991 and 1994; during those years, disproportionately many of the victims were members of the relatively prosperous Kikuyu and related ethnic groups who had lived outside the home regions of those groups. Many of the victims were not only displaced but also dispossessed of land or businesses, and remain without restitution or compensation; several thousands were killed. There is substantial evidence that senior members of the Moi Government organized and funded much of this ethnic violence and large-scale dispossession. Some observers viewed this violent interethnic redistribution of wealth as a means of building or funding a political coalition to prevent the Kikuyus and related groups from regaining control of the State after the Government's need for external financing forced it to accede in 1991 to donors' demands to relegalize opposition parties and to hold multiparty elections in 1992. Ethnic violence entailing somewhat smaller numbers of expulsions that victimized various ethnic groups including Luos and Luyhas occurred in the coastal region in late 1997 and in the Rift Valley region in early 1998; local authorities generally did little to stop this violence and appear to have instigated much of the 1997 violence in the coastal region.

In August a presidential Commission on Ethnic Clashes, a government-appointed panel of three judges formed in 1998, submitted to President Moi its report on the cause of ethnic clashes that occurred in the Rift Valley in 1992 and 1997, the Coast province in 1997, and the areas of Molo and Laikipia in 1998. Many of the hearings were public, and witnesses often directly accused local politicians of abetting the combatants, although they rarely provided other than hearsay evidence. However, key churches and NGO's claim that a number of witnesses were prevented from testifying, especially after, half way through the investigation, the Government changed the Commission's aggressive prosecutor John Nyagah Gacivih to the more progovernment Deputy Attorney General Bernard Chunga (see Section 1.e.). At year's end, the Government had not released the report or announced that it was taking any formal action on its findings.

Attacks and revenge counterattacks, part of a longstanding pattern of cattle rustling, continued between Pokots and Marakwets/Keiyos in Trans Nzoia in the northwest, Boranas and Somalis in North Eastern province, Ormas and Somalis in Eastern Province, and Kuria and Luos in the west, resulting in scores of deaths (see Section 1.a.). At least 40 persons were killed in a March 4 cattle raid by Pokots on Turkana in the Turkwell Gorge area. At least 15 persons were killed in an October 24 cattle raid by Pokots on the Marakwet village of Tot; raiders killed 10 women and children waiting for polio vaccinations at a health clinic. Also in October in the Rift Valley members of the Njemps and Turkana ethnic groups fought each other and burned each others' houses after some inebriated Turkana men reportedly killed an Njemps herdsman.

Members of the coastal Bajuni, Mijikenda, and Digo communities accused the Government of denying them their rights to land, and of favoring members of inland "up-country" ethnic groups, who migrated to the coast largely during the period when Kenyatta was president.

The Government has singled out the overwhelmingly-Muslim ethnic Somalis as the only group whose members are required to carry an additional form of identification to prove that they are citizens. They must produce upon demand their Kenyan identification card and a second identification card verifying screening. Both cards also were required in order to apply for a passport. The continued presence of Somali refugees has exacerbated the problems faced by citizens of Somali ethnicity (see Sections and 2.c. and 2.d.). In February fighting between members of dif-

ferent clans of Sudanese in Kakuma refugee camp wounded 20 persons (see Section 2.d). In August, during county council elections in Garissa county, there was fighting between the Aulyan and Abduwak clans of the Somali ethnic group, between which there were longstanding tensions over grazing and water rights (see Section 3). A resurgence of fighting between the same clans in December reportedly caused hundred of families to flee the area.

There is widespread resentment among citizens of African ethnicity toward Asians living in the country. The Asian community constitutes between 0.5 and 1 percent of the total population and consists of second and third generation Asians with full citizenship and a smaller body of recent immigrants. Many African Kenyans resent persons of Asian descent for their affluence, and for their reluctance to assimilate African culture and to employ blacks, particularly in management positions. They also see Asians as taking jobs and commercial opportunities away. The involvement of some Asians in corrupt activities with government officials further fuels popular resentment. Politicians, both opposition and ruling party, from time to time appeal to majority prejudices by attacking Asian citizens, accusing them of exploiting and usurping the natural inheritance of African citizens. In June opposition Democratic Party secretary general Joseph Munyao, in a speech that purportedly represented official party policy, accused Asians of "fleecing" the country and warned that their KANU connection would not "last forever" and they would be "called to account when their time comes." Although President Moi on occasion formally has rejected racist diatribes, at times he has resorted to racial attacks and slurs.

During the year, police sweeps for illegal immigrants targeted and caught many persons from the Indian subcontinent (see Sections 1.f. and 2.d.).

Section 6. Worker Rights

a. *The Right of Association.*—The law provides that all workers, except for central government civil servants, including medical personnel and university academic staff, are free to join unions of their choice. In practice, workers employed in export processing zone (EPZ) firms, and those working in many restaurants and small firms, face dismissal if they join unions. Since 1980, when the Kenya Civil Servants Union was deregistered for political reasons, civil servants also have been denied union membership. However, the new head of the civil service announced in August that the Government may reregister the union. The law provides that as few as seven workers may establish a union, so long as the objectives of the union do not contravene the law, and that another union is not representing the employees in question already.

Unions must apply to and be granted registration by the Government. The Government also may deregister a union, but the Registrar of Trade Unions must give the union 60 days to challenge the deregistration notice. An appeal of the Registrar's final decision may be brought before the High Court.

There are currently 36 unions representing approximately 600,000 workers, about one-third of the country's formal-sector work force. All but four of these unions are affiliated with the one approved national federation—the Central Organization of Trade Unions (COTU). The major exception is the 260,000-member Kenya National Union of Teachers, which represents more than one-third of all unionized workers. The COTU leadership generally does not pursue workers' rights vigorously. As a result, most union activity takes place at the shop steward level and not at the industrial level where most labor-related decisions are made, thereby placing the average worker at a disadvantage in disputes with management. Many COTU unions have evolved into de facto ethnic groupings.

The Government created COTU in 1965 as the successor to the Kenya Federation of Labor and the Kenya African Workers' Congress. The 1965 decree establishing COTU gives the President the power to remove COTU'S three senior leaders from office and grants nonvoting membership on the executive board to representatives of the Ministry of Labor and of KANU. Although the board is composed of the leadership of affiliated unions, it is common for political parties, especially KANU, to provide funding and other support for the election of senior union officials. For the past few years, leaders from affiliated unions have sought to bring about democratic reforms in the election of union leaders, independence from the Government, and establishment of links with any political party that supports worker rights. The reelection of the COTU leadership in 1996 indicated that there would be no major changes in the near future. Prior to the 1997 national elections, some trade union leaders began pushing the COTU to take part in the election reform dialog. The COTU leadership took a progovernment position.

The Trade Disputes Act permits workers to strike, provided that 21 days have elapsed following the submission of a written letter to the Minister of Labor. By law members of the military services, police, prison guards, and members of the Na-

tional Youth Service may not strike. Other civil servants, like their private sector counterparts, can strike following the 21-day notice period (28 days if it is an essential service, such as water, health, education, or air traffic control). During this 21-day period, the Minister may mediate the dispute, nominate an arbitrator, or refer the matter to the Industrial Court, a body of five judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, factfinding, or arbitration, any subsequent strike is illegal. Moreover, the act gives the Minister of Labor broad discretionary power to determine the legality of any strike.

The Minister has used this power to declare strikes by bank workers and teachers illegal, although the required notice had been given. In late 1997, the Kenya National Union of Teachers (KNUT) called a nationwide strike, which the Government quickly settled with pay increases of over 200 percent spread over 5 years, rather than risk antagonizing the influential teachers before the election. The Government's failure to implement the second phase of the promised pay hikes in 1998 resulted in a late 1998 strike by the KNUT. The Government declared the strike illegal. Security forces dispersed meetings of striking teachers, arrested many teachers and KNUT officials, and closed KNUT offices. The strike ended after 15 days when the Government refused to renegotiate. Towards the end of the year, the Government and the KNUT were again in negotiation regarding implementation of the agreed-upon salaries. Relations between the KNUT and the Government continue to fester, and anticipated downsizing of the civil service is expected to add further fuel to simmering labor disaffection.

The Government's response to wildcat strikes in the past has been severe. During the year, there were considerably fewer strikes. In June police used a heavy hand to end a work stoppage by private mini-bus operators. Police did not intervene in a September strike by Nairobi city hall employees. Workers' rights groups continue to raise the general problem of the Government's harshness towards labor with the International Labor Organization's (ILO) Committee on Freedom of Association.

Internationally, the COTU is affiliated with both the Organization of African Trade Union Unity and the International Confederation of Free Trade Unions. Many of its affiliates are linked to international trade secretariats.

b. *The Right to Organize and Bargain Collectively.*—While not having the force of law, the 1962 Industrial Relations Charter, executed by the Government, the COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities. Both the Trade Disputes Act and the charter authorize collective bargaining between unions and employers. Wages and conditions of employment are established in negotiations between unions and management. In 1994 the Government relaxed wage policy guidelines to permit wage increases of up to 100 percent and renegotiation of collective agreements. Collective bargaining agreements must be registered with the Industrial Court in order to ensure adherence to these guidelines.

The Trade Disputes Act makes it illegal for employers to intimidate workers. Employees wrongfully dismissed for union activities generally are awarded damages in the form of lost wages by the Industrial Court; reinstatement is not a common remedy. More often, aggrieved workers have found alternative employment in the lengthy period prior to the hearing of their cases.

Legislation authorizing the creation of export processing zones (EPZ's) was passed in 1990. The EPZ authority decided that local labor laws, including the right to organize and bargain collectively would apply in the EPZ's, although it grants many exemptions in practice. For example, the Government waived aspects of the law that prevent women from working in industrial activities at night. In practice, workers in EPZ firms face dismissal if they join unions (see Section 6.a.). Labor and some government officials continued to criticize health and safety conditions in the EPZ's.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution proscribes slavery, servitude, and forced labor, including forced and bonded labor by children; however, under the Chiefs' Authority Act, a local authority can require persons to perform community services in an emergency. The ILO Committee of Experts has found that these and other provisions of the law contravene ILO Conventions 29 and 105 concerning forced labor. There are some cases, mostly in rural areas, of children being loaned as workers to pay off debts.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Employment Act of 1976 makes the employment in industry of children under the age of 16 illegal. The act applies neither to the agricultural sector, where about 70 percent of the labor force is employed, nor to children serving as apprentices under the terms of the Industrial Training Act. Ministry of Labor officers nominally enforce the minimum age statute, and the Government is making efforts to eliminate child labor, working closely with the COTU and the ILO's International Program for the

Elimination of Child Labor. The problem received considerable media attention during the year.

Children often work as domestic servants in private homes. Forced or bonded labor by children is prohibited by law; however, there were some instances in which it occurred (see Section 6.c.). There are many instances of children working in the informal sector, mostly in family businesses. Children usually assist parents on family plots rather than seek employment on their own. However, deteriorating economic conditions have given rise to more child labor in the informal sector, which is difficult to monitor and control, and is a significant problem. Significant percentages of workers on coffee, sugar, and rice plantations are children. In addition, there has been an increasing number of underage children employed in the sex industry (see Section 5). In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act is less common but not unknown.

e. *Acceptable Conditions of Work.*—The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level. The lowest minimum wages were $41 (2,886 shillings) per month in the largest urban areas and $22 (1,540 shillings) in rural areas. These rates are exclusive of a mandated 15 percent housing allowance as well as traditional benefits.

The minimum wage is insufficient to provide a decent standard of living for a worker and family. The annual 2 percent wage increase has a limited impact on worker income. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

The Regulation of Wages and Conditions of Employment Act limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers have a shorter workweek. As is the case with respect to minimum wage limitations, the act specifically excludes agricultural workers from its purview. An employee in the nonagricultural sector is entitled to 1 rest day per week. There are also provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (i.e., regular time plus overtime) in any 2-week period for night workers may not exceed 144 hours; the limit is 120 hours for other workers. Workers in some enterprises claimed that employers forced them to work extra hours without overtime pay. The Ministry of Labor is tasked with enforcing these regulations, and there are few reports of violations.

The Factories Act of 1951 sets forth detailed health and safety standards; it was amended in 1990 to include agricultural and other workers. The 65 health and safety inspectors attached to the Ministry of Labor's Directorate of Occupational Health and Safety Services have the authority to inspect factories and work sites. As a result of the 1990 amendments, the Directorate's inspectors now may issue notices enjoining employers from practices or activities that involve a risk of serious personal injuries. Previously, only magistrates were vested with this authority. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. The number of factory inspections has increased significantly since 1992. A new section stipulates that factories that employ at least 20 persons have a health and safety committee with representation from workers. However, according to the Government, less than half of the very largest factories have instituted health and safety committees. The vast majority of factories have yet to comply with the new provision. Workers are not forced by law to remain in hazardous conditions; however, many would be reluctant to remove themselves because of the high unemployment problem and the resulting risk of loss of their job.

f. *Trafficking in persons.*—Although there are no laws that specifically prohibit trafficking in persons, there are potentially applicable laws against kidnaping and abduction. There were no reports that persons were trafficked in, to, or from the country during the year. In past years, there has been anecdotal evidence that citizens were trafficked to Saudi Arabia under the guise of employment opportunities, and that South Asians were trafficked into the country to work in sweatshops.

LESOTHO

Lesotho is a constitutional monarchy with King Letsie III as Head of State. Under the 1993 Constitution, the King fills a ceremonial role, has no executive authority, and is proscribed from actively taking part in political initiatives. Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD) party, took office in June 1998 and is the Head of Government. In the May 1998 elections the LCD won 79 seats in the expanded 80-member Parliament. The Basotho Na-

tional Party (BNP) won the one remaining seat. Over 700 foreign and national election observers concluded that the election met international standards for a transparent, multiparty election. The Langa Commission, a group of election auditors from the Southern African Development Community (SADC), reported that while there was no evidence to substantiate charges of electoral fraud, mismanagement of polling data made it impossible to confirm that fraud did not occur. However, opposition parties claimed that the election result was fraudulent and launched a prolonged and aggressive protest at the royal palace in Maseru in August 1998. Opposition leaders urged the King—who had staged a coup in 1994—to dissolve the newly elected Parliament and install a government of national unity on the basis of their claim that the LCD rigged the election. In September and October 1998, the armed opposition protesters used violence to destabilize the Government, disarm the police, intimidate workers and business owners, shut down government and business operations, and facilitate a junior officer rebellion in the army in September. The army rebels, who were armed, aligned themselves with the opposition protesters. This resulted in a virtual coup and severely strained relations between the Head of State and the Government. The palace vigil and protests resulted in politically motivated killings, injuries, violence, arson, and destruction. These events also precipitated intervention by a SADC military task force in September 1998 to quell the army mutiny and return society to a state of law and order. In the past, the judiciary had been subject at times to government and chieftainship influence; however, there were no credible reports of the use of such influence during the year.

The security forces consist of the Lesotho Defense Force (LDF), the Lesotho Police Service (LPS—previously known as the Royal Lesotho Mounted Police—RLMP), and the National Security Service (NSS). The Prime Minister is the Minister of Defense, with direct authority over the LDF and the NSS. The police force is under the authority of the Minister of Home Affairs. In 1996 and 1997, the Parliament passed the Lesotho Defense Act (1996), Regulations for Military Justice (1997), and amended the Royal Lesotho Mounted Police Force Act. This legislation was designed to bring these services under direct civilian control. However, the politicized armed services have a history of intervening in the country's politics and government. The LDF ruled the country with two successive military regimes from 1985–90, and 1990–93. In September 1998, a SADC task force put down an army rebellion, arrested LDF rebels, and disarmed the remaining soldiers. Fifty army personnel were accused of fomenting mutiny in September 1998 and charged in December 1998 with the capital offense of mutiny and high treason: they were brought before courts-martial hearings in January. This is the first instance in which a court-martial prosecuted LDF soldiers for infractions against the Defense Act. The LDF continues to be the subject of a national debate on the structure, size, and role of the military. The NSS and the LPS also are undergoing comprehensive restructuring. There were allegations that the members of the security forces on occasion committed human rights abuses.

Lesotho is a landlocked country surrounded by South Africa and almost entirely dependent on its sole neighbor for trade, finance, employment, and access to the outside world. About 65,000 men, a large proportion of the adult male work force, work in mines in South Africa. Miners' remittances account for slightly over one-third of gross national product (GNP). Real GNP grew an estimated 8 percent during 1998, with inflation estimated at less than 7 percent. However, real GNP declined to negative 7 percent during the year, partly as a result of the destruction caused by the 1998 crisis. Per capita GNP was approximately $790. State-owned organizations predominate in the agroindustrial and agribusiness sectors, but private sector activity dominates in the small manufacturing and construction sectors. The opposition protest and SADC intervention resulted in a wave of political violence and arson that destroyed nearly 80 percent of the commercial infrastructure in Maseru and other towns and villages. Thousands of jobs were lost, and many entrepreneurs went bankrupt. Hundreds of millions of dollars in losses were sustained. Under the traditional chieftainship structure, land use and tenure is controlled by the traditional chiefs and formally owned by the Kingdom (i.e., "crown lands").

The Government generally respected many of the human rights of its citizens; however, there continued to be problems in some areas. There were unconfirmed allegations of torture by security forces, and credible reports that the police, at times, used excessive force against detainees. Prison conditions are poor, and lengthy pretrial detention is a problem. There are long delays in trials; the RLMP members charged with treason in a February 1997 police mutiny have remained in the maximum security prison for 18 months without significant progress toward finishing the trials in their cases. The security forces infringed on citizens' privacy rights. Discipline within the security services was undermined severely during the 1998 crisis. Clashes with SADC forces initiated by armed opposition supporters and army muti-

neers in September 1998 resulted in the death of 9 members of the South African National Defense Force, 60 LDF soldiers, and more than 40 citizens allied with the opposition. A total of 33 members of the RLMP face sedition and high treason charges following their involvement in the February 1997 police mutiny, which reflected entrenched mistrust and political competition between the Government and some elements within the police force, and an uneasy institutional rivalry between elements of the police and the army. The LDF ultimately quelled the police mutiny. This step away from active partisan engagement in politics to a more professional civil/military relationship was reversed by the junior officer mutiny in 1998, which undermined the integrity of the security forces. Domestic violence remained common, and women's rights continued to be restricted severely. Societal discrimination against the disabled is common. Government enforcement of prohibitions against child labor is lax in commercial enterprises that involve hazardous working conditions. The Government restricts some worker rights. Smugglers use the country as a transit point for trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

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

In February 1998, police fired on a group of protesting textile workers, killing 2 persons and injuring more than 20 others (see Section 6.a.). Two police officers were arrested and held briefly for the shooting; however, they were released when no one came forward to lodge a formal complaint. Both officers were transferred from the capital to rural districts.

During the 1998 opposition palace protest, violence between protesters and police, between antagonistic political factions, and between policemen and soldiers resulted in approximately nine fatalities, including one police officer and eight civilians—four of whom were opposition supporters, and numerous injuries. These deaths were the result of gunshot wounds and fatal beatings sustained during enforcement actions and during violent clashes among political party supporters. Between September 21 and 28, 1998, nine South African soldiers were killed while suppressing the army mutiny. Over 50 LDF soldiers and 40 civilians allied with the opposition died in firefights with SADC troops. In January the LDF soldiers accused of fomenting the army mutiny were brought before a court-martial; 9 of the accused soldiers were released due to insufficient evidence, 3 were acquitted, and 38 soldiers were charged with the capital offense of mutiny and high treason. The courts-martial were ongoing at year's end.

In March the Government began investigating the 1994 palace coup and the alleged involvement of military personnel in the killing of the Deputy Prime Minister; 14 members of the LDF were arrested and charged with involvement in the killing. Four of the soldiers also are facing courts-martial for their role in the 1998 army mutiny. The trials for the killing of the Deputy Prime Minister have been delayed until the courts-martial are completed.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits torture or inhuman or degrading punishment or other treatment, and the Government generally respects these provisions; however, there were credible reports that the police at times used excessive force against detainees. Opposition leaders and defense lawyers claimed that the LDF soldiers accused of mutiny were tortured by government and prison officials, although evidence to support such allegations was not provided.

Prison conditions are poor. Prison facilities are overcrowded and in disrepair, but conditions do not threaten the health or lives of inmates. Amnesty International representatives visited the LDF soldiers accused of mutiny being held in the maximum security prison in Maseru and reported that cells were infested with insects, and there was a lack of ventilation, light, proper bedding, and adequate sanitation facilities. In January the Judge Advocate ordered prison officials to improve conditions in the cells in which the soldiers accused of mutiny were being held. As a result, the soldiers received cots and better food. Women are housed separately from men, and juveniles are housed separately from adults. Rape in prison reportedly is not a problem.

In January 50 soldiers accused of involvement in the 1998 mutiny revolted in prison. One soldier escaped, but the revolt was quelled with the use of only minimum force. In June 41 LDF soldiers revolted after prison officials refused to allow them to have food or drinks from outside the prison on the grounds that contraband

goods were being smuggled into the prison. Again, the revolt was quelled with minimum force and no casualties.

Prison conditions are not monitored independently, although Amnesty International was permitted to visit the maximum security prison in Maseru in October 1998.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and there were no reports of such abuses. However, opposition leaders alleged that the Government engaged in "political victimization" by arresting their supporters for allegedly unlawful acts and punishing alleged mutinous soldiers with incarceration during the 1998 crisis. During the crisis, a number of persons were arrested for arson, looting, and possession of stolen property and unlawful firearms. Some of the persons searched and arrested were opposition supporters; however, there was no clear evidence that authorities exclusively targeted opposition supporters. The domestic legal and nongovernmental organization (NGO) communities are concerned that pretrial detainees, such as those alleged to have been involved in 1998 arson and looting incidents, can be held for long periods of time before trial; however, efforts have been made to improve the judicial administration and reduce the backlog of cases. Some persons arrested in interior districts in January for looting, arson, and possession of stolen goods in connection with the 1998 crisis, were tried and sentenced to fines or incarceration.

Members of the legal community remained concerned that 33 alleged police mutineers, who were arrested in February 1997, continued to be held without significant progress toward completion of their trials. Charges were filed against the mutineers in early 1998, but their trials were delayed until late 1998. The trials were ongoing at year's end. Government officials indicate that the trials were delayed by other priority concerns related to 1998 opposition cases in which the Government was accused of electoral fraud, and by the unanticipated departure of the Director of Public Prosecutions.

Pretrial detainees on remand form a significant portion of the prison population. Because of serious backlogs of the court caseloads, the period of pretrial remand for some suspects can last months or even years.

In 1997 the Government repealed the provisions of the Internal Security Act (ISA) of 1984 that allowed for investigative detention.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in the past, magistrates appeared to be subject at times to government and chieftainship influence. Opposition parties alleged that the High Court was biased against them in relation to cases they filed following the May 1998 elections; however, court officials indicated that the opposition cases failed to succeed due to a lack of evidence to support their claims.

The judiciary consists of the Court of Appeal (which meets semi-annually), the High Court, magistrates courts, and customary or traditional courts (which exist largely in rural areas to administer customary law).

The High Court also provides procedural and substantive advice and guidance on matters of law and procedure to military tribunals; however, it does not participate in arriving at judgments. Military tribunals operating under the 1996 Defense Act have jurisdiction only over military cases, such as the trial of alleged army mutineers. Decisions by military tribunals can be appealed only to a special courts-martial appeal court, which is composed of two judges from the High Court, one retired military officer with a legal background, and the registrar of the High Court. In January the defense lawyers for the accused army mutineers asked the judge advocate to dismiss all charges, alleging that the court-martial hearings were unconstitutional on the grounds that the proceedings were overly subject to inappropriate command influence and lacked judicial independence. The adjudication panelists were the same LDF officers who were rounded up at gunpoint during the mutiny and held incommunicado in the maximum security prison. The judge advocate denied the lawyers' request. In June upon review, the Chief Justice also denied the request, as did the Court of Appeals in October.

Persons detained or arrested in criminal cases and defendants in civil cases have the right to legal counsel; however, there is no system to provide public defenders. The Ministry of Justice and the NGO community maintain a few legal aid clinics. The authorities generally respect court decisions and rulings. There is no trial by jury. Criminal trials normally are adjudicated by a single High Court judge who presides, with two assessors serving in an advisory capacity. In civil cases, judges normally hear cases alone. The 1981 Criminal Procedures and Evidence Act, as amended in 1984, makes provision for granting bail. Bail is granted regularly and generally fairly. There is a large case backlog, which leads to lengthy delays in trials. In September 1998, a Molotov cocktail attack on the High Court destroyed

case files and other important documents and further hampered the operations of the courts.

In civil courts, women and men are accorded equal rights; however, in traditional and customary courts, certain rights and privileges accorded to men are denied to women. When traditional law and custom are invoked in a court case, a male plaintiff can opt for customary judgments by a principal chief rather than a civil court, and the judgment is binding legally. This system greatly disadvantages women.

There were no reports of political prisoners.

f. *Arbitrary interference with Privacy, Family, Home, or Correspondence.*—Authorities infringed on citizen's privacy rights. Although search warrants are required under normal circumstances, the 1984 Internal Security Act (ISA) provides police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant. There are no prohibitions against monitoring telephone conversations. The security services are believed to monitor routinely telephone conversations of Basothos and foreigners, ostensibly on national security grounds. Following the 1998 opposition palace protest, police searched the homes of numerous opposition members and others for weapons and contraband.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. There are several independent newspapers—including one controlled by the Roman Catholic Church, one controlled by the Lesotho Evangelical Church, and four English-language weeklies—that routinely criticize the Government. The official state-owned or state-controlled media consist of one radio station, a 1-hour daily newscast on a local television channel, and two weekly newspapers, which all faithfully reflect official positions of the ruling party. There are four private radio stations but no private local television station. South African and global satellite television and radio broadcasts are widely available. Despite serious damage to a number of news publications caused by arson and looting in September 1998, these news organizations resumed publishing within months.

There is a lack of free access to government information, which often is described as a limitation on the free press; however, there are no other barriers that affect press coverage of government activities. In 1998 the National Press Association objected to rules established by the Independent Electoral Commission, which barred reporters from entering polling stations on election day.

The Government respects academic freedom. Although the Government owns and administers the country's only university, the academic staff represents the full political spectrum and is free to express its views.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. Under a 1993 revision of the ISA, a public meeting, rally, or march no longer requires prior police permission, only advance notification. Political party meetings and rallies are held regularly and are unhindered by the Government; however, the Government did not approve an opposition protest march to commemorate the 1-year anniversary of the 1998 crisis. The Government allowed other events related to this anniversary to take place, including religious observances.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. In addition to the LCD, the Basotholand Congress Party (BCP), and the BNP, there were nine smaller registered political parties.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens generally are able to move freely within the country and across national boundaries. The Government places no obstacles in the way of citizens who wish to emigrate.

In September 1998, numerous serious incidents and threats to the safety of citizens by opposition supporters who carried out assaults, car-jackings, attacks on residences, and sniper attacks led thousands of foreigners and ruling LCD supporters to flee to South Africa in the weeks immediately following the SADC military intervention. The presence of SADC forces during the year helped to maintain a relative peace. Almost all citizens had returned by year's end; however, a large number of the foreigners who fled moved their residences across the border and commute to their jobs in Lesotho.

The law provides for the granting of refugee/asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In 1994 the Government allowed about 25 refugees registered with the U.N. High

Commissioner for Refugees to study in the country. They were expected to return to their countries of first asylum after completing their studies, but had not done so by year's end. Other than these students, there is no resident refugee population. The Government provides first asylum; however, the issue did not arise during the year.

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

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

In the first multiparty democratic elections in 1993, after more than 20 years of undemocratic authoritarian and military rule, the BCP came to power with complete control of the National Assembly. Despite its landslide electoral victory, the BCP Government was forced to contend with a number of challenges to its power, including a violent opposition destabilization campaign based on allegations that the BCP had won by fraud. These challenges culminated in August 1994 when King Letsie III unconstitutionally suspended the Parliament and installed a ruling council. Many Basotho responded by demonstrating their support for the democratically elected BCP government. Organized labor and others held two national demonstrations—"stayaways"—to express support for the ousted government, and there were numerous rallies at the National University. As a result of both local and international pressure, the King reversed himself, and the BCP regained control of the Government.

A 1994 Memorandum of Understanding between King Letsie III and Prime Minister Dr. Ntsu Mokhehle, which was brokered by South Africa, Botswana, and Zimbabwe, called for the reinstatement of the King's father, Moshoeshoe II, who had been deposed by the previous military Government and exiled in 1990, and for measures to broaden participation in the political process. In early 1995, Moshoeshoe II was reinstated as King. In January 1996 upon the death of his father, King Letsie III was sworn in again as King. The formal coronation of King Letsie III was held in October 1997. The 1994 suspension of the Constitution by Letsie, although short-lived, highlighted the fragility of rule within the constitutional monarchy.

The 1998 crisis was similar to that of the 1993–94 post-electoral period. In both cases, opposition party members alleged electoral fraud, suborned army supporters, sought the King's involvement, and effectively overthrew the elected Government. However, in 1998 the King did not take an active role in the opposition campaign, as he did in 1994, and, based on the 1994 Memorandum of Understanding, Prime Minister Mosisili asked SADC to intervene militarily to stabilize the situation.

In the May 1998 elections, the LCD won 79 of 80 parliamentary seats. The BNP won the other seat. International observers concluded that the elections met international standards for a multiparty election and reflected the will of the voters. Despite the opposition coalition claims, the Langa Commission, composed of international observers from four southern African countries, reported no definitive findings of vote rigging or fraud. However, post-election management of electoral and polling station data was poor. Consequently, the Commission stated that the documentation was in such disarray that it could not prove that fraud had not occurred, and this encouraged the opposition to charge that errors short of fraud could have affected the results.

In October 1998, the LCD and the newly formed opposition alliance agreed to hold new elections within 2 years as a means of resolving the ongoing political crisis. Local elections, scheduled to be held late in 1998, were postponed because of the 1998 crisis. Negotiations under SADC supervision resulted in the December 1998 establishment of the Interim Political Authority (IPA) with a mandate to prepare for new elections within 18 months (i.e., in the first half of 2000). The IPA made little progress in meeting its objectives to resolve political disputes or achieve a national consensus on an electoral model. However, in November an arbitration award broke the IPA deadlock. Under the arbitration award, the Parliament is to expand from 80 to 130 seats. In the next election only, candidates will compete for 80 constituency seats and 50 proportional representation seats. Thereafter, the number of constituency seats and proportional representation seats is to be equal. National multiparty elections are not expected to be held until sometime in late 2000.

There are no legal impediments to women's participation in government or politics, but women remain underrepresented. There are 2 women in the 80-member House of Assembly and 7 women in the 33-member Senate. A woman serves as the Minister of Environment, Women, and Youth Affairs. In October the Parliament unanimously elected the first female Speaker of the House Assembly.

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

The Government did not hinder the activities of nongovernmental human rights groups, which operated freely and criticized the Government. The Government did not impede or object to an October 1998 Amnesty International visit to investigate human rights abuses.

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

The Constitution prohibits discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, birth, or other status, and the Government generally respected these prohibitions in practice. However, the Constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights are restricted severely under the traditional chieftainship system.

Women.—Domestic violence, including wife beating, occurs frequently. Dependable statistics are not available, but the problem is believed to be widespread. In Basotho tradition, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault. However, few domestic violence cases are brought to trial. Beatings and violence against women perpetrated by husbands or other male relatives occur frequently; however, increasingly it is considered socially unacceptable behavior. A national conference held in March 1998 on the empowerment of women noted that of 100 cases of human rights abuses, 90 percent of the victims were women who were victims of domestic violence, rape, and sexual harassment.

There were credible reports that the country is used as a transit point for trafficking in persons (see Section 6.f.).

Both law and custom under the traditional chieftainship system severely limit the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce. However, under customary law, a married woman is considered a minor during the lifetime of her husband. She cannot enter into legally binding contracts, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in civil court and may not sue or be sued without her husband's permission. Government officials publicly have criticized this customary practice, which discriminates against women. The tradition of paying a bride price (lobola) is common. Polygyny is practiced by a very small percentage of the population.

Women's rights organizations have taken a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. In 1998 the Government created a Ministry of Gender Affairs.

Children.—The Government has not addressed adequately children's rights and welfare, although it has devoted substantial resources to primary and secondary education. Education is not compulsory even at the primary levels, and some 25 percent of children do not attend school, particularly in rural areas, where children are involved in subsistence activities in support of their family's welfare, or where families cannot afford the costs associated with school attendance (for example, fees for purchase of uniforms, books, and materials). The problem of school nonattendance affects boys disproportionately more than girls. In traditional rural Basotho society, livestock herding by young boys is a rite of passage and a prerequisite to manhood in the community.

There is no pattern of societal abuse against children, but many children work at a relatively young age (see Section 6.d.). Familial stress, poverty, the spread of HIV/Aids, and divorce have led to a rise in child homelessness and abandonment, creating a growing number of street children. There were credible reports that the country was used as a transit point for trafficking in persons (see Section 6.f).

People with Disabilities.—Discrimination against physically disabled persons in employment, education, or provision of other government services is unlawful; however, societal discrimination is common. The Government has not legislated or mandated accessibility to public buildings for the disabled.

National/Racial/Ethnic Minorities.—Most citizens speak a common language and share common historical and cultural traditions. Small numbers of Asians (primarily ethnic Chinese and Indians) and South African whites are active in the country's commercial life. Economic and racial tension between the Chinese business community and the Basotho remained a problem.

Section 6. Worker Rights

a. *The Right of Association.*—Under the law, workers have the right to join or form unions without prior government authorization, with the exception of civil servants. The Labor Code prohibits civil servants from joining unions. The Government regards all work by civil servants as essential. In a 1997 judgement by the High Court concerning a petition filed by the Lesotho Union of Public Servants (LUPE) against the registrar of law, the Chief Justice dismissed the LUPE's application to form a union on the grounds that it was not consistent with the Labor Code. The LUPE filed an appeal with the Appeals Court, but it had not been heard by year's end.

Under the 1993 Labor Code, prepared with the assistance of the International Labor Organization (ILO), all trade union federations require government registration. There are two small trade union federations that rarely cooperate with one another: the Lesotho Trade Union Congress and the Lesotho Federation of Democratic Unions. Unions are not affiliated formally or tied to political parties.

The labor and trade union movement is very weak and fragmented. There are several small unions in the public and industrial sectors, but there is no unified trade union congress. There are cases of unions competitively organizing small numbers of workers in the same sector. Overall, unionized workers represent only about 10 percent of the work force. Consequently, efforts toward collective bargaining and tripartite policymaking are not amenable to strong trade union influences.

There is credible evidence that some employers inhibit union organizers from access to factory premises to organize workers or to represent them in disputes with owners or managers. There were reports that some employers harassed union organizers and intimidated members and that union activists frequently were fired (see Section 6.b.).

A large percentage of the male labor force works in the gold and coal mines of South Africa. The majority of the remainder is engaged primarily in traditional agriculture. A majority of Basotho mine workers are members of the South African National Union of Mineworkers (NUM); however, as a foreign organization, the NUM is not allowed to engage in union activities.

No legally authorized strike has occurred since independence in 1966. Civil servants generally are not allowed to strike, and all public sector industrial actions are, by definition, unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. In past years, some small unions and their members have undertaken wildcat strikes or spontaneous industrial actions without following the procedures for dispute resolution. In February a wildcat strike took place in the textile sector. Legal protection for strikers against retribution has not always been enforced in cases of illegal strikes. Security forces violently suppressed some wildcat strikes in the textile, garment, and construction industries in 1994, 1996, and 1998. In February 1998, police fired shotguns into a group of workers protesting at a textile plant for better wages and conditions of work, killing 2 workers and injuring more than 20. Two police officers were arrested and held briefly for the shooting; however, they were released when no one came forward to lodge a formal complaint. Both officers were transferred from the capital to rural districts.

There were no instances of governmental restrictions on international affiliations or contacts by unions or their members.

b. *The Right to Organize and Bargain Collectively.*—All legally recognized trade unions in principle enjoy the right to organize and bargain collectively; however, in practice the authorities often restrict these rights. Employers usually are not cooperative in this area. Employees often are threatened with expulsion and loss of employment if they join unions. There is credible evidence that some employers in the textile and garment sector engage in the use of blacklists to deny employment to workers who have been fired by another employer within that sector. There were reports that some employers harassed union organizers. Although there was some collective bargaining between unions and employers to set wage and benefit rates, employers generally continued to set wage rates through unilateral action.

Lesotho has several industrial zones, in which mostly textile and apparel firms manufacture for export. All national labor laws apply in these industrial zones; however, employers in the zones do not always respect these rights in practice. Employers reportedly harassed and intimidated union organizers, and prevented them from entering the zones. There were reports that union activists often were fired. There were also reports that many companies in the zones pay below minimum wage, enforce long hours, lock in workers until orders are finished, refuse payment for sick leave, and deduct wages when employees are found talking or take more than one break a day.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The 1987 Employment Act prohibits forced or compulsory labor, including that performed by children, and there is no credible indication that such labor is practiced. There were credible reports that the country was used as a transit point for trafficking in persons (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment in commercial or industrial enterprises is 14. However, reportedly children under 14 are employed in the textile and garment sector and in family-owned businesses. According to a 1994 study by a foreign government, as much as 15 percent of the textile work force of some 15,000 persons may be children between the ages of 12 and 15. The Ministry of Labor denies the validity of this report. The ILO was not able to confirm allegations of illegal child labor after visiting all 14 of the country's garment producers in 1994 in response to a complaint by trade unions in the textile and clothing industry.

There are statutory prohibitions against the employment of minors in commercial, industrial, or non-family enterprises involving hazardous or dangerous working conditions, but enforcement is very lax. The Ministry of Labor and Employment's Inspectorate is severely understaffed. Youths under 18 years of age may not be recruited for employment outside of the country. In traditional society, rigorous and occasionally dangerous working conditions for the country's young livestock herdboys are considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. The Government specifically prohibits forced and bonded labor by children, and there were no reports that it occurred (see Section 6.c.).

e. *Acceptable Conditions of Work.*—In general, wages are low. The monthly minimum wage for unskilled labor is $68 (320 maloti), and $131 (616 maloti) for a heavy vehicle operator. Minimum wages for workers in lower skilled jobs are insufficient to ensure a decent standard of living for a worker and family. Most wage earners supplement their income through subsistence agriculture or remittances from relatives employed in South Africa. Many private employers pay more than minimum wages in an effort to attract and retain motivated employees. However, there is also reason to believe that some employers, especially in export sectors, treat the minimum wage as a maximum wage. This situation is made possible by the high levels of unemployment and underemployment, which provide a large pool of surplus unskilled labor that bids down wage rates and threatens job security for workers who make demands for better wages and conditions of work.

The Labor Code spells out basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid public holidays; however, employers do not always respect these rights in practice. There are reports of employers locking in workers until an order is finished without overtime pay and of employers refusing sick leave. Workers generally are unable to obtain an expeditious hearing in court on their complaints. The labor court has a large backlog of industrial dispute cases on the docket; there is only one labor judge to deal with cases filed as early as 1995.

The Labor Code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner designed to minimize the risk of injury. However, in practice employers generally follow these regulations only within the wage economy in urban areas, and the Ministry of Labor and Employment enforces the regulations haphazardly. The Labor Code does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment. However, Labor Code sections on safety in the workplace and dismissal imply that dismissal in such circumstances would be illegal.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were credible reports that illegal immigrant smugglers, primarily from South and East Asia, take advantage of the country's undersupervised borders to pass persons temporarily through the country to transportation hubs in South Africa for onward movement to Europe and North America. It is not clear to what extent these organizations are recruiting or transporting persons illegally for involuntary servitude, slavery, or forced or bonded labor. It is suspected that most of the persons who are moved by these criminal organizations are primarily economic immigrants seeking employment in North Atlantic countries. There is no evidence of forced or bonded labor or servitude in the country resulting from these activities.

LIBERIA

Liberia is a centralized republic, dominated by a strong presidency. Although the Constitution provides for three branches of government, there is no effective system of checks and balances, and presidents traditionally have wielded extraordinary power. Americo-Liberians, descendants of freed African-American slaves from the United States and the Caribbean who make up about 5 percent of the population, dominated the country's government through the True Whig party until 1980. In 1980 Sergeant Samuel K. Doe, a member of the indigenous Krahn ethnic group, seized power in a military coup. Doe was killed by rebels in 1990 early in the 7-year-long, ethnically divisive civil war, which was ended by the Abuja Peace Accords in 1996. Forces led by Charles G. Taylor, who is of both indigenous and Americo-Liberian ancestry, emerged dominant. In July 1997, Taylor won the presidential election, and his National Patriotic Party (NPP) won three-quarters of the seats in the Legislature. The elections were administratively free and transparent, but were conducted in an atmosphere of intimidation, as most voters believed that Taylor's forces would have resumed fighting if he had lost. Most other leaders of the former warring factions subsequently left the country. The bicameral Legislature exercised little independence from the executive branch. The judiciary is subject to political influence, economic pressure, and corruption.

The regular security forces included: The Armed Forces of Liberia (AFL); the Liberia National Police (LNP), which has primary responsibility for internal security; the Antiterrorist Unit (ATU), composed of an elite special forces group; and the Special Security Service (SSS), a large, heavily armed executive protective force. There also are numerous irregular security services attached to certain key ministries and parastatal corporations, the responsibilities of which appear poorly defined. The national army, which fought against Taylor's faction during the civil war, has yet to be downsized and restructured as required by the Abuja Peace Accords, although a restructuring plan exists. Only a few contingents have been deployed to maintain security in parts of rural areas. The many newly created security services absorbed Taylor's most experienced civil war fighters, including undisciplined and untrained loyalists. While civilian authorities in Monrovia generally maintained control of the security forces, frequently they acted independently of government authority, particularly in rural areas. Members of the security forces committed numerous serious human rights abuses.

Liberia is a very poor country with a market-based economy that has yet to recover from the ravages of the civil war. Average per capita income is estimated at only a small fraction of the prewar level. Prior to 1990, the cash economy was based primarily on iron ore, rubber, timber, diamond, and gold exports. Unemployment of 85 percent, a 15 percent literacy rate, the internal displacement of civilians in Lofa and Nimba counties, and the absence of infrastructure throughout the country continued to depress productive capacity, despite the country's rich natural resources and potential self-sufficiency in food. Government officials and former combatants continued to exploit the country's natural resources for personal benefit. Extortion is a widespread phenomenon in all levels of society.

The Government's human rights record remained poor, and there were serious problems in many areas. The security forces committed many extrajudicial killings. They were accused of killing or causing the disappearance of citizens from Lofa county. Security forces tortured, beat, and otherwise abused or humiliated citizens. The Government investigated some of the alleged abuses by the security forces, but in all cases in which officers were charged, they either were treated leniently or exonerated. Prison conditions were harsh and sometimes life threatening. Security forces continued at times to use arbitrary arrest and detention, and lengthy pretrial detention remained common. The judicial system, hampered by political influence, economic pressure, inefficiency, corruption, and a lack of resources, was unable to ensure citizens' rights to due process and a fair trial. In some rural areas where the judiciary had not been reestablished, clan chieftains administered criminal justice through the traditional practice of trial-by-ordeal; at times the authorities tacitly condoned this practice. Over 1 dozen political prisoners remained in jail. Security forces violated citizens' privacy rights, conducted warrantless searches, harassment, illegal surveillance, and looted homes. The Government restricted freedom of the press and assaulted, threatened, and intimidated journalists into self-censorship. Security forces restricted freedom of movement, using roadblocks to extort money from travelers and returning refugees. Security forces frequently harassed human rights monitors. Violence and discrimination against women remained problems. The education and care of children remained widely neglected, and female genital mutilation (FGM) continued to increase. Societal ethnic discrimination re-

mained widespread, ethnic differences continued to generate violence and political tensions, and the Government continued to discriminate against indigenous ethnic groups that had opposed Taylor in the civil war, especially the Mandingo and the Krahn ethnic groups. Forced labor, including by children, persisted in rural areas. Child labor remained widespread, and there were reports of forced child labor. Ritualistic killings also persisted.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Security forces continued to commit extrajudicial killings during the year. Human rights organizations estimate the number of extrajudicial killings to be approximately 100; however, there were no convictions of the perpetrators. Beginning in August when it appointed Paul Mulbah as the new director of the LNP, the Government stepped up its efforts to curb these and other abuses by members of the security forces.

There were credible reports that government forces as well as members of the Loma ethnic group harassed and intimidated members of the Mandingo ethnic group, including the burning of mosques. There are credible reports that during the incursions and counter-attacks in Lofa county, hundreds were killed and thousands of citizens plus refugees from Sierra Leone were forced to flee the area. In July Sierra Leonan refugees began to leave two refugee camps in northern Lofa country because of the instability and harassment by security forces. Many walked for days to reach the help of the U.N. High Commissioner for Refugees (UNHCR) in Bomi county, which transported them to a refugee camp near the border with Sierra Leone. Lofa county residents complained of constant harassment and intimidation by the police and paramilitary forces used by the Government to quell the incursions.

In May a human rights organization reported that a security officer was beaten to death and called for an investigation. The LNP stated that the officer had died in a traffic accident. President Taylor later told a press conference that the officer died while in detention. No one was charged in connection with the officer's death.

A U.N. team visited in May to investigate the September 1998 violence. No government forces were arrested. The Government arrested 14 Krahn civilians in 1998 and tried them for sedition. Thirteen were convicted in 1999 and are serving 10-year terms. Nine Krahn AFL soldiers were arrested and were standing trial at year's end. Five other Krahn arrested in 1998 in connection with the September 1998 violence were not charged by year's end.

The President Pro Tempore of the Senate told the Inter-parliamentary Union that the investigation into the 1997 killings of opposition political leader Samuel Saye Dokie and three family members continued. However, authorities did not report any results from a promised investigation.

There was no follow-up in investigations of the 1998 extrajudicial killings of Mannah Zekay, John Nimely, or others reported during that year.

There was no report released by the Government following its November investigation of the reported killing of as many as 30 Mandingos in Lofa county in August. Although the authorities subsequently arrested 19 persons, they did not charge anyone with a crime. Mandingo residents of Lofa county continued to be afraid to return to their homes.

Reports of ritualistic killings, in which human body parts used in traditional rituals are removed from the victim, continued to occur. The number of such killings is difficult to ascertain, since police often described deaths as accidents even when body parts have been removed. Deaths that appear to be natural or accidental sometimes are rumored to have been the work of ritualistic killers. Most reported ritual killings were from the southeastern counties. In August the Government sent a high-level national police delegation to investigate alleged ritual killings in Harper, Maryland county.

b. *Disappearance.*—Security forces produced suspects whom they had held without charge when the courts issued writs of habeas corpus on the applications of human rights organizations. Their disappearances were often the result of prolonged illegal detention at the Gbartala base (see Section 1.c.). There were a number of reports that ethnic Mandingos disappeared following the violence in Lofa county in April and August. Eyewitnesses gave a detailed account, stating that all the men in a Lofa county village were taken away by government security forces. It is not known whether the missing individuals were killed or fled to Guinea or other parts of the world. There were no reports by year's end that the Government carried out its promised investigation of the incident.

There were no developments in the 1998 disappearance case of market woman Nowai Flomo.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other degrading treatment; however, government security forces sometimes tortured, beat, and otherwise abused and humiliated citizens. In several cases, security forces produced suspects whom they had held without charge when the courts issued writs of habeas corpus on the applications of human rights organizations. The detainees charged that they were tortured while in detention at a security training base in Gbatala. Victims reported being held in water-filled holes in the ground, being injured when fires were kindled on grates over their heads, being urinated on, and suffering beatings and sexual abuse. In October human rights organizations called for the closure of the base because of the reports of torture there. The number of credible claims of such treatment indicates a pattern of abuse at the base. The Government did not report any results of its promised investigation by year's end.

An assistant minister for public security and some security force members were dismissed and tried and convicted of aggravated assault after being charged with forcibly removing a magistrate from his courtroom and torturing him because they took exception to a court ruling.

In March in Dambala, a village near the border with Sierra Leone, a group of armed soldiers reportedly beat and detained men, raped women, and looted homes.

Government security personnel assaulted and injured a few journalists (see Section 2.a.).

Members of the security forces, as well as the ATF, AFL, and the SSS were implicated in numerous reports of harassment, intimidation, and looting. Beginning in August, new LNP director Mulbah took steps to investigate and discipline officers accused of human rights abuses. For example, in October citizens of the southeastern county of Maryland reported harassment and intimidation by officers, including a shooting and beatings of local citizens (see Section 1.e.). In response the director dispatched a team of LNP inspectors to investigate. In October two SSS officers were found guilty in an SSS investigation and imprisoned for harassing and intimidating citizens.

Security force personnel in rural areas were paid and provisioned inadequately and often extorted money and goods from civilians. There were many credible reports that security forces harassed returning refugees, displaced persons, and refugees from Sierra Leone, especially in the border areas. Numerous abuses occurred following the incidents in Lofa county in April and August (see Sections 1.f. and 2.d.).

Government security personnel were involved in the looting of 1,450 tons of food intended for Sierra Leonean refugees, theft of vehicles belonging to international organizations and nongovernmental organizations (NGO's) and the personal property of foreigners and citizens. The international community publicly decried the Government's support for the Revolutionary United Front rebels in the civil war in Sierra Leone.

During the first half of the year, the police manhandled numerous petty traders and confiscated money and goods in various market areas, while attempting to prevent small traders from operating outside areas designated for them. Paul Mulbah, the police director appointed in August, took steps to end these abuses.

Clan chieftains continued to use the traditional practice of trial-by-ordeal to resolve criminal cases in rural areas. Although the Supreme Court ruled that trial-by-ordeal—commonly the placement of a heated metal object on a suspect's body in an attempt to determine whether the defendant is telling the truth—is unconstitutional, the Ministry of Internal Affairs continued tacitly to condone the practice in an unknown number of cases during the year. A lawsuit filed in 1994 for injuries resulting from trial-by-ordeal was still pending before the Supreme Court at year's end.

The widow of an Armed Forces of Liberia (AFL) soldier reported that after her husband was killed on duty at the Liberia-Guinea border during the April incident, she was beaten severely and abducted by members of the Mandingo ethnic group and taken to Guinea. She later escaped and returned to the country.

Prison conditions were harsh and in some cases life threatening. There were credible reports of unofficial detention facilities in which detainees were held without charge and in some cases tortured. The Government did not provide detainees or prisoners in official facilities with adequate food or medical care. Cells at Monrovia Central Prison are overcrowded, mostly with detainees awaiting trial. Only about 10 percent of the total prison population have been convicted of criminal offenses. Convicted prisoners and detainees awaiting trial are not confined in separate facilities. Many of the detainees have been subjected to lengthy pretrial detention, and

in some cases, the period of detention approximates the length of sentence for the crime in question. Similar conditions exist in the Barclay Training Center military stockade. In some counties, the structure that serves as a jail is a container with bars at one end.

In a number of cases, human rights groups and interested individuals achieved the release of prisoners. In November a legal aid organization obtained the release without bail from Monrovia Central Prison of a pregnant woman charged with theft. The woman, who was 8 months pregnant, had been detained without trial since July.

Women, who constitute about 5 percent of the prison population, were held in separate cells. Their conditions are comparable to that of the male prisoners and detainees. There were no separate facilities for juvenile offenders.

The Government permits the independent monitoring of prison conditions by local human rights groups, the media, and the ICRC. The ICRC is allowed to visit prisoners in prison facilities and police detention centers without third parties present and to make regular repeat visits. However, visits to unofficial detention centers often are denied. For example, despite requests made by NGO's to the Defense Ministry, no independent monitor has been allowed to visit the Gbatala base in which victims have been detained illegally and tortured.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, security forces continued at times to arrest and detain persons arbitrarily. The Constitution provides for the rights of the accused, including warrants for arrests, and the right of detainees either to be charged or released within 48 hours). Although the Government generally adheres to these standards, warrants were not always based on sufficient evidence, and detainees, especially those without the means to hire a lawyer, often were held for more than 48 hours without charge. In some cases, persons were detained secretly at unofficial detention centers (see Section 1.c.).

The Constitution provides for the right of a person who is charged to receive an expeditious trial; however, lengthy pretrial and prearraignment detention remained a serious problem (see Section 1.c.). Five detained soldiers awaiting court-martial for desertion during the September 1998 incident have been incarcerated in the stockade since November 1998. Should they be convicted, the maximum sentence would be 6 months' imprisonment.

The police have only limited logistics and forensic capabilities and cannot adequately investigate many crimes, including murder cases. When the courts release known criminals for lack of evidence, police officers often rearrest them on specious charges.

Authorities charged journalists with contempt and detained some journalists (in one case for more than the legal limit of 48 hours), without charge (see Section 2.a.).

The Government did not use forced exile, but the security forces frequently harassed and threatened opposition figures and human rights activists to the point that a number of them departed the country due to fear for their personal safety or that of their families. An internationally renowned human rights activist was forced to leave the country for fear of his life by various security officials. In January 17-year-old child rights advocate Kimmie Weeks fled the country to avoid harassment by security personnel disturbed by his charges that the Government was training child soldiers. Several times during the year, President Taylor publicly alleged that some of these opposition figures had gone abroad to conspire in the overthrow of his Government. The effect of such statements was to keep numerous prominent opposition figures and former warlords out of the country throughout the year.

e. *Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, judges are subjected to political, social, familial, and financial pressures, leading to the corruption of the judiciary. Some judges and magistrates are not lawyers. The judiciary determined that it is not feasible to retire immediately all judicial personnel who are not legally trained but intends to replace those currently sitting by lawyers as they retire. The Supreme Court ruled that members of the bar must be graduates of a law school and pass the bar examination. The executive branch continued to exert undue influence on the judiciary. Early in the year, the President's personal aide-de-camp prevented the execution of a Supreme Court decision against a major bank. The aide reportedly feared that its failure would injure the country's fragile economy. The Court was not able to enforce its decision, at least partially because the plaintiff did not inform the Court that its decision was not executed.

The judiciary is divided into four levels, with the Supreme Court at the apex. All levels of the court system in Monrovia, including the Supreme Court functioned erratically. In 1997, for the first time in the country's history, a juvenile court system was established for all 13 counties. However, by year's end, the only functioning ju-

venile court was in Monrovia. The Monrovia juvenile court has heard 50 cases since its inception. A criminal court established in late 1997 specifically to handle armed robbery cases remains ineffective. The Government's efforts to revitalize the court system outside Monrovia continued to be troubled by lack of trained personnel, infrastructure, and lack of adequate funding. Although judges were assigned throughout the country, in some cases they were unable to hold court due to lack of supplies and equipment. Several localities reverted to traditional forms of justice administered by clan chieftains (see Section 1.c.).

Under the Constitution, defendants have due process rights that conform to internationally accepted standards. However, in practice these rights are not always observed. Defendants have the right to a public trial and timely consultation with an attorney. However, there is no effective system to provide public defenders, especially in the rural areas. Courts regularly received bribes or other illegal gifts out of damages that they awarded in civil cases. Defense attorneys often suggested that their clients pay a gratuity to appease judges, prosecutors, and police officers to secure favorable rulings.

There are 13 political prisoners. In September 1998, following Operation Camp Johnson Road, the Government arrested 9 Krahn members of the armed forces and 19 civilians, including some senior Krahn leaders, on charges that included treason and sedition. The Government dropped charges against 5 of the civilian suspects in return for their testimony as state witnesses; the trial of the remaining 14 civilian defendants was completed in April. One defendant was acquitted, and the 13 others were convicted of treason and sentenced to 10 years' imprisonment (see Section 1.e.).

The jury trial was public and attended by international observers. Some observers believed that the defendants did not receive due process and that the jury was influenced significantly by ethnic ties. The military trials of nine Krahn AFL officers remained in progress at year's end.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right of privacy and the sanctity of the home; however, authorities regularly infringed on these rights. The Constitution provides that the police must obtain a warrant, or have a reasonable belief that a crime is in progress, or is about to be committed, before entering a private dwelling. In practice police and paramilitary officers frequently entered private homes and churches without warrants to carry out arrests and investigations. Since Mulbah's appointment as LNP director, the LNP took some steps to address the culture of impunity in the police force, but very little has been done to control the military and paramilitary forces' gratuitous acts of random cruelty against civilians.

The security forces harassed and threatened opposition figures and their families by conducting illegal surveillance. In some cases, they entered the homes of opposition figures, usually at night. Former combatants also harassed citizens with little fear of reprisal for their actions. In July approximately 100 former combatants stormed the home of a democracy advocate while he was out of the country, looting his home and terrorizing his family. No charges were brought against any of the former combatants. This incident and several other illegal entries prompted an opposition party leader to suspend the community development project that she sponsored. Several journalists and human rights activists resided in the homes of friends or relatives for months at a time due to fear that the security forces might follow through with their threats against them. These incidents of harassment increased significantly in the immediate aftermath of the violence in Lofa county in April and August, particularly against members of the Mandingo ethnic group. In rural areas, armed security forces illegally entered homes, most often to steal food, money, or other property (see Section 1.c.). This problem was especially prevalent in remote parts of Lofa county during the year.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted this right in practice. Security agents threatened and assaulted journalists and intimidated many journalists into practicing self-censorship.

With some notable exceptions, government officials are grudgingly tolerant of the press. However, they frequently rebuked the media publicly for what they considered negative reporting of events. Security personnel sometimes interpreted such criticism as a license to harass, threaten, and even assault targeted persons. Some media executives suspended journalists for broadcasting or writing news articles that were critical of security forces. At times such news reporting that criticized the Government brought threats of violence, closure, or directives from powerful government figures to advertisers that they should discontinue business with that media outlet. Government officials stated that there were no journalists in jail.

Government officials criticized journalists who used the Internet to express opinions that the authorities considered detrimental. Many persons believed that the Government blocked Internet access during the latter half of the year.

Journalists generally are left to print or say what they dare, provided that they are willing to face strong criticism and the possible consequences. Sometimes journalists are brash and even provocative, but they also go through periods of self-censorship after they receive threats, whether perceived or genuine. Government security personnel assaulted and injured a few journalists and security agents confiscated or destroyed some equipment (see Section 1.a.). Journalists were charged with contempt, some were detained (in one known case, more than the legal limit of 48 hours without charge), and some sought asylum outside the country (see Section 1.d.). In July a consignment of The African Observer was seized upon arrival at Roberts International Airport because it contained an article that authorities considered critical of the Government.

No action was taken during the year in the case of the police forces' 1998 flogging of journalist Hassan Bility.

The Ministry of Information, Culture, and Tourism did not apply fee regulations regarding yearly licensure for media outlets uniformly. It changed the deadline for fee payments, and although it allowed some delinquent media outlets to pay their fees late, it did not accept late payment from one newspaper with the result that the newspaper had to cease publication. Authorities considered a former editor now in exile of the newspaper to be antigovernment and believed that his successors were carrying on his tradition.

There is still only one printing facility capable of producing newspapers, and its management is subject to pressure from the Government. Several editors of the independent media practice self-censorship in order to stay in business and keep their advertisers (who also respond to official pressure). To meet costs of production, the typical newspaper's eight pages include two or three pages of advertisements or paid announcements, further reducing the amount of news reported. Some articles included are the result of "cadeaux," gifts or money that supplement reporters' meager salaries. Production costs force publishers to set the prices of their newspapers beyond the means of most citizens.

Reporters investigated human rights violations and corruption issues, but in some cases, practiced self-censorship due to fear for their physical safety. Several incidents heightened that fear. For example: Repeated detainment and assault (requiring hospital treatment) of a freelance reporter for suspicion of treason because of casual contacts with a member of the diplomatic corps; the assault on the editor of an independent newspaper by a security officer (with no subsequent punishment); and the assault on a reporter who had gone to the office of a ruling party official to seek clarification on a news article. An investigation of the last incident by the Press Union of Liberia determined that the assault was carried out with the party official's acquiescence, in the presence of others, but there was no apology or reprisal. Verbal assaults on the press by government officials have been common but the authorities "justified" them as personal opinions that they freely expressed under the Constitution. One government official accused the entire independent media of being paid by a Western government to write "all kinds of lies" against the Liberian Government.

In some cases, there were indications that journalists were entrapped by authorities in order to damage the reputation of the profession in general. Authorities charged 13 journalists and several policemen with conspiracy to confiscate and sell expired, imported frozen poultry after the journalists went to the national port to report on destruction of the meat. Although charges against the policemen were dropped quickly, the journalists were suspended from their jobs and the press union for several months until a grand jury refused to indict them due to lack of evidence.

In Monrovia 10 newspapers were published during the year, although some publish very irregularly. Two are dailies, and five generally appeared once or more a week. One is published by the Public Affairs Bureau of the Ministry of Information, Culture, and Tourism, and one sometimes is published by the communications network owned by the President. The others are produced independently and vary in their political balance.

In addition to the high price of newspapers and the high rate of illiteracy (between 70 and 85 percent), which limits their circulation, newspaper distribution is limited to the Monrovia area by high transportation costs and the poor state of roads elsewhere in the country. Television is limited to those who can purchase sets, the generators, and fuel to provide electricity. For those persons and businesses with satellite capability, the Cable News Network is available. Radio is the primary means of mass communication.

Of the seven radio broadcasting stations, two are owned privately (one of these also broadcasts television programs); one is operated by the Catholic Archdiocese; one is an evangelical Christian station; one (Star Radio) is a noncommercial station managed locally but funded primarily through international organizations; one is owned by President Taylor (Liberia Communications Network); and one is the national station (Liberia Broadcasting System). Due to the economic situation in the country and the dependence on generators requiring expensive fuel purchases, most of the stations limited broadcasting hours and in some cases ceased operation for short periods.

At the end of the year, the Government continued its refusal to renew Star Radio's short-wave frequency allocation. Although the station, which is allowed to broadcast locally via FM, is politically neutral and now has local management, there has been no change in the government's policy toward the station. The Government's limitation of Star Radio to FM broadcasts prevented its broadcasts from reaching audiences outside the immediate Monrovia area. The only radio station with a short-wave frequency strong enough to reach all parts of the country is owned by the President. Radio Veritas, operated by the Roman Catholic Archdiocese, has a short-wave frequency but a limited broadcast area and antiquated equipment.

Call-in radio talk shows are popular and frequently a forum for both government and opposition viewpoints. Interviews with prominent persons are broadcast frequently. In August former combatants looted a civil rights activist's home in reaction to his comments on a popular radio talk show (see Section 1.f.). Members of a church, whose tenets include free sex among its members, even among members of the same family, were indicted for incest and other crimes after describing their beliefs and practices in detail on the same show. At year's end, they were free on bail pending trial.

Academic freedom continues to be generally respected at the University of Liberia; however, President Taylor replaced the previous university president with a member of the ruling party. At times students reported professors' opinions to various government officials.

Although university administrators have been concerned about the militancy of the student groups on campus, which include a high percentage of former combatants, actual physical violence has been rare. Security forces were not called to intervene on campus.

Students occasionally protested about the lack of resources, which they blamed more on central government appropriation practices than on the university administration.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. The Government used objective criteria to approve or disapprove permits for public meetings. The approval process appeared to be administered fairly. Approvals for marches and gatherings sometimes were made contingent upon rerouting or changes in venue. In September there were clashes between public high school students who protested the Government's failure to pay their teachers and the police. The students attempted to close some public schools. The new LNP director intervened personally and the situation was calmed after only a relatively small number of injuries inflicted by both sides and scattered property damage.

The Constitution provides for the right of association, and the Government generally respects this right in practice. Registration requirements can be onerous but do not appear to be discriminatory towards any specific group.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, there were some exceptions.

There is no established state religion. However, government ceremonies invariably open and close with prayer and may include hymn singing. The prayers and hymns are usually Christian but occasionally are Muslim. Although Islam is gaining adherents, as much as 40 percent of the population practice either Christianity or elements of both Christianity and traditional indigenous religions. Although religious ritual killings reportedly occur, there is little reliable information available about them, their perpetrators, their victims, or the religious faiths that are involved (see Section 1.a.).

All organizations, including religious groups, must register their articles of incorporation with the Government, along with a statement of the purpose of the organization. However, traditional indigenous religious groups generally need not and do not register. The registration is routine, and there have been no reports that the registration process is either burdensome or discriminatory in its administration.

Early in the year, President Taylor dismissed all but one of his cabinet ministers after they failed to accompany him to a church service. Explaining his action, Taylor initially stated that anyone who did not know God could not serve in his Government. Subsequently Taylor stated that religion is a private matter, but that cabinet ministers are required to be present at public ceremonies that the president attends. Some days later, Taylor rescinded both actions and reinstated the ministers at the urging of several persons and organizations.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement throughout the country as well as the right to leave or enter; however, the Government restricted this right in practice. Security forces' maintained checkpoints where travelers routinely were subjected to arbitrary searches and petty extortion. Security forces also extorted money from returning refugees.

The law includes provisions for granting refugee/asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. During the year, the Government provided first asylum to 120,000 Sierra Leonean persons living along the western border of the country; it granted asylum to these persons in 1998. The Government continued to cooperate with the Office of the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in attempting to assist these asylees. However, inaccessibility due to poor road conditions and the limited capacity of local NGO's severely restricted the amount of relief assistance that could be provided. Violence in Lofa county in April and August led to the suspension of assistance by local and international NGO's in that area (see Section 1.a.).

In April government security personnel looted Voinjama, in northern Lofa county, in the wake of a purported attack by Liberian dissidents who had taken refuge in Guinea. Mandingo residents of Voinjama then fled to Guinea because of the incident and remained unwilling to return because of their fear of harassment by the Liberian security forces. No one was punished. In August in Kolahun, northern Lofa county, where in the aftermath of another incursion from Guinea, security forces once again looted stores of food intended for Sierra Leonean refugees. The refugees, fearing the dissidents and the security forces, migrated south towards another established refugee camp in Sinje (see Section 1.c.). The Government cooperated with the UNHCR's efforts to assist the migration to the new location. International donors remained unwilling to send any further assistance to Lofa county, and international and domestic NGO's are reluctant to resume operations there because of security concerns. The Government and the UNHCR established a second refugee camp in Sinje, a location easily accessible from Monrovia, to accommodate the refugees from Lofa county.

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

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

The Constitution provides for the right to vote in free and fair elections, and citizens exercised this right in 1997 in elections that international observers deemed free and transparent; however, the elections were conducted in an atmosphere of intimidation, as most voters believed that military forces loyal to Charles Taylor would have resumed the civil war if Taylor lost the election. Since the legislative elections were held on the basis of proportional representation, Taylor's National Patriotic Party won control of the legislature by the same 75 percent majority that Taylor received in the popular vote for the Presidency. The 1997 legislative and presidential elections were held under a special election law in accordance with the terms of the Abuja Peace Process.

The Legislature did not exercise genuine independence from the executive branch. Opposition legislators, who held only one-quarter of the seats in the House of Representatives and in the Senate, generally were more docile than some independent members of the ruling NPP. In March Senator Charles Brumskine, an NPP member, fled the country expressing fear for his life, after stating that the NPP had forced him to resign from his position as President Pro Tempore of the Senate. He later resigned his senatorial seat and has not returned to the country. A few weeks later, the ruling party manipulated the committee structure such that five opposition figures lost their chairmanships. Congressional committees failed to develop expertise in their respective areas of responsibility. No major legislation was enacted during the year. However, the House of Representatives succeeded in blocking the demolition of the Barclay Training Center military stockade.

The State is highly centralized. The President appoints the superintendents (governors) of the 13 counties. Municipalities and chieftaincies are supposed to elect

their own officials, but elections, postponed in 1998 due to lack of funds and disorganization, were not held during 1999 for the same reason. However, a by-election was held in November to fill the seat vacated by Senator Brumskine. Local governments at all levels have no independent revenue base and rely entirely on the central government for funds. Education, health services, and public works are provided by the central Government. Local officials serve mainly to lobby the central Government.

There are no restrictions on the participation of women in politics; however, women remained underrepresented in government and politics. The number of women in high-ranking positions in the Taylor Administration and in the various political parties is low. Only 5 of the 26 Senators and 5 of the 64 members of the House of Representatives are women. Of the 20 cabinet positions, 2 are held by women, a woman serves as Chief Justice of the Supreme Court, and a woman chairs the National Reconciliation Commission. There are no women's caucuses, but the ruling party has a women's organization.

Muslims also are underrepresented in government; only one cabinet minister is a Muslim.

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

The Taylor Administration permitted domestic and international human rights groups to operate largely without interference; however, members of the security forces frequently harassed domestic democracy and human rights activists, and forced some human rights activists to live with friends for months due to fear (see Section 1.f.). Frequently government officials criticized domestic human rights groups publicly. In July an internationally known human rights activist returned to Liberia from study abroad for an extended visit but left abruptly after threats were made against him by members of the security forces. The Government routinely criticized these actions and pledged to investigate them and punish the perpetrators.

In November in response to reports of torture at the Gbatala base, President Taylor stated that the persistent reports of human rights abuses were the result of human rights organizations trying to get funding from the international community (see Section 1.c.). In July former combatants terrorized the family of an activist who was away from home at the time (see Section 1.f.). Legislators from the southeast countries sued a child rights advocacy group for defaming the reputation of the counties in its report on forced child labor (see Section 5).

Domestic human rights organizations are underfunded, understaffed, and their personnel lacked adequate training. There are two coalitions of human rights groups: The National Human Rights Center of Liberia has 12 member organizations, while 6 other groups joined together to form Network. Both of these organizations sought to increase public discussion of human rights problems.

Some human rights groups paid regular visits to detainees at police headquarters and prisoners at the Monrovia Central Prison. Several domestic human rights organizations have established branches outside of the capital and perform similar monitoring functions there. No discernible pattern of government interference with these activities emerged.

The government's Human Rights Commission, created in 1997, remained inactive throughout the year. It received no funding from the Government, and the Senate again failed to confirm the appointments of three of its five commissioners.

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

The Constitution prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion, but discrimination exists. There are no laws against gender discrimination, ethnic discrimination, or female genital mutilation. Differences involving ethnic groups, notably the Krahn and Mandingo ethnic groups, continued to contribute to serious political violence and abuses.

Women.—Domestic violence against women is extensive but has not been addressed seriously as a problem by the Government, the courts, or the media. Several NGO's in Monrovia and Buchanan continued programs to treat abused women and girls and increase awareness of their human rights.

The status of women varies by region, ethnic group, and religion. Before the outbreak of the civil war, women held one-fourth of the professional and technical jobs in Monrovia. On the whole, women have not recovered from the setbacks caused by the civil war, when most schools were closed, and they could not carry out their traditional roles in the production, allocation, and sale of food.

Women married under civil law can inherit land and property. However, women married under traditional law are considered the properties of their husbands and are not entitled to inherit from their husbands or retain custody of their children if their husbands die. In July 600 women from a coalition of women's organizations marched on Capitol Hill in Monrovia in support of legislation that would provide women in traditional marriages with inheritance rights. There continued to be few programs to help former combatants reintegrate into society, and there were none specifically to benefit former female combatants. However, several women's organizations advanced family welfare issues, helped promote political reconciliation, and assisted in rehabilitating both former female combatants and women who were victims of the civil war.

Throughout the year, professional women's groups—including lawyers, market women, and businesswomen—remained vocal about their concerns. Government officials often responded negatively to public criticism. There were credible reports of harassment and possible surveillance of outspoken critics (see Section 1.f.).

Children.—The Government generally was unable to provide for the education and health of children. Due to the poor condition of government schools, most children who attended school went to private institutions. Since many private schools had to be refurbished due to wartime damage, school fees were increased significantly, thereby making education unattainable for many school-age children. In both public and private schools, families of children often were asked to provide their own books, pencils, and paper. No data was available on either school enrollment or government expenditure on education.

Young persons were victimized seriously during the civil war. An estimated 50,000 children were killed; many more were wounded, orphaned, or abandoned. Nearly all youths witnessed terrible atrocities, and some committed atrocities themselves. About 21 percent (4,306) of the combatants who disarmed under the provisions of the Abuja peace accords were child soldiers under the age of 17. Many youths remain traumatized, and some still are addicted to drugs. The number of street children in Monrovia and the number of abandoned infants increased significantly following disarmament. NGO's and the U.N. Children's Fund continued retraining and rehabilitation programs for a limited number of former child fighters. A new juvenile court established in Monrovia in 1997 lacked the funds and personnel to function effectively (see Section 1.e.). Children continued to be incarcerated with adults, and there were long delays in deciding cases involving minors.

Child advocacy groups reported forced child labor in the rural areas of the country (see Section 6.c.). Local government officials in three of the counties cited sued one of the groups for defamation. At year's end, the case still was pending.

Female genital mutilation, which is widely condemned by international public health experts as damaging to both physical and psychological health, traditionally was performed on young girls by northern, western, and central ethnic groups, particularly in rural areas. Prior to the onset of the civil war in 1989, approximately 50 percent of women in rural areas between the ages of 8 and 18 were subjected to FGM. In some instances, female health professionals in the groups participated in the practice to the extent of providing postoperative care.

The war totally disrupted traditional village life. Most of the population fled to neighboring countries or became displaced within the country. Social structures and traditional institutions, such as the secret societies that often performed FGM as an initiation rite, also were undermined by the war. While many experts believe that the incidence of FGM had dropped to as low as 10 percent by the end of the war, traditional societies are reestablishing themselves throughout the country, and the increase in the incidence of FGM continued. The most extreme form of FGM, infibulation, is not practiced. The Government has taken no action against FGM.

In January a well-known 17-year-old child rights activist fled the country to evade persistent harassment of himself, his family, teachers, and high school classmates by security personnel (see Section 1.f.).

People with Disabilities.—As a result of the civil war, a large number of persons have permanent injuries, in addition to those disabled by accident or illness. It is illegal to discriminate against the disabled, but in practice they do not enjoy equal access to public buildings. No laws mandate accessibility to public buildings or services.

Religious Minorities.—Some tensions exist between the major religious communities. Although the law prohibits religious discrimination, Islamic leaders complained of discrimination against Muslims. There are some Muslims in senior government positions. However, many Muslims believe that they are bypassed for desirable jobs. Many Muslim business proprietors believe that the Taylor Government's decision to enforce old statutes prohibiting doing business on Sunday dis-

criminates against them. Many Muslims were allied with factions that opposed President Taylor during the recent civil war and still belong to opposition parties.

Discrimination against followers of other organized religions spills over into areas of individual opportunity and employment.

National/Racial/Ethnic Minorities.—Although the Constitution bans ethnic discrimination, it also provides that only "persons who are Negroes or of Negro descent" may be citizens or own land. Many persons of Lebanese and Asian descent who were born or lived most of their lives in the country are denied full rights as a result of this racial distinction.

The country, although small, is ethnically diverse. The population of about 3 million is made up of 16 indigenous ethnic groups and the Americo-Liberian minority—descendants of freed African slaves from the United States and the Caribbean—which until 1980 dominated the government and the public sector through the True Whig party. The indigenous ethnic groups generally speak distinct primary languages and they are concentrated regionally. No ethnic group constitutes a majority of the population.

Many members of the predominantly Muslim Mandingo minority encountered hostility when they sought to return, after the end of the civil war, to their villages in Lofa, Bong, and Nimba Counties. Many Mandingos were unable to reoccupy their homes, which had been taken over by squatters. Members of the Loma, Gio, and Mano minorities generally held all Mandingos responsible for atrocities committed by the Ulimo-Mandingo faction during the civil war. The lack of competent security forces and a fully functioning judiciary in these areas prevented many Mandingos from seeking redress. The violence in April and August in Lofa renewed ethnic tensions (see Section 1.a.).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution states that workers, except members of the military and police, have the right to associate in trade unions, and workers are allowed to join unions in practice. The Constitution also states that unions are prohibited from engaging in partisan political activity. Government interference in union activities, especially union elections and leaderships struggles, was common both before and during the civil war.

Although most economic activity was interrupted by the war, unions proliferated. Thirty-two functioning unions are organized loosely under two umbrella groups—the Federation of Liberian Trade Unions and the Congress of Liberian Trade Unions—with the common objective of protecting the rights of their 60,000 members, who largely were unemployed. The actual power that the unions exercised was extremely limited. Since the country's work force is largely illiterate, economic activities beyond the subsistence level were very limited and the labor laws tend to favor management.

The Constitution is silent on the right to strike, but labor laws provide for this right. A decree passed by the People's Redemption Council in 1984 outlawed strikes, but it was not enforced during the year. Due to the destruction of the economy and the estimated 85 percent unemployment rate, strikes were infrequent.

During the year, the Government strictly enforced the union registration requirements that fell into disuse during the war.

Public school teachers in several locations, including Monrovia, went on strikes or "go-slows" to protest the Government's failure to pay their salaries. On April 12, the Firestone rubber plantation agricultural workers' union went on strike over a proposed wage increase. The strike was settled 7 weeks later.

Labor unions traditionally have been affiliated with international labor groups such as the International Confederation of Free Trade Unions.

The United States suspended Liberia's status as a beneficiary under the generalized system of preference (GSP). The program was suspended in 1990 as a result of the Doe government's failure to provide internationally recognized workers' rights.

b. *The Right to Organize and Bargain Collectively.*—With the important exception of civil servants, workers (including employees of public corporations and autonomous agencies) have the right to organize and bargain collectively. In the past, agreements were negotiated freely between workers and their employers without government interference. These rights were largely moot because of the lack of economic activity.

There were no export processing zones. All those previously existing were destroyed during the civil war.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor including that performed by children; however, this prohibition was widely ignored in many parts of the country, such as rural areas where farmers were pres-

sured into providing free labor on "community projects" that often benefited only local leaders. The Government denied allegations that unpaid laborers were forced to harvest crops on President Taylor's private farm. There were reports of forced child labor (see Section 5).

Some former combatants, including some in the security forces were accused of forcing children to work. Early in the year, a child rights advocacy group released a report on forced child labor in the southeastern counties. The advocacy group's report and that of another prominent human rights group contradicted an earlier government report that failed to find any conclusive evidence of forced child labor. Subsequently legislators from three counties sued the child rights advocacy group for defaming the counties' reputations. At year's end, the case still was pending.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits forced and bonded labor by children (see Section 6.c.). Child advocacy and human rights groups reported child labor, but the Government denied that it existed (see Section 6.c.).

The law prohibits the employment of children under the age of 16 during school hours in the wage sector, but enforcement traditionally is lax. Throughout rural areas, but particularly where there were no schools, small children continued to assist their parents as vendors in local markets or on the streets, to take care of younger brothers and sisters, and to work on family subsistence farms.

e. *Acceptable Conditions of Work.*—The Labor Law provides for a minimum wage, paid leave, severance benefits, and safety standards, but enforcement was targeted solely against profitable firms that generally observed these standards. Due to the country's continued economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions.

The 1977 Labor Law requires a minimum wage of approximately $0.25 (10 ld) per hour not exceeding 8 hours per day, excluding benefits, for unskilled laborers. The law requires that agricultural workers are to be paid $1.50 (60 ld) for an 8-hour day, excluding benefits. Skilled labor has no minimum fixed wage, but industrial workers usually received three or four times the wage paid to agricultural workers. The much-sought-after minimum wage jobs provided a minimal standard of living for a worker and family. However, there were very few such jobs. Families dependent on minimum wage incomes also engage in subsistence farming, small-scale marketing, petty extortion, and begging.

The Ministry of Labor did not have the resources to monitor compliance with labor laws.

The Labor Law provides for a 48-hour, 6-day regular workweek with a 30-minute rest period per 5 hours of work. The 6-day workweek may extend to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours.

Prior to 1990, there were government-established health and safety standards, enforced in theory by the Ministry of Labor. During the war, these regulations were not enforced. Even under the Labor Law, workers did not have a specific right to remove themselves from dangerous situations without risking loss of employment.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

MADAGASCAR

Madagascar held its second presidential election under the 1992 Constitution in 1996, following the impeachment of then-President Albert Zafy earlier that year. The election was accepted widely as free and fair, and the winner, former Second Republic President Didier Ratsiraka, took office in February 1997. An extensive revision of the 1992 Constitution was approved narrowly in a March 1998 constitutional referendum. While observers from the International Foundation for Election Systems concluded that the referendum generally was free and fair, it was marred by significant difficulties in compiling voter lists, distributing electoral cards, and other problems, which led to charges of fraud and manipulation. Although power remains formally divided between the President, his Prime Minister, the Cabinet, and a bicameral legislature (Senate and National Assembly), the revised Constitution significantly strengthened the presidency and weakened the National Assembly. National Assembly elections held in May 1998 generally were accepted as free and fair; however, there were a number of credible complaints of electoral fraud. A number of institutions provided for in the revised Constitution, including the Senate, a restructured judiciary, and autonomous provincial governments, still were pending at year's end. The judiciary is subject to executive influence.

The State Secretary of the Ministry of Interior for Public Security and the national police, which are under the State Secretary, are responsible for law and order in urban areas. The Ministry of Armed Forces oversees the army, the air force, the navy, and the gendarmerie. The gendarmerie has primary responsibility for security except in major cities and is assisted in some areas by regular army units in operations against bandit gangs and cattle thieves. After a number of years of decline, the military force has stabilized at about 22,000 troops, including the gendarmerie. There also are local traditional laws called dina that are enforced by village-level law enforcement groups, particularly in areas where the Government's presence is weak. There continued to be occasional reports that police, gendarmes, and dina authorities committed human rights abuses.

Madagascar is a very poor country. The economy relies heavily on agriculture. Agricultural exports, led by shrimp, grew 4.3 percent with vanilla, coffee, cloves, and pepper all registering increases. Textiles were another major export. The smuggling of vanilla, gold, precious stones, and cattle continued to be major concerns. Overall economic performance improved, but nearly three-fourths of the population of about 14.7 million still live in poverty. Foreign assistance remains a major source of national income. Living standards are low, with the annual per capita gross domestic product estimated at $266. Inflation rose from 4.8 percent in 1997 to 7 percent in 1998. Unemployment and underemployment, especially among youth, remained high, although there was significant job growth in the capital during the year. The Government made progress on economic reform, including privatization.

The Government generally respected citizens' human rights in several areas; however, a number of problems remained. Prison conditions were harsh and life threatening. In some prisons, women experienced physical abuse, including rape. Lengthy pretrial detention remained a major problem, and suspects often were held for periods that exceeded the maximum sentence for the alleged offenses. The Government continued a major effort to reduce the number of preventive detainees. Dina authorities imposed summary justice—including several executions—in rural areas where the Government's presence was weak, although, overall, government efforts to bring dina authorities under closer regulation and scrutiny continued to show results. There virtually was no political violence during the year. Women continued to face some societal discrimination. Some prisoners were used as forced labor. There were reports of trafficking in women and girls.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by government forces; however, harsh prison conditions and the authorities' failure to provide adequate food and medical treatment contributed to an undetermined number of deaths in custody (see Section 1.c.).

There were no developments in the 1994 beating death of radio journalist Victor Randrianirina, who had reported on alleged sapphire smuggling.

Village dina authorities continued to mete out summary justice, and there were several cases of dina executions in the southeast.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the inviolability of the person; however, there were occasional reports that police or other security forces mistreated prisoners or detainees.

In February four policemen were convicted of raping a woman at a police station in November 1998, and sentenced to fines and prison terms of 1 to 1½ years.

Village dina authorities continued to mete out summary judgment. Dina authorities continued to use torture to gain confessions.

Prison conditions remain harsh and life threatening. Prisoners' diets are inadequate, and family members must augment daily rations. Prisoners without relatives nearby sometimes go for days without food. Prison cells average less than 1 square yard of space per inmate. The authorities do not provide adequate medical care. The prison population of approximately 19,200 suffers a range of medical problems that are treated rarely or inadequately, including malnutrition, infections, malaria, and tuberculosis. These conditions have caused an unknown number of deaths. There were instances in which prisoners were used as forced labor (see Section 6.c.).

Women in prisons suffer abuses, as do children who sometimes are confined with them. Gender segregation is not absolute, and rapes by other prisoners were reported.

The Government permits prison visits by the International Committee of the Red Cross, religious and nongovernmental organizations (NGO's), lawyers, and investigative journalists.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for due process for accused persons, but in practice the authorities do not always observe legal safeguards against arbitrary arrest and detention. In particular, excessive investigative detention of suspects results in the denial of due process. However, as the result of international pressure, some long-term detainees were released.

By law a criminal suspect must be charged, bound over, or released within 3 days of arrest. An arrest warrant may be obtained but is not always required. Defendants in ordinary criminal cases have the right to be informed of the charges against them, must be charged formally within the specified time permitted, and must be allowed access to an attorney. Court-appointed counsel is provided for indigent persons accused of crimes that carry a minimum 5-year jail sentence. An attorney or the accused may request bail immediately after arrest, after being formally charged, or during the appeals process, but bail is rarely granted in the case of violent crimes.

Of a prison population of approximately 19,200, about two-thirds of persons held in custody were in pretrial detention. Despite existing legal safeguards, investigative detention often exceeds 1 year, and 3 or 4 years' detention is common, even for crimes for which the maximum penalty may be 2 years or less. The accused may wait years in prison only to be exonerated ultimately in court. The Ministry of Justice continued a program to reduce excessive pretrial detention through case reviews and expedited judgments. Over 500 detainees have been tried and an indeterminate number of others freed.

Although the law allows detainees to sue the Government for damages in cases of unlawful detention, no such suits were reported. By law persons accused of subversive activity may be detained incommunicado for 15 days and are subject to indefinite detention if considered necessary by the Government; however, this law was not invoked during the year.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The revised Constitution provides for an autonomous judiciary; however, implementing legislation has not yet been passed, and the High Constitutional Court is subject to the President's influence.

The judiciary has three levels of jurisdiction: local courts for civil and criminal cases carrying limited fines and sentences; the Court of Appeals, which includes a criminal court for cases carrying sentences of 5 years or more; and the Supreme Court. The judiciary also includes courts designed to handle specific kinds of cases such as cattle theft. The High Constitutional Court is an autonomous court that undertakes technical reviews of laws, decrees, and ordinances, and certifies election results. The establishment of a number of decentralized courts also provided for in the Constitution awaits the creation of the Senate, which depends on the as-yet-unscheduled elections of autonomous provincial councils.

The judiciary remained under the control of the Ministry of Justice. Salaries of magistrates were raised to improve their performance, but reports of corruption in the judiciary persist. Although efforts are underway to address the problem, a large backlog of cases remained, which contributed to excessive investigative detention.

Trials are public, and defendants have the right to an attorney, to be present at the trial, to confront witnesses, and to present evidence. Defendants enjoy a presumption of innocence under the Penal Code.

The right of traditional village institutions to protect property and public order is codified in the Constitution as well as in earlier laws. Civil disputes within and between villages sometimes are addressed by local traditional laws called dina. Dina also are established in some urban areas. In practice, dina deal with criminal cases because of the isolation of many rural areas and the ineffectiveness of the police and the judiciary outside major urban centers. Punishments based on dina were at times severe, including several cases of executions (see Section 1.a.).

Decisions based on dina are not subject to codified safeguards for the accused, but in some instances they may be challenged at the appeals court level. Some cases also have been referred to the Office of the Mediator (ombudsman), which investigates and may seek redress from formal judicial authorities. An interministerial committee that includes the Ministries of Justice, Interior, and Armed Forces was established to improve the surveillance of dina authorities and assure their adherence to the law. The Ministry of Justice has moved away from its earlier permissive approach to dina and emphasized their subordination under the formal judicial system.

The Government continued to combat crime and insecurity in isolated rural regions by augmenting the gendarmerie—traditionally responsible for law and order

in rural areas—with army units. Military courts are integrated into the civil judicial system and differ only in the kinds of cases tried and in the inclusion of military officers on jury panels. Such courts have jurisdiction over some cases involving national security, including acts allegedly threatening the nation and its political leaders; invasion by foreign forces; and rioting that could lead to the overthrow of the Government. Defendants in military cases, as in civil law, enjoy an appeals process that reexamines points of law rather than the facts of the case. A civilian magistrate, usually joined on the bench by a panel of military officers, presides over military trials.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and government authorities generally respect these prohibitions in practice. Violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, at times the Government pressures the media to curb its coverage of certain events and issues. Opposition politicians rarely are given access to state-run media; while they do have access to private media, these do not provide the nationwide coverage of state media. In addition, journalists practice self-censorship.

On December 28, 1998, Christian Chadefaux, editor in chief of L'Express de Madagascar, and Harry Rahajason, a reporter with L'Express, were sentenced to 3-month prison terms for defamation. On March 26, the Court of Appeals acquitted both journalists.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, local authorities sometimes deny requests by political opposition groups to assemble or march in specified locations.

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

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

Religious groups must register and obtain authorization from the Ministry of Interior. In January 1998, an organization widely perceived to be affiliated with the Reverend Sun Myung Moon was refused registration, apparently due to concerns about its use of mind-control practices.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice; however, fear of crime effectively restricts travel to some places, especially at night.

The country does not have a law governing refugees nor has it ratified the 1951 U.N. Refugee Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government cooperates closely with the U.N. High Commissioner for Refugees in processing the small number of refugees or asylum seekers. There were no reports of the forced expulsion of persons with recognized or pending claims to refugee status. The issue of provision of first asylum has never arisen.

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

Citizens have the right to change their government through direct universal suffrage by secret ballot. Didier Ratsiraka was elected to a 5-year term as President in 1996 in the second presidential election held under the 1992 Constitution. In May 1998, the National Assembly's 150 members were elected to 5-year terms. In November communal elections were held in which the President's party, AREMA, won 40 percent of the mayoral races. The elections were peaceful and well-organized; however, there were numerous reports of fraud. In December the High Constitutional Court recognized serious irregularities and reordered elections in five communes.

Under the Constitution, the President has primary responsibility for national defense and foreign policy, while the Prime Minister is the head of government and responsible for domestic policy. The President selects the Prime Minister at will. The Constitution gives the President the right to dissolve the National Assembly for cause. The revised Constitution retains the possibility of censure by a two-thirds majority of the National Assembly and Senate. The Senate was not established pending the creation of autonomous provinces. In September 1998, the Prime Minister pledged publicly that all of the institutions called for in the Constitution would

be created by March 2000. Under the revised Constitution, two-thirds of the Senate's members are to be elected within the autonomous provinces, and one-third of the members are to be appointed by the President.

There are no legal impediments to women's participation in government or politics, but in practice they are underrepresented in both areas. The Government of 31 ministers and state secretaries appointed in July 1998 includes 4 women. Women make up less than 7 percent of National Assembly deputies (10 of 150).

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials usually are cooperative and responsive to their views.

The Government is open to visits by international human rights groups and to domestic and international election observers.

The Constitution provides for an independent office to promote and protect human rights. In 1994 the National Assembly assigned that role to the Office of the Mediator (ombudsman), which relies on moral suasion to correct abuses. The Office publishes annual reports on its activities and distributes brochures to educate citizens on their rights and responsibilities. Its reports have outlined the rights of women and children and focused public attention on the potential for human rights violations under dina.

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

The Constitution prohibits all forms of discrimination and outlaws groups that advocate ethnic or religious segregation. No specific government institutions are designated to enforce these antidiscrimination provisions.

Women.—Violence against women is not widespread. Police and legal authorities intervene when physical abuse is reported. No law deals specifically with violence against women except rape. Spouses can be tried for nonrape abuses, generally under civil law.

The law neither prohibits nor condones prostitution. The law prohibits incitement of minors to debauchery. The Government criticizes sexual tourism; however, while it attempts to investigate allegations of exploitation, a lack of resources hampers effective action.

In urban areas, where many women manage or own businesses or hold management positions in state industries, there is relatively little societal discrimination against women. According to one government official, women own 30 percent of formal sector companies and 53 percent of informal sector companies. However, discrimination against women in rural areas remains a problem. A number of NGO's focus on the civic education of women and girls to ensure that rights and legal protections are understood fully and acted upon as appropriate.

Under a 1990 law, wives have an equal voice in selecting the location of a married couple's residence, and they generally receive an equitable share of common property on divorce. Widows with children inherit half of joint marital property. A tradition known as "the customary third" is occasionally observed in some areas. Under this custom, the wife has a right to only one-third of a couple's joint holdings. However, a widow receives a pension, while a widower does not.

Children.—While official expenditures on children's welfare are low, the Government increased the spending levels of the Ministries of Health and Education despite continued fiscal austerity. These levels are not sufficient to maintain adequate public services under current economic conditions. The Government provides education through the secondary or vocational level, and it is compulsory through the age of 14. Although figures vary depending upon the source, approximately 65 percent of primary-school-aged children apparently are enrolled in school. However, only 29 percent of working children go to school: rural children drop out to help on family farms, and urban children work as domestics (see Section 6.d.).

There is no societal pattern of abuse of children, although child labor continues to be a pervasive problem (see Section 6.d.), and children sometimes are imprisoned with adults (see Section 1.c.).

People with Disabilities.—There is no systematic discrimination against disabled persons in employment, education, or in the provision of other state services. There is no law mandating access to buildings for persons with disabilities. The National Assembly passed a law to define the rights of the disabled in February 1998, but implementing regulations had not been issued by year's end.

National/Racial/Ethnic Minorities.—The Malagasy, who are of mixed Malayo-Polynesian, African, and Arab heritage, include 18 distinct groups differing in re-

gional and ancestral affiliation. Although there are some linguistic differences, nearly all speak a dialect of the Malagasy language. None of these groups constitutes a majority of the population. There are significant minorities of Chinese and Indo-Pakistani heritage, as well as a large number of resident French nationals.

A long history of military conquest and political consolidation raised the political and economic status of highland ethnic groups of Asian origin above that of coastal groups of more African ancestry. Centralized administration and economic planning since independence has reinforced the concentration of economic and political power in the central highlands, where the capital is located. These policies feed enduring tension between coastal and highland peoples. Ethnicity, caste, and regional solidarity often are factors in hiring practices.

An Indo-Pakistani community has resided in the country since the early part of the century. Traditionally engaged in commerce, this community now numbers about 20,000. Relatively few of these individuals have made successful claims to Malagasy nationality, which is customarily acquired through a native-born Malagasy mother. Indo-Pakistani merchants are mistrusted widely. In past years, their shops have been looted during civil disturbances.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the 1995 Labor Code provide workers in the public and private sectors with the legal right to establish and join labor unions of their choosing without prior authorization; however, essential service workers, including police and military personnel, may not form unions. Unions are required to register with the Government, and registration is routinely granted. About 80 percent of the labor force of 5 million is engaged in agrarian production. Union members account for only about 5 percent of the total labor force.

There are a number of trade union federations, many of which are affiliated formally with political parties. Neither public nor private sector unions have played a major political or economic role in recent years. The Government exercises very limited control over organized labor.

The Labor Code and the Constitution include the right to strike. This right extends to export processing zones (EPZ's). Workers in essential services have a recognized but restricted right to strike, although in practice short strikes took place without reprisal. The Code requires workers to exhaust conciliation, mediation, and arbitration procedures before striking, but this has not been a significant deterrent to legal strikes in practice.

Short and generally nondisruptive strikes took place over fiscal and administrative issues in some cities.

The International Labor Organization (ILO) has noted a number of instances in which the Government has failed to bring law and regulation into conformity with existing conventions or otherwise submit texts for ILO review, including those addressing forced labor, freedom of association, safe-guarding of machinery, hygiene in commerce and offices, and weight limits. In most instances, these failures indicated legislative inertia rather than abuses.

Unions freely join and participate in international bodies and may form federations or confederations.

b. *The Right to Organize and Bargain Collectively.*—Both the Labor Code and the Constitution provide for the right to bargain collectively. The Code states that collective bargaining may be undertaken between management and labor on the initiative of either party; however, collective bargaining agreements are rare in practice. The Government is often involved in the bargaining process, in part because of the large percentage of public employees who are union members.

The Labor Code prohibits discrimination by employers against labor organizers, union members, and unions. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. Labor laws apply uniformly throughout the country; however, the Government's enforcement of labor laws and regulations is hampered by lack of staff and financial resources. Approximately 35 inspectors from the Ministry of Labor visit industrial work sites with some regularity, but most often only those located near the capital.

There are many EPZ's which are, in practice, firms operating under special import and export rules. Such firms are required to follow all pertinent labor laws and regulations, including minimum wage laws.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code explicitly prohibits forced labor, and generally it is not known to occur; however, there were instances of prisoners being illegally "hired out" by prison officials to private enterprise. There also apparently has been systematic use of detainees and prisoners as personal servants by a substantial number of magistrates, judiciary officials, and local government figures. Some prison officials or judicial authorities have engaged

in the falsification of records to ensure a supply of unpaid labor for themselves or other government officials. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code defines a child as any person under the age of 18 years. The legal minimum age of employment is 14 years, and work by individuals under the age of 18 is prohibited at sites where there is apparent and imminent danger. The Government enforces child labor laws in the small formal economic sector through inspectors of the Ministry of Civil Service, Labor, and Social Laws. Nevertheless, child labor continues to be a pervasive problem: nearly one in three children aged 7 to 14 works. In the large agricultural sector, young children work with parents on family farms at much younger ages. In urban areas, many children work as petty traders, casual transport workers, and beggars.

The law prohibits forced and bonded child labor and the authorities enforce this prohibition effectively (see Section 6.c.).

Education is compulsory to the age of 14. While approximately 65 percent of primary-school-aged children apparently are enrolled, only 29 percent of working children attend school (see Section 5).

e. *Acceptable Conditions of Work.*—The Labor Code and implementing legislation prescribe working conditions and wages, which are enforced by the Ministry of Civil Service, Labor, and Social Laws. The law makes separate provisions for agricultural and nonagricultural labor.

The Government sets the minimum wage of approximately $25 (FMG 139,860) per month for the nonagricultural private sector. This wage does not provide a decent standard of living for a worker and family and must be supplemented by subsistence agriculture, petty trade, support from relatives, or employment of other family members. Minimum wage rates are not always respected, since high unemployment and widespread poverty lead workers to accept wages at lower levels.

The standard legal workweek in nonagricultural and service industries is 40 hours, and 42½ hours in agriculture. At least one 24-hour rest period each workweek is mandated. The Labor Code sets rules and standards for worker safety and worksite sanitation. Ministry of Civil Service, Labor, and Social Laws officials monitor labor conditions; however, they usually are able to cover only the capital region effectively. If violators do not remedy cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. In some sectors, safety equipment is not used due to the expense of protective clothing and other safety devices. There have been no published reports on occupational health hazards or accident trends. There is no explicit right for workers to leave dangerous workplaces without jeopardizing their employment.

f. *Trafficking in Persons.*—The law prohibits trafficking; however, there were reports that women and girls were trafficked to the nearby islands of Reunion and Mauritius for prostitution. No arrests or convictions have been made in connection with the trafficking. While the Government expresses concern, it lacks the resources to address this issue effectively.

MALAWI

On June 15, the Republic of Malawi held its second democratic presidential and parliamentary elections since independence in 1964. (The first were held in 1994.) Independent observers concluded that the election was "free and substantially fair"; however, there was limited opposition access to media and problems in registration, and the opposition appealed the result to the courts. Constitutional power is shared between a popularly elected president and the 193-member National Assembly. President Bakili Muluzi of the United Democratic Front (UDF) party was reelected to serve a second 5-year term, defeating Gwanda Chakuamba, the joint presidential candidate of the two leading opposition parties, the Malawi Congress Party (MCP) and the Alliance for Democracy (AFORD). The UDF has 99 seats in the National Assembly, the MCP has 65, and AFORD has 29. There is no clear-cut ideological difference among the three political parties. The Government respects the constitutional provisions for an independent judiciary; however, the judicial system is inefficient and lacks resources.

The National Police, headed by the Inspector General of Police under the Ministry of Home Affairs, are responsible for internal security. The police occasionally called on the army for support. There continued to be credible allegations that the police committed human rights abuses.

The country is very poor, with a narrow economic base characterized by a small and highly concentrated industrial sector, low levels of foreign and domestic investment, and few mineral resources. Agriculture dominates the economy, contributing about 87 percent of export earnings, 36 percent of gross domestic product, and employing over 80 percent of the labor force. Three crops—tobacco, tea, and sugar—generate about 78 percent of export earnings, with tobacco providing by far the largest share. There is little industry and mining, and no known economically viable deposits of gemstones, precious metals, or oil. The country is a landlocked nation, and freight and insurance costs constitute over 40 percent of its import bill—a serious impediment to economic development and trade. The Government continues to divest its ownership of public enterprises. Wealth remains concentrated in the hands of a small elite. In 1998 per capita income was approximately $200. Average annual inflation was 29.7 percent in 1998, up from 9.1 percent in 1997.

The Government generally respected the human rights of its citizens in many areas; however, serious problems remained. There were instances of extrajudicial killings, including deaths of detainees while in, or shortly after release from, police custody. The police are known to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. Prison conditions remained harsh and life threatening and resulted in a large number of deaths. Arbitrary arrest and detention are common, and lengthy pretrial detention is a serious problem. An inefficient and understaffed judicial system and limited resources called into question the ability of defendants to receive a timely, and in many cases, fair trial. Security forces at times infringed on citizens' privacy rights.

The print media are able to report freely; however, there were a few exceptions, and there was some self-censorship. The four private radio stations experienced relative freedom in broadcasting international news and entertainment programming; however, the state-owned Malawi Broadcasting Corporation continued to control news coverage and editorial content at its two radio stations. The constitutionally mandated Human Rights Commission (HRC) met for the first time in February. Violence against women is common. Women continued to experience severe societal discrimination. The Government took steps in its economic development programs to assist disadvantaged women. Abuse of children remained a problem. Child labor also is a problem. Mob violence triggered by anger over high levels of common crime resulted in summary executions of alleged criminals.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however there were extrajudicial killings stemming from the deaths of detainees while in, or shortly after release from, police custody. These deaths involved possible use of excessive force or possible negligence.

On August 25, former Eritrean detainees in Ethiopia obtained fraudulent Malawian visas and traveled to Malawi with government-issued travel documents. They were returned forcibly to Ethiopia after refusing an offer to travel to Eritrea. One former detainee was shot and killed, and at least six others were wounded in a confrontation with police in Lilongwe. No action was taken against the police.

A large number of prisoners died largely due to harsh prison conditions (see Section 1.c.).

Frustrated by inadequate law enforcement and rising crime, angry mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals to death. The police identified 146 cases during the year, and they made some attempts—largely unsuccessful—to identify and arrest those responsible. In September police in Lilongwe successfully rescued a car thief caught in the act by a crowd of vigilantes.

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

c. *Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel, inhuman, or degrading treatment; however, police continued to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. The Inspectorate of Prisons is an investigative body mandated by the Constitution. Knowledgeable NGO's consider that the findings of its October 1997 Inspectorate of Prisons report—the most recent document of its kind—remain indicative of prison conditions. That report notes that techniques used by police included beatings, physical assault, and the use of wire instead of handcuffs to restrain prisoners and to force confessions. These abuses sometimes are hidden by keeping a prisoner in police custody until wounds heal before turning the prisoner over to the prison system for remand. The mistreatment is partly due to the mistaken belief of many police officers that the law requires

them to present a case (not just charges) to the court within 48 hours of arrest. Lack of financial resources for appropriate equipment, facilities, and training also contributed to mistreatment.

There have been some marginal improvements in police conduct resulting from training in investigative interviewing skills and from workshops aimed at changing officers' attitudes. While higher ranking officials demonstrated familiarity with new standards for the humane treatment of prisoners, their subordinates commonly employed unacceptable techniques. The Government continued to seek community involvement in its comprehensive reform of the police. In February the National Assembly passed the Community Service Act, which permits some offenders to provide community service in place of imprisonment. As of year's end, there were Community Service Act pilot programs in four cities.

Prison conditions remained harsh and life threatening. Overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems. According to the 1997 Inspectorate of Prisons report, harsh conditions and inadequate health care contributed to the deaths from disease of over 200 inmates over a 20-month period from January 1996 to August 1997. The Government reported that during the year, 260 prisoners and suspects died in police cells and prisons, including those attempting to escape. While not kept in separate facilities, women are segregated within the prison compound and tended by female guards. Only four prisons have separate facilities for juveniles. In the other prisons, juveniles are incarcerated with adults.

The Inspectorate of Prisons, domestic nongovernmental organizations (NGO's), and international NGO's are permitted to make visits to monitor prison conditions without government interference.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution grants the accused the rights to challenge the legality of detention, to have access to legal counsel, and to be released or informed of charges by a court of law within 48 hours; however, these rights seldom are respected in practice. Police often resort to beatings to obtain information deemed necessary to their cases. In cases where the court determines that a defendant cannot afford to supply his own counsel, legal services are provided by the Government. With few persons able to afford legal counsel, the country's five public defenders were not sufficient to represent all indigent detainees in a timely manner. Bail frequently is granted to reduce prison overcrowding. Its use often bears only a tenuous relationship to the merits of an individual's situation. At the end of the year, approximately one-third of the 7,324 prison inmates consisted of detainees awaiting trial. Police are accused of arbitrary arrests due to political motives.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice; however, the judicial system is handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, a heavy caseload, and a lack of resources.

The Constitution provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The Chief Justice is appointed by the President and confirmed by the National Assembly. The President appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the President and a majority of the Parliament.

By law defendants have the right to a public trial but not to a trial by jury. In murder cases, the High Court nevertheless used juries of 12 persons from the defendant's home district. Defendants also are entitled to an attorney, the right to present and challenge evidence and witnesses, and the right of appeal. However, the judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants.

In July the High Court concluded a training program for 48 lay magistrates. Traditional court judges, absorbed into the magistrate court system, also receive some training in court procedure and the body of law that they administer. In August the High Court began a 2-month refresher-training program for traditional court judges.

Juvenile offenders have special rights under the Constitution, including the right to be separated in custody from adults, to be treated in a manner that recognizes their age and the possibility for rehabilitation, and to be exempt from the punishment of life imprisonment without the possibility of release. However, the protection they are accorded in principle is often denied in practice, and many juvenile offenders are incarcerated with adults.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Government authorities generally respected constitutional provisions that protect these rights; however, army and police forces, in carrying out sweeps for illegal weapons, did not always obtain search warrants as required by law.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some exceptions. Limited self-censorship still exists, in part due to habits that evolved during the country's 30-year single party political system, which ended in 1994. A broad spectrum of political and ideological opinion is presented in the country's two dozen newspapers, usually without government interference. However, the Government still threatened and harassed members of the media. In June an editor and senior reporter of the opposition weekly Malawi News were arrested and detained for 3 days following publication of a story on protests against the June 15 presidential and parliamentary election results. The story quoted the chant of an angry group calling for the army to take over the Government. The two journalists posted bail and at year's end were awaiting trial on charges of "publishing an article prejudicial to public safety" and "inciting to mutiny." The latter charge carries a maximum penalty of life imprisonment.

The state-owned Malawi Broadcasting Corporation (MBC) dominates the radio market with its two stations, transmitting in major population centers throughout the country. News coverage and editorial content are clearly progovernment. The MBC consistently denied opposition candidates access to the media during the presidential and parliamentary election campaigns. The Government began limited television broadcasting in March with editorial control similar to that on MBC radio.

There are four private radio stations. One commercial station began broadcasting in Blantyre in August 1998. A second commercial station began broadcasting in Blantyre in March. There is a rural community radio station run by local women, with the help of the Malawi Media Women's Association (MAMWA). A religious station broadcasts in the capital and its environs.

In November 1998, Parliament passed a communications bill that established the Malawi Communications Regulatory Authority (MACRA), an independent body that issues broadcasting licenses for radio, television, and Internet service providers. Currently, there are only a limited number of Internet service providers, and service is expensive. In May President Muluzi appointed the MACRA's first nine-member board.

There were no restrictions on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice. Authorities routinely granted official permits, which are required by law for large meetings.

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government requires organizations, including political parties, to register with the Registrar General in the Ministry of Justice. There were no reports of groups being denied registration during the year.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. Religious groups must register with the Government. There were no reports that the Government refused to register any religious group. Foreign missionaries experienced occasional delays in renewing employment permits, but this apparently was the result of bureaucratic inefficiency rather than deliberate government policy (see Section 6.e.).

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens have freedom of movement and residence within the country, and the right to leave and return.

The Government, with one exception, cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in managing the refugee community. According to the UNHCR, Malawi hosted over 1,400 refugees, primarily from the Democratic Republic of the Congo and the Great Lakes region, at the country's refugee center in Dowa. Although the Government grants refugee status, the law does not accept refugees for resettlement and does not permit them to work or study. Asylum applicants are granted hearings to make their case for asylum status. The Government also invoked the principle of first country of asylum against many of the Rwandans and Congolese who either had requested asylum in another country or had the opportunity to do so. Although there were no reports of bona fide refugees seeking first asylum being turned away, NGO sources continue to express concern that some of those found not to be bona fide refugees—primarily Congolese—were rejected because of poor quality translation or ambiguous questions that trapped or misled otherwise qualified refugees. In August the Government denied the UNHCR access to a group of 25 Eritreans in detention for attempting to enter the country,

reportedly as tourists, with fraudulent visas. Police shot and killed one detainee in their custody (see Section 1.a.). The Government forcibly returned the remaining 24 Eritreans to Ethiopia.

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

Citizens are able to exercise their constitutional right to vote in periodic elections. There is universal suffrage for citizens 18 years of age and older. International election observers found the June presidential and parliamentary elections to be free and substantially fair; however, the electoral process was flawed, as opposition access to the broadcast media was limited; there were registration problems in some areas of the country; and the Electoral Commission at times displayed bias in favor of the ruling party. The opposition appealed the outcome of the presidential vote, and at year's end the case still was pending before the High Court.

President Muluzi, First Vice President Justin Malewezi, and a 28-member cabinet exercise executive authority. The second vice presidency remains vacant. The executive exerts considerable influence over the legislature; the legislature follows the parliamentary system, and consequently a number of cabinet ministers also sit as Members of Parliament (M.P.'s). Although the Government and opposition have never reached agreement on the applicability of the 1997 High Court ruling that cabinet ministers cannot simultaneously sit as M.P.'s., the issue currently is not a topic of debate. At year's end, the Electoral Commission anticipated holding elections for local government councils in each of Malawi's 27 districts during 2000. Although the Government does not prevent the operation of opposition political parties, the parties continue to allege that the Government uses bribery and other inducements to encourage opposition party divisions and defections of key personnel to the ruling party.

There are no laws that restrict the participation of women or minorities in the political process; however, there are very few women in prominent government positions, and women are underrepresented in politics and in positions of authority in general. Four of the 28 cabinet members are women; women hold 17 of the 193 seats in the National Assembly. During the year, a citizen of European origin and several of Asian descent were elected to the National Assembly.

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

A wide variety of domestic and international human rights groups operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views.

The Ombudsman is mandated by the Constitution to investigate and take legal action against government officials responsible for human rights violations and other abuses. The Ombudsman's freedom of action is circumscribed by legislation that requires a warrant and a 3-day waiting period to gain access to certain government records. In August the High Court in Blantyre issued an injunction preventing the Ombudsman from investigating the June dismissal of four MBC employees. (The employees allege that they were dismissed because of their political views.) In addition to the injunction, the High Court ruled that the Ombudsman's activities are subject to judicial review. The Ombudsman appealed this ruling. At year's end, the employees were free on bail, and the trial was still pending.

The Constitution provides for a National Compensation Tribunal (NCT) to adjudicate claims of criminal and civil liability against the former government. As of February, the NCT had registered over 8,700 claims, of which approximately 25 percent had been resolved. The NCT's lack of funds limits its ability to settle claims. The constitutionally mandated Human Rights Commission (HRC) is charged to: monitor, audit, and promote human rights provided for under the Constitution; and to carry out investigations regarding violations of any human rights. The HRC's five commissioners, who were appointed by the President, officially met for the first time in February but took no significant action during the year.

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

The Constitution specifically provides for equal rights for women; forbids discrimination based on language, culture, or religion; and generally provides for equality and recognition before the law for every citizen. In practice the capacity of government institutions to assure equal rights for all citizens is limited.

Women.—Spousal abuse, especially wife beating, is common. Society has begun to take the problem of violence against women seriously. The press published frequent

accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape. However, domestic violence seldom is discussed openly by women, reportedly even among themselves, and in part due to the lack of resources there are no confidential shelters or facilities for treatment of women who suffer physical or sexual abuse. Police do not normally intervene in domestic disputes.

Under the Constitution, women have the right to full and equal protection by law and may not be discriminated against on the basis of sex or marital status; however, in practice discrimination against women is pervasive, and women do not have opportunities equal to those available to men. Women have significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity.

Women, especially in rural areas, historically have been unable to complete even a primary education, and are therefore at a serious disadvantage in finding employment. Accepted economic and social practice hampers the ability of women and girls to gain an education. The literacy rate among women between the ages of 15 and 45 is less than 37 percent. Male literacy in the same age group is about 45 percent. Girls drop out of school more frequently than boys do, and in the final year of primary school, only about 25 percent of students are girls. Despite recent significant gains in girls' access to education, large gaps remain between girls' and boys' achievement levels. However, there have been signs of improvement in education for girls. Girls entered first grade in the same proportion as boys during the year, although the percentage of female secondary school entrants is down from the previous year (39 percent).

Women often have less access to legal and financial assistance, and wives are often victims of discriminatory inheritance practices in which the majority of the estate is taken unlawfully by the deceased husband's family. Women are usually at a disadvantage in marriage, family, and property rights, but they have begun to speak out against abuse and discrimination. Households headed by women are represented disproportionately in the lowest quarter of income distribution. In a country where 85 percent of the population is rural, the majority of farmers are women; 70 percent of the rural female population farm full time. Typically, women work more hours than men to complete the same farm tasks because they rarely have comparable tools and equipment and remain responsible for all household tasks. Women have limited access to agricultural extension services, training, and credit. Some progress has been made in all of these areas with gender training for agricultural extension workers and the gradual introduction of rural credit programs for women. The participation of women in the limited formal labor market is particularly constrained; they constitute less than 5 percent of managerial and administrative staff.

Women face significant health problems. The country has a high maternal mortality rate. HIV/AIDS is a major threat, and females in the 15 to 24 age bracket are three to four times more likely to be HIV positive than men.

The Law Commissioner has undertaken a review of legislation that discriminates against women and has proposed legislation to bring the law into compliance with new constitutional standards. By year's end, 61 of 65 relevant laws had been reviewed. In 1997 Parliament passed an affiliation bill that raised the minimum level of child support. In 1998 Parliament passed a wills and inheritance bill that increased widows' rights.

The Government addresses women's concerns through the Ministry of Gender, Youth, and Community Services. The National Commission on Women in Development coordinates government and NGO activities. The Gender Initiative Network, an informal association of women's NGO's, attempts to bring together the largely urban women's rights activists and the overwhelming rural majority to discuss common interests; however, it did not take specific initiatives during the year.

Children.—The Constitution provides for equal treatment of children under the law, and the Government greatly increased spending on children's health and welfare. The Government established free primary education for all children in 1994, although education is not compulsory. Well over half of the country's children live in poverty, mostly in rural areas. Children in rural households headed by women are among the poorest. A few charitable organizations attempted to reduce the number of child beggars in urban areas and find alternative care for them. The problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. In 1995 there were an estimated 140,000 children who had lost their mother to AIDS, and this figure is expected to increase to 300,000 by 2000. Such children and other orphans normally are cared for by extended family members.

Only one-third of children have easy access to safe drinking water. Infant mortality is high. Child malnutrition is a serious problem.

There are societal patterns of abuse of children. A few small ethnic groups practice female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health. The Government took no action against FGM during the year. The media also have begun to report on the sexual abuse of children, especially in relation to traditional practices of initiation. While rites to initiate girls into their future adult roles are still secret, information suggests that abusive practices are widespread and quite damaging. Also, the belief that children are unlikely to be HIV positive contributes to the sexual abuse of minors.

People with Disabilities.—The Government has not mandated accessibility to buildings and services for the disabled, but one of the national goals in the Constitution is to support the disabled through greater access to public places, fair opportunities in employment, and full participation in all spheres of society. There are both public and privately supported schools and training centers, which assist individuals with disabilities. There are also several self-supporting businesses run by and for persons with disabilities. In December 1998, President Muluzi established a new cabinet-level position, the Minister of State Responsible for Persons with Disabilities.

National/Racial/Ethnic Minorities.—Malawians of African heritage are members of indigenous tribes and are not discriminated against by government or society. There is no legal discrimination against citizens of Asian heritage, although societal tensions exist between the communities of African and Asian origin.

Section 6. Worker Rights

a. *The Right of Association.*—The 1996 Labor Relations Act (LRA) governs labor issues. Workers have the legal right to form and join trade unions; however, union membership is low due to the small percentage of the work force in the formal sector (about 12 percent), the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to joining unions. Only 13 percent of persons employed in the formal sector belong to unions. Accurate statistics on the numbers of union members are not available.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor and Vocational Training (MOLVT). Army personnel and police may not belong to trade unions, but other civil servants are allowed to form unions. There are no unusually difficult registration procedures. Unions are independent of the government, parties, and other political forces.

Although there are no restrictions on the number of union federations, the country has only one, the Malawi Congress of Trade Unions (MCTU). All unions are affiliated with it.

Mechanisms for protecting internationally recognized worker rights are weak. There are serious manpower shortages at the Ministry of Labor; as a result, there are almost no labor standards inspections.

The LRA allows members of a registered union to strike only after all dispute settlement procedures established in a collective agreement and conciliation procedures have failed. The law requires a notice in writing to the employer and the MOLVT at least 7 days before a strike. The law also forbids the temporary replacement of labor, and allows peaceful picketing during strikes. However, members of a registered union in "essential services" do not have the right to strike. Essential services are specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population; they are determined by the Industrial Relations Court upon application by the Minister of Labor. The law provides similar procedures for lockouts. Laws do not specifically prohibit retaliation against strikers. There is no prohibition on actions against unions that are not registered legally. Arbitration rulings are legally enforceable.

Unions may form or join federations, and have the right to affiliate with and participate in international workers' organizations, with the permission of the Government.

b. *The Right to Organize and Bargain Collectively.*—Unions have the right to organize and bargain collectively. The LRA requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level. The LRA requires at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions include wage negotiation, dispute resolution, and industry-specific labor policy development. Collec-

tive agreements are binding legally, and both parties must deposit them with the Registrar of Trade Unions.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities.

Parliament approved legislation to establish export-processing zones (EPZ's) in 1995. At year's end, 25 firms held licenses to operate under EPZ status, and all were operational. The full range of labor regulations applies to the EPZ's.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor, and such labor is not generally used. There are allegations that some large agricultural estates engage in the practice. The law does not prohibit specifically forced and bonded labor by children.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution defines children as persons less than 16 years of age. It prohibits the employment of children in work that is hazardous, harmful, or interferes with their education. Primary education is free and universal, but not compulsory. Budgetary constraints largely preclude minimum work age and child labor law enforcement by police and MOLVT inspectors. There is significant child labor on tobacco and tea farms, subsistence farms, and in domestic service. There is no special legal restriction on children's work hours, largely due to extreme poverty and longstanding cultural tradition. The law does not prohibit forced and bonded labor by children specifically; however, forced and bonded labor in general is prohibited by law. Nonetheless, at least one local NGO has reported that in urban areas it is not uncommon to find young girls working as domestic servants, receiving little or no wages, and existing in a state of indentured servitude (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The MOLVT sets separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board composed of representatives of labor, government, and the private sector. The urban minimum wage amounts to about $0.58 (MK24.80) per day, including $0.07 (MK3) for rent; in all other areas it is roughly $0.41 (MK17.50) per day, including $0.04 (MK2) for rent. These minimum wage rates, the result of a revision in August 1998 following a 40 percent devaluation of the currency, remain insufficient to provide a worker and family with a decent standard of living. Wage earners tend to supplement their incomes through farming activities. The MOLVT lacks the resources to enforce the minimum wage effectively. However, the minimum wage largely is irrelevant for the great majority of citizens, who earn their livelihood outside the formal wage sector.

The maximum legal workweek is 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violate statutory time restrictions.

The law protects foreign workers in correct legal status. Illegal foreign workers are subject to deportation.

In November 1998, the Government issued a revised "policy statement" and new guidelines for the issuance and renewal of [expatriate] employment permits that underscored its desire to make such permits readily available to foreigners. The 1998 guidelines mandated that processing times for temporary employment permit (TEP) applications not exceed 40 working days. Nonetheless, slow and inconsistent processing of TEP applications caused concern and sometimes hardship to businessmen, teachers, health workers, and missionaries. Foreign firms continue to complain that processing times for TEP applications exceed the 40-day maximum mandated in the 1998 policy statement.

The Workers' Compensation Act includes extensive occupational health and safety standards. Enforcement of these standards by the MOLVT is erratic. Workers—particularly in industrial jobs—often work without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, given the low level of education of most workers and the high level of unemployment, they are unlikely to exercise this right.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons. A court ruling during the year acquitted a local businesswoman of luring three Malawian girls to the Netherlands and subsequently forcing them into prostitution.

MALI

Mali is a constitutional democracy now implementing decentralization following local elections. President Alpha Oumar Konare was reelected to a second 5-year term in 1997. A collective of 12 opposition parties boycotted the 1997 presidential and legislative elections, which were administratively flawed but considered generally free and without evident fraud, and claimed that the elections were unconstitutional because the Government failed to carry out annual updates of electoral lists. However, some opposition candidates chose to participate by running as independents. The ruling Alliance for Democracy in Mali (ADEMA), led by President Konare, dominates the National Assembly, which includes representatives of opposition and ADEMA-aligned parties. Local elections took place in May and June in 682 rural communities, completing elections held in 19 urban communities the previous year. Council members elected their mayors between August 28 and September 6, and newly elected mayors took over local administration between September 9 and September 15. The Constitution provides for an independent judiciary, but in practice the Government continues to exert influence on the judiciary.

Security forces are composed of the army, air force, Gendarmerie, the National Guard, and the police. The army and air force are under the control of the civilian Minister of the Armed Forces and Veterans, as are the Gendarmerie and the National Guard. The police are under the Ministry of Territorial Administration and Security. The police and gendarmes share responsibility for internal security. The Government completed the process of integrating elements of former Tuareg rebel forces into its armed forces.

Mali is a very poor country with a market-based economy. Most of the work force is employed in the agricultural sector, particularly farming and animal husbandry. The country's principal exports are cotton, livestock, and gold. There is a very small industrial sector, largely based on the manufacture of textiles, beverages, and processed food products. The gross national product is approximately $251 per capita, which provides most of the population with a low standard of living. The economy depends heavily upon foreign assistance. Desertification and social limitations, including a current estimated literacy rate of roughly 20 percent and a high population growth rate, contribute to poverty. Poor infrastructure, minimal foreign investment, administrative inefficiency, and corruption are also important factors in limiting economic growth.

The Government generally respected its citizen's human rights in many areas; however, problems remained in several others. There was one incident of politically motivated disappearance. Prison conditions remained poor. Unlike the previous year, there were no instances of arbitrary arrest and detention; however, the judicial system's large case backlog resulted in long periods of pretrial detention and lengthy delays in trials. The judiciary continued to be subject to executive influence. Unlike the previous year, there were no instances in which freedom of assembly was limited. Societal discrimination against women persists, and social and cultural factors continued to limit sharply economic and educational opportunities for most women. Violence against women and children, including spousal abuse and female genital mutilation (FGM), is widespread. There were several serious incidents of societal violence related to political or ethnic tension. Political change in the country's volatile northern region was followed by sectarian violence in isolated villages. There was an incident during the June rural election in which five government officials were kidnaped and two voting stations were destroyed by a group that tried to disrupt the election. In a separate incident, clashes between Kounta and Arab communities resulted in 33 deaths and several injuries. In June and July, two violent incidents occurred between Fulani herders and Sarakole farmers in the Kayes region. A dozen persons were killed, and several were wounded. In both incidents, parliamentary and government mediation have helped in easing the tension between the communities in conflict.

Small-scale traditional family-based child labor is frequently employed in agriculture and domestic areas. Malian children were trafficked sold into forced labor in Cote D'Ivoire; the Government arrested several traffickers. Hereditary servitude relationships link different ethnic groups.

RESPECT FOR HUMAN RIGHTS

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

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

There were no developments in the 1994 deaths of the Swiss Cooperation Mission director and his two Malian colleagues, who were killed by an army patrol in

Niafunke´. A government mission of inquiry into their deaths determined that the actions were unwarranted and unjustified. However, to date, the Government has taken no action to expedite the case, which remains on file at a regional court.

In the evening prior to the June 1998 municipal election in Segou, individuals seeking to disrupt the elections threw a grenade into the courtyard of the regional representative of the electoral commission, killing the deputy chief commissioner's adult daughter and wounding several other persons. Several persons were arrested and charged with assault and attempt to kill; the case is still under judicial investigation. On October 12, the detainees were released provisionally to await arraignment and trial.

b. *Disappearance.*—In July a group of nomads in the Cercle of Menaka disrupted voting in the local elections by kidnaping five officials and destroying voting materials, citing an unfair drawing of the voting area's boundaries (see Section 3). The officials were released unharmed after the Government permitted the kidnapers to depart for a neighboring country.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the authorities generally respect these provisions.

Amnesty International (AI), in reports released in November 1997 and in October 1998, cited allegations by former detainees and an independent witness that members of the security forces had tortured them in order to extract confessions in some cases. Although senior government officials voiced skepticism about these reports, the Government invited AI to continue its monitoring and reporting activities (see Section 4). In the two cases on which AI's allegations of torture chiefly focused, the case of the 1997 election day bombing of the Bamako market and the case of military officers accused of planning a coup (see Section 1.e.), the defendants were released soon after their convictions, either because the President pardoned them or because the court imposed short sentences including the time that they already had been detained.

Some police and gendarmes extort bribes at vehicle checkpoints (see Section 2.d.).

Prison conditions are poor. Prisons continue to be characterized by overcrowding, inadequate medical facilities, and limited food supplies. They remain below minimum international standards. In Bamako juvenile offenders usually are held in the same prison as adult offenders but are kept in separate cells. Women are housed in the same prison facility as men but live in a separate compound. In regional prisons outside the capital, men and women are housed in the same building but in separate cells. In these facilities, children share cells with adult prisoners of the same sex. In late 1997, the Justice Minister made a fact finding tour of the prison system, which led to the closing of the colonial-era Kidal prison with its prisoners given daytime jobs in the remote northern desert town. In 1998 the Minister initiated an overall review of prison conditions. In December 1998, the Justice Minister confirmed that poor prison conditions persist; the Democracy Forum held that same month concluded that although poor, prison conditions were improving. The Judiciary Forum meeting of civil society representatives held in March concluded that prison conditions remained poor. However, the Democracy Forum in December noted that the Government had taken some steps to improve the condition of detainees, including opening separate facilities for reeducation of young offenders and education for guards in the rights of detainees. During the year, women and children initially detained in the central prison of Bamako were transferred to the new detention center inaugurated by the government in December 1998.

The Government permits prison visits by human rights monitors. Several organizations, including the Malian Association of Human Rights, the Malian Association of Women Jurists, and other nongovernmental organizations (NGO's) visited prisoners and are working with women and juvenile prisoners to improve their conditions. The International Committee of the Red Cross (ICRC) continued to visit imprisoned leading members of the former government.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice detainees are not always charged within the 48-hour period. Moreover, administrative backlogs and insufficient lawyers, judges, and courts often cause lengthy delays in bringing persons to trial. In extreme cases, individuals have remained in prison for several years before coming to trial. For example Abdoulaye Diallo had been detained since 1995 prior to his conviction in March 1998 for embezzlement during his tenure as Minister of Health under the regime of General Moussa Traore, who was President until 1991. He was sentenced for crimes of bloodshed to 3 years' imprisonment, which included time spent in custody. He was absolved of economic crimes.

Judicial warrants are required for arrest. Local lawyers have estimated that about half of prison inmates are pretrial detainees. This judgment was confirmed in March during the Judiciary Forum seminar. Limited rights of bail or the granting of conditional liberty exist, particularly for minor crimes and civil matters. On occasion the authorities release defendants on their own recognizance.

In 1997 former President Traore, his wife Mariam, and former customs commissioner Douah Abraham Sissoko, who were placed under detention following the fall of the Traore regime in 1991, remained under detention and were charged with "economic crimes," including "abuse of a position of power" and "illicit enrichment." They had been convicted and sentenced to death in 1993, but President Konare commuted their sentences to prison terms in December 1997. The trial in their cases and similar cases involving five other senior officials of the Traore regime began in October 1998. Traore, his wife Mariam, and Sissoko were convicted and sentenced to death in January; they are currently serving life sentences.

The Government does not practice forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch continues to exert influence over the judicial system. The Ministry of Justice appoints and has the power to suspend judges; it supervises both law enforcement and judicial functions. The President heads the Superior Judicial Council, which oversees judicial activity.

The Supreme Court has both judicial and administrative powers. The Constitution established a separate Constitutional Court that oversees issues of constitutionality and acts as an election arbiter. The Constitution also provides for the convening of a High Court of Justice with the power to try senior government officials in cases of treason.

Except in the case of minors, trials are public, and defendants have the right to be present and have an attorney of their choice. Defendants are presumed innocent and have the right to confront witnesses and to appeal decisions to the Supreme Court. Court-appointed attorneys are provided for the indigent without charge. The village chief in consultation with the elders decides the majority of disputes in rural areas. If these decisions are challenged in court, only those found to have legal merit are upheld.

Women and minorities are not discriminated against in courts.

AI in an October 1998 report described the arrest in 1996, detention in 1997, and ultimate trial and conviction in March of seven military officers, including former minister Mady Diallo, who were accused of plotting to overthrow the Government. The report concluded that there were irregularities throughout the process, that confessions were provided under duress, and that the entire process and the subsequent sentences were politically motivated. However, the prosecution described the officers' claim that they were engaged in labor union activities within the officer corps as a veiled attempt to organize a coup. The accused were released in March 1998, having already served in detention most of the prison terms to which they were sentenced. Diallo originally said that he would appeal the court's verdict, but he did not pursue the matter after release.

There were no other reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home, and the Government respects this right in practice. Police searches are infrequent and require judicial warrants. However, security forces maintain physical and technical surveillance of individuals and groups believed to be threats to internal security, including surveillance of telephone and written correspondence of individuals deemed to be a threat to national security.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There are approximately 40 private newspapers and journals, in French, Arabic, and local languages. There are five daily newspapers: four are privately owned, of which one is allied with the ruling party and one is government controlled.

The Government controls one television station and one of many radio stations, but all present a wide range of views, including those critical of the Government, the President, the Prime Minister, and other politicians. However, there are no private television stations that broadcast domestically produced programs. The legal framework for private television has been in place since 1992; however, the Government still is developing the fee schedules. Radio KLEDU has had an approved application on record since 1992, but it also is awaiting announcement of the fee schedules and examining its financial base before starting private television broadcasting.

The Government made little progress toward private television licensing during the year.

The relative expense of newspapers and television, coupled with a low literacy rate, makes radio the most prevalent medium of mass information and communication. There are as many as 15 private radio stations in Bamako, and there are approximately 40 additional stations throughout the country.

The Government does not censor print, broadcast, or electronic media, which often offer editorials critical of the Government and opposition alike. Laws passed in 1993 regulate the press and provide for substantial criminal penalties, including imprisonment, for libel and for public injury to the Head of State, other officials, and foreign diplomats; these laws leave injury undefined and subject to judicial interpretation. However, the current Government never has prosecuted journalists on criminal libel charges. No journalists were arrested on libel charges during the year.

Domestic reception and distribution of foreign satellite and cable television is permitted and fairly widespread, especially in Bamako. Five domestic servers provide access to the Internet. Licenses to operate Internet servers are granted freely and are not prohibitively expensive.

Academic freedom generally is respected; however, in April security forces made a mass arrest of students attending a meeting on the campus of an institute of higher education (see Section 2.b.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, there were a few exceptions. The law requires groups that wish to hold public meetings to obtain the mayor's permission; such permission is granted routinely. In February and March, students demonstrated on the campus of the National University to protest against the holding of exams. About a dozen of the demonstrators were detained by police, but later released without charge.

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

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, the Government does not officially recognize the Baha'i Faith. The law allows for religious practices that do not pose a threat to social stability and peace. The Constitution declares the country a secular state.

The Government requires that all public associations, including religious associations, register with the Government. However, registration confers no tax preference and no other legal benefits, and failure to register is not penalized in practice. The registration process is routine and is not burdensome. Traditional indigenous religious are not required to register.

In 1989 a previous government refused an application for registration submitted by a Baha'i group, although there was and still is no state law prohibiting the practice of the Baha'i Faith. The absence of official recognition does not appear to have restricted materially the practice of the Baha'i Faith in the country. Although the Government still does not officially recognize the Baha'i Faith, it does not restrict the practice of the religion either in law or in practice.

Muslims make up about 90 percent of the population, and the vast majority of Muslims are Sunni. Most of the remainder of the population practice traditional indigenous religions or no religion. There is a small Christian minority, and the Christian community is about evenly split between Catholic and Protestant denominations.

Foreign missionary groups operate in the country, and Muslims and non-Muslims may proselytize freely.

The Minister of Territorial Administration and Security can prohibit religious publications that he concludes defame another religion, but there were no reports of instances in which publications were prohibited.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice. The Government generally does not restrict internal movement and does not restrict international travel. However, police routinely stop and check both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes use the occasion to extort bribes.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. A June 1998 law conforms to the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. As a follow-up to this law, in December 1998 the Government created a national committee in charge of refugees. The

committee began operations in January with institutional assistance from the UNHCR. The Government provides first asylum for refugees.

According to both UNHCR and government estimates, there were 6,000 Mauritanians living in western Mali at year's end. However, the UNHCR, Mauritania, and Mali have never agreed on recognition of the refugee status of these persons, who have lived in Mali for nearly a decade. Members of these pastoralist, border groups historically make cross-border migrations. Throughout 1998 the UNHCR provided some limited material assistance and incentives to pastoralists of Mauritanian origin to return to Mauritania, and this program reduced the number from approximately 10,000 at the end of 1998 to the estimated 6,000 still residing in the country. In June the UNHCR completed its assistance to such persons, which consisted of community support at their living sites as opposed to repatriation assistance. Mauritanians are free to register for refugee status, although few actually do.

Mali hosted approximately 1,900 urban refugees as of November; four-fifths are from Sierra Leone and 90 percent are in Bamako. The Government opened a transit center located 120 miles from Bamako, where it hosts approximately 100 of the most vulnerable refugee and asylum applicants. The center has a capacity of approximately 300 persons, but that could be expanded to hold 900.

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

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

Citizens have the right to change their government and did so for the first time in 1992. In 1997 citizens elected President Alpha Oumar Konare to a second 5-year term by secret ballot in elections that were open to all and free of evident fraud and manipulation. Konare won 96 percent of the vote, but voter turnout was reportedly 20 to 25 percent; most opposition parties boycotted the election, citing flaws in the voter registration system. The opposition continued to charge that the Government failed to carry out constitutionally mandated annual electoral list revisions and that, therefore, the elections should be declared invalid.

Under the Constitution, the President is Chief of State and Commander in Chief of the armed forces and is elected for a term of 5 years with a limit of two terms. The President appoints the Prime Minister. Additionally, the President appoints other members of the Government and sets limits on their powers. He names civil servants (national directors, regional government delegates, and others) and high military officers as mandated by the Constitution. The President also promulgates laws within 15 days, following transmission to the Government of a final adopted text. He can veto and return legislation to the National Assembly for reconsideration. There is no provision for the National Assembly to override a presidential veto. The President may submit all questions of national interest to referendum after consultation with the Constitutional Court. He exercises the power of pardon and can grant amnesty. The President may dissolve the National Assembly and call for new elections, although not in the year following legislative elections. Theoretically, he can declare a state of emergency and rule by decree, although President Konare has never done so.

National Assembly members were elected in 1992 and 1997. The Constitutional Court cancelled the results of the initial 1997 legislative elections, citing flaws in the electoral process. These elections were repeated later in 1997, and the results were implemented. Citing problems in the voter registration process, a collective of 18 opposition parties boycotted these elections, which, although administratively flawed, were considered by most independent observers to be generally free and without evident fraud. ADEMA holds 130 of 147 seats in the National Assembly, with 12 held by allied parties and 5 held by opposition parties.

The Government instituted far-reaching administrative reforms during the year. As of September 16, governing authority is shared by elected mayors in the 701 communes (including the 19 cities), and appointed officials ("commissaire du gouvernement") who are the representatives of the central Government in the District of Bamako, the regions and the cercles (districts roughly equivalent to counties). Local governments benefit from central government subsidies, but they also are able to collect local taxes to support their operations. Decentralization is still a controversial issue. The process has changed traditional power relationships between government and governed and has relieved formerly powerful civil servants of their authority. The new administrators often are inexperienced and undereducated. Despite governmental pressure to move ahead with decentralization, the nonparliamentary opposition says that the Government is moving too fast, and should

implement the process step by step as administrators lack adequate funding to govern effectively.

After local elections in June 1998, held to choose council members for the 19 urban communities, the long-awaited rural elections were carried out in May and June. Several opposition parties that had boycotted earlier elections participated in the rural elections, with considerable success. On election day, a group of nomads in the Cercle of Menaka disrupted the voting by kidnaping five officials and destroying voting materials, citing an unfair drawing of the voting area boundaries (see Section 1.b.). In two communities (Kidal and Bourem), council members could not elect a mayor due to intercommunity disputes.

There are no restrictions, legal or otherwise, on voting by women or minorities; however, women are underrepresented in politics. A total of 18 women hold seats in the 147-member National Assembly, compared with 3 elected in 1992. Six cabinet members are women. Members of historically marginalized pastoralist ethnic minorities, including the Fulani and the Tauregs, occupy seats in both the Cabinet and National Assembly. The President of the Assembly is Fulani (see Section 5).

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

Independent human rights organizations—including the Malian Association for Human Rights (AMDH), a smaller Malian League of Human Rights, and a local chapter of Amnesty International (AI)—operate openly and without interference from the Government. The ICRC has offices in Bamako, Timbuktu, and Gao.

Since 1994 the Government has held an annual Democracy and Human Rights Forum in December to which it invited citizens to voice discontent and grievances against the Government publicly in the presence of the media and international human rights observers. The events are well attended by local citizens from all walks of life and discussion is free and open. Held on December 10, the Democracy Forum convened to review the previous year's work and to make recommendations to the Government. The topics for discussion included judicial reform, access to education, and violence against women. The Forum called on the Government to make these issues a priority in the coming year.

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

The Constitution prohibits discrimination based on social origin, color, language, sex, or race, and the Government respects these provisions in practice. However, social and cultural factors give men a dominant role.

Women.—Violence against women, including wife beating, is tolerated and common.

Women's access to jobs in the professions and government, and to economic and educational opportunities traditionally has been limited. A 1995–96 national demographic and health survey found that 81 percent of women (compared with 69.3 percent of men) between the ages of 15 and 49 received no education. Women constitute 15 percent of the labor force. The Government, the country's major employer, pays women the same as men for similar work. Women often live under harsh conditions, especially in rural areas, where they perform difficult farm work and do most of the childbearing. Despite legislation giving women equal rights regarding property, traditional practice and ignorance of the law prevent women from taking full advantage of this reform. In 1996 the Government launched a 4-year national plan of action for the promotion of women. The plan, financed by national, regional, and local community budgets, seeks to reduce inequalities between men and women in six target areas, including education, health, and legal rights. Despite its initial 4-year mandate, the plan is not close to completion; however, it continues to influence government project development.

Traditional practice discriminates against women in inheritance matters.

There are numerous active women's groups that promote the rights of women and children. Women have very limited access to legal services. They are particularly vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights.

Children.—Although by law primary education is compulsory through the sixth grade, only 50 percent of children receive a basic education. Literacy rates among females remain low due to a low degree of adherence to this requirement, a lack of primary schools, cultural tendencies to place less emphasis on education for girls, and the fact that most of the population live in rural areas.

There is no constitutional or legal provision to protect the interests and rights of children, and there is no juvenile court system. However, the Malian Social Services Department investigates and intervenes in cases of reported child abuse or neglect.

According to local human rights organizations, reported cases are rare; however, statistics are unreliable.

There were credible reports that children were sold into forced labor in Cote d'Ivoire (see Section 6.c.).

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is still common, especially in rural areas, and is performed on girls at an early age. According to a 1995–96 national demographic and health survey, at least 93.7 percent of adult women have undergone this mutilation. The Government has not proposed legislation prohibiting FGM. The Government is pursuing a program of public awareness rather than legal prosecution of women involved in the practice. It supports educational efforts to eliminate the practice through seminars and conferences and provides media access to proponents of its elimination. In 1997 the Ministry for the Promotion of Women created a National Committee Against Violence Towards Women that links all the NGO's active in preventing FGM. Throughout the year, various NGO's campaigned against FGM and in October 1998, the National Committee adopted a draft action plan against sexual mutilation for submission to the Ministerial Council and after further revision was presented early in the year. The Ministerial Council accepted the recommendations and the Government instituted a two-phased plan to eliminate excision by 2008. The first phase, scheduled for 1999–2004, is one of education and dissemination of information. The second phase, scheduled for 2004–08 is projected to adopt legislation and legally enforce such ordinances.

People with Disabilities.—There is no specific legislation protecting the rights of the physically or mentally disabled, nor mandating accessibility. The Government does not discriminate against the physically disabled in regard to employment, education, and other state services; however, the Government has not taken special provision for the disabled in these areas. There is no societal discrimination against the disabled; however, in view of the high unemployment rate, the physically disabled are often unable to find work.

National/Racial/Ethnic Minorities.—The population of about 10 million is ethnically, culturally, and regionally diverse. Major ethnic-cultural groups include: the Mande, concentrated in the southwest, which constitutes about half the population and includes the Bambara ethnic group; the Malinke; the Voltaic, concentrated in the south and comprising the Bobo and Senoufo groups; the Sudanic, concentrated in the central regions and comprising the Sarakole, Songhai, Dogon, and Bozo groups; and the pastoralist, comprising the Tuaregs and Moors of the northeast and the Peul (or Fulani) of the central region.

Longstanding tensions between the long-marginalized Moor and Tuareg pastoralist groups and the more populous nonpastoralist groups have been a leading source of political instability and violence, including the Tuareg rebellions of the early 1990's. In June and July, there were two violent incidents between Fulani herders and Sarakole farmers in the western region of Kayes bordering Senegal and Mauritania, over natural resource management. A dozen persons were killed and several were wounded. Clashes between Arab and Kounta communities resulted in the death of 33 persons, with several others wounded. In both cases, traditional and parliamentary mediators have negotiated peace between the parties in conflict.

No single ethnic group predominates in either the private sector or the public sector. All three presidents since independence have been affiliated with the Bambara group, which accounts for roughly half of the country's population, but no ethnic group holds disproportionate numbers of government positions or predominates in the military or civil service. Political parties, by and large, do not have readily identifiable ethnic bases, but some reflect regional constituencies.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the Labor Code specifically provide for the freedom of workers to form or join unions and protect freedom of association. Only the military, the Gendarmerie, and the National Guard are excluded from forming unions. Virtually all salaried employees are organized. Workers have established independent unions for teachers, magistrates, health workers, and senior civil servants, and most are affiliated with the National Union of Malian Workers (UNTM) confederation. The UNTM has maintained its autonomy from the Government. The umbrella union, UNTM, held a warning strike on July 20–21. Subsequently, government workers received a 7 percent salary increase.

There are two major labor federations, the UNTM and the Syndicated Confederation of Malian Workers (CSTM). The UNTM, formerly the only major labor body, split in late 1997, dividing the country's 12 labor organizations into 2 federations.

The Constitution provides for the right to strike, although there are restrictions in some areas. For example civil servants and workers in state-owned enterprises

must give 2 weeks' notice of a planned strike and must enter into negotiations with the employer and a third party, usually the Ministry of Labor. The Labor Code prohibits retribution against strikers, and the Government respects this requirement in practice.

Unions are free to associate with and participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—The growth of independent unions has led to more direct bargaining between these unions and their employers. However, wages and salaries for workers belonging to the UNTM unions are set by tripartite negotiations between the Ministry of Labor, labor unions, and representatives of the federation of employers of the sector to which the wages apply. These negotiations usually set the pattern for unions outside the UNTM. The Ministry of Labor acts as a mediator in labor disputes. The 1997 split in the UNTM did not change the basic procedures of these negotiations.

Neither the Constitution nor the Labor Code addresses the question of antiunion discrimination, but there have been no reports or complaints of antiunion behavior or activities. If the parties cannot come to agreement, the dispute goes to the Labor Court for decision.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, including that performed by children; however, Malian children were sold into forced labor in Cote d'Ivoire by organized traffickers (see Section 6.f.).

Although there have been no other reports of forced or bonded child labor in Mali, apprenticeship, often in a family member's or a parent's vocation, begins at an early age, especially for children unable to attend school.

There were some reports that the de facto slavery long reported to have existed in northern salt mining communities has evolved toward wage labor in recent years; however, reliable current evidence about labor conditions in those remote facilities remained unavailable. Hereditary servitude relationships link different ethnic groups, particularly in the north. For example there is a hereditary service relationship between members of the Bellah ethnic group and Tuareg populations.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The 1996 Labor Code has specific policies that pertain to child labor. The Labor Code prohibits forced or bonded child labor; however, Malian children were sold into forced labor abroad by organized traffickers, and apprenticeship begins at an early age (see Sections 6.c. and 6.f.). The authorities enforce the Labor Code provisions through the use of labor inspectors. Inspectors from the Ministry of Employment, Public Service, and Labor conduct surprise inspections and complaint-based inspections. However, resource limitations restrict the frequency and effectiveness of oversight by the Labor Inspection Service and the Service operates only in the modern sector.

The Labor Code permits children between the ages of 12 and 14 to work up to 2 hours per day during school vacations with parental approval. Children between the ages of 14 and 16 may work up to 4½ hours per day with the permission of a labor inspector, but not during nights, holidays, or Sundays. Children between the ages of 16 and 18 may work in jobs that are not physically demanding; males may work up to 8 hours per day and females up to 6 hours per day.

These regulations often are ignored in practice. Moreover, the Labor Code has no effect on the vast number of children who work in rural areas, helping with family farms and herds, and in the informal sector, for example, as street vendors. These children are not protected by laws against unjust compensation, excessive hours, or capricious discharge.

Education is free and in principle is open to all, although the majority of students leave school by the age of 12. While primary school is compulsory, it is only available to one-half of the children. Child labor predominates in the agricultural sector and, to a lesser degree, in crafts and trades apprenticeships, and cottage industries.

e. *Acceptable Conditions of Work.*—The Labor Code specifies conditions of employment, including hours, wages, and social security, but in practice many employers either ignore or do not comply completely with the regulations. The national minimum wage rate, set in 1994, is approximately $40 (21,000 CFA francs) per month. Workers must be paid overtime for additional hours. The minimum wage does not provide a decent standard of living for a worker and family. The minimum wage is supplemented by a required package of benefits, including social security and health care. While this total package could provide a minimum standard of living for one person, in practice most wage earners support large extended families and must supplement their income by some subsistence farming or work in the informal sector.

The normal legal workweek is 40 hours (45 hours for agricultural employees), with a requirement for at least one 24-hour rest period. The Social Security Code provides a broad range of legal protection against hazards in the workplace, and

workers' groups have brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. However, with high unemployment, workers often are reluctant to report violations of occupational safety regulations. The Labor Inspection Service of the Ministry of Labor oversees these standards but limits enforcement to the modern, formal sector. Workers have the right to remove themselves from dangerous work situations and request an investigation by the Social Security Department, which is responsible for recommending remedial action where deemed necessary.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons. There were instances of Malian children sold into forced labor in Cote d'Ivoire. For example children recruited by Malians in the border town of Sikasso were promised jobs in Cote d'Ivoire, transported across the border, and then sold for approximately $20 to $40 (10,000 to 20,000 CFA francs) to Malians and Ivorians who brokered them throughout the plantations of north-central Cote d'Ivoire. The Government is taking steps to halt this trafficking and repatriate the children to Mali. In August five children were returned to their families from Cote d'Ivoire. However, there were no arrests or prosecutions of traffickers in these cases.

MAURITANIA

Mauritania is a highly centralized Islamic Republic dominated by a strong presidency. The 1991 Constitution provides for a civilian government composed of a dominant executive branch, a senate, and a national assembly. President Maaouya Ould Sid'Ahmed Taya has governed since 1984, first as head of a military junta, and since the 1992 multiparty election as head of a civilian government. In December 1997, Taya was reelected President, receiving over 90 percent of the vote. The election, contested by four opposition candidates but boycotted by the five-party Opposition Front coalition, was widely regarded as fraudulent. Most opposition parties also boycotted earlier parliamentary elections but participated in senate elections in 1994 and 1996; they gained only one seat. In the country's first multiparty elections to the 79-member National Assembly held in 1996, 1 opposition and 6 independent candidates were elected; candidates of the ruling Republican, Democratic and Social Party (PRDS) won 72 seats. The outcome of these elections was marred by fraud on all sides and pervasive government intervention. The Constitution provides for an independent judiciary; however, the judiciary is subject to significant pressure from the executive through its ability to influence judges.

The Government maintains order with regular armed forces, the National Guard, the Gendarmerie, and the police. The Ministry of Defense directs the armed forces and Gendarmerie; the Ministry of Interior directs the National Guard and police. The armed forces are responsible for national defense. The National Guard performs police functions throughout the country in areas in which city police are not present. The Gendarmerie is a specialized paramilitary group responsible for maintenance of civil order in and outside metropolitan areas. Security forces are under the full control of the Government and are responsible to it. Some members of the security forces committed human rights abuses.

Mauritania, with an estimated population of 2.5 million, has a generally market-oriented economy based on fishing, mining, subsistence farming, herding, and a small commercial sector. Fish and iron ore are the country's main export-earners. Drought, desertification, and insect infestation have contributed to rapid urbanization, extensive unemployment, pervasive poverty, and a burdensome foreign debt. Continued drought in 1997–98 fueled urbanization, further straining government finances. The concentration of much of the country's wealth in the hands of a small elite, including the President's tribe and related Moor tribes, as well as a lack of transparency and accountability in certain areas of governance, also impedes economic growth. Annual per capita national income is estimated at $440. Mauritania receives foreign assistance from bilateral and multilateral sources.

The Government's human rights record remained generally poor; there was some improvement in a few areas, but problems remain in others. Democratic institutions remain rudimentary, and the Government circumscribes citizens' ability to change their government. Police used excessive force, beat or otherwise abused detainees, and used arbitrary arrest and detention, incommunicado prearraignment detention, and illegal searches; however, reports of police abuses decreased during the year. The Government failed to bring to justice most officials who committed abuses, although some were sanctioned during the year. Prison conditions remained harsh and unhealthy, although there were some improvements. Pretrial detention is often very lengthy. Although the Government instituted judicial programs and training,

the executive continued to exercise significant pressure on the judiciary, and in practice the right to a fair trial was restricted. At times the Government restricted freedom of speech. While the Government tolerates a critical independent press, it continued to censor individual editions and banned one paper for a period of 3 months without official explanation other than to cite the Constitution, which prohibits material that undermines national sovereignty, territorial integrity, or national unity. The Government restricted freedom of assembly in one instance and at times restricted freedom of association. The leader and other officials of a major opposition party arrested at the end of 1998 were tried and acquitted of all charges in March in what was considered a fair trial. The Government limits freedom of religion. The Government continued to refuse to recognize officially some nongovernmental organizations (NGO's). A ministry-level High Commission for Human Rights, Poverty Alleviation, and Integration created in 1998 facilitated the work of international NGO's. Societal discrimination against women continued, and female genital mutilation remained a serious problem despite government efforts to halt the practice. Ethnic tensions continued to ease, but the largely southern-based ethnic groups, including the Halpulaar (also called Fulani or Peuhl), Soninke, and Wolof ethnic groups, remained underrepresented in political life and some of their members feel excluded from effective political representation. Child labor in the informal sector is common.

The Government continued efforts to resolve a serious abuse from the 1989–91 period, in which approximately 70,000 members of southern ethnic groups were expelled or fled to neighboring countries, by encouraging returns and facilitating the work of local and international organizations to continue the integration projects initiated by United Nations High Commissioner for Refugees (UNHCR). The UNHCR has determined that the majority of the refugees had returned home and that there were no longer impediments to the rest returning. It therefore terminated its program at the end of 1998. Informed observers advise that following the large-scale returns of previous years of up to 65,000 persons, refugees continued to return in small numbers during the year. Under the land reform program intended to provide land to the landless and to increase land under cultivation, some of the returnees as well as other members of the southern ethnic groups who had never left Mauritania failed to regain access to all of the land they previously had held. Some returnees also failed to regain the houses they had occupied before their expulsion, and there were varying reports about their success in obtaining other homes. There were claims that the Government favored the dominant White Moor ethnic group in its redistribution, reportedly leaving some Southerners landless.

The Government failed to address fully another major abuse from the 1989–91 period, when 503 members of the military, almost entirely from the Halpulaar and Soninke ethnic groups of the south, were killed, tortured, and maimed. The Government in earlier years gave pensions to the documented widows of those killed, but not to undocumented individuals claiming to be additional wives. In 1996 the Government extended pension benefits to some of those who survived the purge. There were no indications of further action on alleged wives who lack documentation. A 1993 amnesty law precludes legal pursuit of those responsible for the killings, and the Government does not acknowledge responsibility or wrongdoing nor has it provided honorable discharge papers to survivors or other compensation to families of those killed. The issue resurfaced with the July 3 arrest in France, under the International Convention against Torture of a Mauritanian captain undergoing training at the French Army College who was accused by two political refugees of having tortured them. The arrest sparked a lively debate among opinion leaders from all ethnic groups, covered extensively in the press, on how to further national reconciliation.

A system of officially sanctioned slavery in which government and society join to force individuals to serve masters does not exist; however, there continued to be unconfirmed reports that slavery in the form of forced and involuntary servitude persists in some isolated areas. Unofficial, voluntary servitude persists with many former slaves continuing to work for former masters for food, shelter, and clothing, although they were under no legal compulsion to do so. Many persons including some persons from all ethnic groups still use the caste designation of slave.

RESPECT FOR HUMAN RIGHTS

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

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

There was one known extrajudicial killing by the security forces. Toward the end of the year, police in an antidrug brigade arrested a young man and beat him se-

verely. The judge before whom he was brought to be charged released him to his family, but he died a few days later. In November the two police officers responsible were brought before a disciplinary body and fired, but were not prosecuted.

Extrajudicial killings from past years remained unresolved, principally the 1990–91 deaths while in military custody of 503 military personnel and civilians detained in the investigation of an alleged coup attempt. The individuals were largely Halpulaar but included a few Soninke. In 1993 the Government began to provide pension benefits to some of the widows and families of those killed, and in 1996 the Government recognized the prior government service of some of the civilian survivors and began to pay them pensions. The military has not released the results of its 1991 internal investigation, and in 1993 Parliament passed an amnesty bill to preclude legal pursuit of those responsible. The Government has not acknowledged responsibility or wrongdoing nor has it provided honorable discharge papers to survivors to facilitate alternative employment and their reintegration into society. The Government has considered applications from civil servants who had lost their jobs during the events of 1989–91 and has employed a small number.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other forms of cruel or inhuman punishment; however, the police reportedly continue on occasion to beat criminal suspects while in custody. Police have used undue force in controlling public crowds and breaking up peaceful demonstrations (see Section 2.b.). There was one case in March in which a man who reportedly tried to rob someone was beaten severely by his intended victim who then brought him to the police station where he died 3 days later, having received no medical treatment. No official action was taken against the police.

In November an airport policeman shot a taxi driver during the course of an argument over payment of a fee. The taxi driver was hospitalized and the policeman was arrested and charged, and is now in prison. In a separate case in July, two policemen in Nouakchott who had assaulted a man who had been harassing a neighbor were removed from the force.

During the year, the Director of Security traveled to each region of the country to meet with police forces to inform their members that the Government would not tolerate the use of torture or undue force and that violators would be prosecuted. The Government has continued its in-service training of police and other security personnel, which has shown some positive results. Reports of the use of excessive force, requests for payoffs, or other abusive behavior decreased during the year, and some violators were sanctioned.

On July 3, two Halpulaar political refugees in France charged Mauritanian Captain Ely Ould Dah, a Black Moor, in France as part of a military cooperation program, with having tortured them during the 1990–91 events. A French judge in Montpellier had Ould Dah arrested under the International Convention against Torture. The arrest sparked a lively debate among opinion leaders from all ethnic groups, which was covered extensively in the press, on how to further national reconciliation (see Section 4).

Prison conditions remained harsh and do not meet minimum international standards, although improvements continued during the year. Sanitation facilities remained inadequate and reportedly have contributed to diseases such as tuberculosis, diarrhea, and dermatological ailments. Medical supplies, mainly provided by an international NGO, remained insufficient. Some prisoners received special treatment based on family and position. Prisoners with high-level connections and families to bring them food, medicines, and reading material fared better than the less privileged or Africans from other countries. New guard force management continued to enforce instructions against beatings and torture. However, there were reports of beatings of detainees at the Commissariat outside of the prison. The current overall prison population is approximately 1,352, of whom 658 are in Nouakchott, including, 34 women and 31 minors held in separate facilities. Conditions at the women's and children's centers continued to be better than in the men's prisons. Female prisoners were moved to a considerably upgraded new facility in May that contained a communal garden. An NGO working in the prison provided a program of education and micro-enterprise projects. An international NGO is in the process of establishing facilities for educational and sports activities at the children's center. The Government is cooperating with an NGO to seek funding to provide training for female guards to replace the male guards currently at the women's prison. A new wing was added to the men's prison in Nouakchott in 1998, increasing its overall intended capacity to 300. It currently is housing double that number. Plans are underway to build a new prison in Nouakchott, and reported plans to build a new prison in Akjoujt have been dropped. The current prison continues to be used for those awaiting trial; the new facility is to house those already convicted. A doctor and nurse assigned to the

men's prison also provide medical care for the women's and children's prison, but the infirmary remains understaffed.

The new prison administration instituted in August 1997 has improved markedly the conditions of prison food, health, hygiene, and family contacts. In May detainees at the men's prison engaged in a hunger strike to demand further improvements, including speedier trials. Prison officials met with the protesters and on June 7 established a commission to review the prison situation and seek ways to improve conditions. Based on the commission's recommendations, prison administrators have included in next year's budget request an increase of 2½ times the current expenditures per prisoner in order to provide for improved food and nutrition, medical services and supplies, and new bedding and cleaning supplies.

The Government permits prison visits by diplomats and human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution stipulates that authorities cannot arrest, detain, prosecute, or punish anyone except as provided for under the law; however, at times police arbitrarily arrested and detained citizens. The actual application of the constitutional safeguards continued to vary widely from case to case.

The law requires that courts review the legality of a person's detention within 48 hours of arrest. The police may extend the period for another 48 hours, and a prosecutor or court may detain persons for up to 30 days in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney.

Human rights activists report that police showed greater respect for legally mandated procedures and that prison administration improved considerably. However, pretrial detention after arraignment is often prolonged. An estimated 30 to 50 percent of those in prison have not yet been tried, or were awaiting sentencing following their trials. The Government and an NGO sponsored a 10-day seminar for 50 police officers in May to inform them of the rights of children and the legal treatment of detained suspects.

Some indicted detainees are released before trial without explanation; familial, tribal, or political connections may explain some of these cases. There is a provision for granting bail, but it is used rarely.

Ahmed Ould Daddah, leader of the opposition party Union of Democratic Forces-New Era (UFD-A), and two other party members, who had been arrested in mid-December 1998 for having repeated charges that the Government had agreed to bury Israeli nuclear waste on Mauritanian soil, were released in January after 5 weeks detention. They were tried and acquitted in March. The defendants were represented well by counsel, and the trial generally was considered to have been conducted fairly in accordance with legal procedures.

There continued to be occasional reports of arbitrary arrests and intimidation committed by security forces, particularly of returned refugees in communities in the south along the Senegal River. Police detained protesters in January (see Section 2.b.). There were conflicts between the Government and communities along the river over the redistribution of land under the land reform program, particularly among communities with returned refugees. The land reform program was designed to provide land to the rural landless and to increase land under cultivation, particularly land made irrigable from the Senegal River Valley Authority (OMVS) project created and managed by Mauritania, Senegal, and Mali. The reform has met with resistance from those who had part of their traditional landholdings that had lain fallow confiscated. Some persons, including returned refugees, were arrested when they attempted to reclaim all of their traditional land. In the village of Medina-Fenai, villagers were arrested and held in prison for 4 days before release in July. In some cases the fallow land was granted to wealthy Moors who developed commercial agricultural enterprises. A net redistribution of land from southerners to both Black Moors and White Moors displaced from the northern and central regions by desertification since the 1970's may have occurred; however, this program is designed specifically to avoid leaving any rural family landless and provides land to landless persons from all ethnic groups (see Section 1.f.).

There were no reports of forced exile. The Government continued to welcome the return of any citizens who had been expelled or who had fled during 1989–91.

e. *Denial of Fair Public Trial.*—Although the Constitution provides for the independence of the judiciary, in practice the executive branch exercises significant pressure on the judiciary through its ability to appoint and influence judges. In addition poorly educated and poorly trained judges who are susceptible to social, financial, tribal, and personal pressures limit the judicial system's fairness. However, the Government is carrying out a program to improve judicial performance and independence. An education program is ongoing to upgrade judicial personnel and to train them, among other subjects, in the application of the revised commercial laws.

There is a single system of courts with a modernized legal system that conforms with the principles of Shari'a (Islamic law). The judicial system includes lower-, middle-, and upper-level courts, each with specific jurisdictions. Departmental, regional, and labor tribunals are the principal instances at the lower level. The 53 departmental tribunals, composed of a president and magistrates with traditional Islamic legal training, hear civil cases involving sums less than $49 (10,000 UM) and family issues, for example, domestic, divorce, and inheritance cases. Thirteen regional tribunals accept appeals in commercial and civil matters from the departmental tribunals and hear misdemeanors. Three labor tribunals, composed of a president and two assessors (one who represents labor and one who represents employers), serve as final arbiters for labor disputes. At the middle level, three courts of appeal, each with two chambers (a civil and commercial chamber, and a mixed chamber) hear appeals from the regional courts and have original jurisdiction for felonies. Nominally independent, the Supreme Court is headed by a magistrate appointed to a 5-year term by the President. The Supreme Court reviews decisions and rulings made by the courts of appeal to determine their compliance with the law and procedure. Constitutional review is within the purview of a six-member Constitutional Council, composed of three members named by the President, two by the National Assembly President, and one by the Senate President. Annual review of judicial decisions is undertaken by the Supreme Council of Magistrates, over which the President presides; the president and senior vice president of the Supreme Court, the Minister of Justice, three magistrates, and representatives from the Senate and National Assembly are members of this Council. The annual review is intended to determine whether courts applied the law correctly and followed proper procedures. The most recent review was used as a basis for evaluating the reform process, providing for retraining of judges, and making reassignments based on their qualifications.

The Constitution provides for due process and the presumption of innocence until proven guilty by an established tribunal. All defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during the proceedings, which are open to the public. If defendants lack the ability to pay for counsel, the court appoints an attorney from a list prepared by the National Order of Lawyers, who provides defense free of charge. The law provides that defendants may confront witnesses, present evidence, and appeal their sentences, and these rights generally are observed in practice.

Because Shari'a provides the legal principles upon which the law and legal procedure are based, courts do not in all cases treat women as equals of men. For example, the testimony of two women is necessary to equal that of one man. In addition, in awarding an indemnity to the family of a woman who has been killed, the courts grant only half the amount that they would award for a man's death. There are no female magistrates. However, for commercial and other modern issues not specifically addressed by Shari'a, the law and courts treat women and men equally.

With international assistance, the Government continued a program to improve judicial performance and independence, which consists of organizing all laws and statutes into a single reference text and training officials throughout the justice system. Legislation passed on July 24 created separate tribunals for specific types of disputes with a magistrate for each chamber in order to streamline pretrial procedures and improve judicial accountability. A commission consisting of a chairman and 11 members of the concerned departments was established on June 7 by the Minister of Justice to review the prison situation and to seek ways to improve it (See Section 1.c.). Based on legislation passed in June, investment, administration, commerce, civil, and arbitrage banking codes are being revised. Government prosecution of security officials during the year mitigated somewhat the persistent popular dissatisfaction with the judicial system and the belief that security officials can commit abuses with impunity.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires judicial warrants in order to execute home searches, but the authorities reportedly often ignore this requirement.

Government surveillance of dissidents and the political opposition is believed to continue, although the extent to which the Government used informants is unknown. An attempt by government prosecutors to enter taped telephone conversations as evidence in the March trial of Ahmed Ould Daddah was ruled inadmissible by the judge because they had been obtained illegally.

There were a number of unconfirmed reports that the Government confiscated the farmland of members of southern ethnic groups in or near the Senegal River valley and redistributed it to members of the dominant White Moor ethnic group, leaving southern farmers landless, forcing a number of them into the cities, and impelling

some to flee the country. The Government began implementation of the 1983 land reform law in 1990. The reform aimed at providing land for landless persons, including victims of desertification in the northern and central regions (both White Moors and Black Moors) and also, in recent years, for returning southerners who had been expelled in 1989–91. The reform also aimed to increase the amount of land under cultivation by leasing uncultivated land to those with the means to cultivate it. The unconfirmed reports of confiscations may reflect abuses in the program's implementation; the proper implementation of the land reform does not leave families landless, and the program is not explicitly discriminatory. However, there may have been a net redistribution of land from southerners to Moors under that program, since the south has been less affected by desertification than the more northerly regions historically inhabited by the Moors. There were also some reports that some southerners who had been expelled or fled from the country during 1989–91 were unable either to regain possession of the land they had farmed before 1989 or to gain possession of other land from the Government (see Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, but the Government continues to restrict these rights through prepublication press censorship by the Interior Ministry. NGO's and the privately owned press openly criticized the Government and its leaders. Antigovernment tracts, newsletters, and petitions circulated widely in Nouakchott and other towns.

The Press Law requires publishers to submit copies of newspapers to the Ministries of Interior and Justice before distributing them. The Ministry of the Interior reviews all newspaper copy prior to publication and usually authorizes sales and distribution within 2 to 3 days. However, the Press Law provides that the Minister of the Interior can stop publication of material that discredits Islam or threatens national security. The authorities seized eight individual issues of different journals and suspended one (Le Calame) for 3 months from April 6 to July 5. In April the Government suspended the accreditation and censured the journal of a correspondent for the British Broadcasting Corporation and El Hayat. The Government provided no specific reasons for the seizures or the censure other than to cite Article 11 of the Constitution, which prohibits materials that undermine national sovereignty, territorial integrity, or national unity.

On August 11, police detained Sidi Mohamed, the editor of a local newspaper, and held him in the civil prison in Nouakchott for several hours for questioning regarding an anonymous article published the previous day that was critical of recent decisions by the Supreme Council of Magistrates. This was the first detention of a journalist in the country.

All newspapers must register with the Ministry of the Interior. There are over 400 journals and newspapers registered with the Ministry of the Interior, a third of which do not publish regularly, some never having issued an edition. However, there are only around 20 privately owned newspapers that publish on a regular basis, including 7 new French language newspapers and 4 new Arabic publications. These journals are weeklies and reach limited audiences. There is also one French language magazine that registered during the year but has yet to appear. The Government issues press cards to journalists and requires that they show this identification for participation in official press events. Private journals reported openly and critically on both the opposition and the Government and published party declarations and tracts without government censure or restraint during the municipal elections. Publications are exempt from all taxes on materials used to produce newspapers, journals, or books for the private press. On August 9, President Taya met with representative journalists from three major press associations to discuss press issues.

All broadcast media (radio and television) and two daily newspapers, Horizons and Chaab, are government-owned and operated. Radio is the most important medium in reaching the public, and the official media strongly support government policies. During the January municipal elections campaign, the Government provided all candidates with equal access to its two newspapers and to the electronic media, allowing citizens to hear and read criticism of the Government in these media in addition to in the private press. Opposition parties' access to government radio broadcast facilities at other times is limited. Citizens can receive foreign television broadcasts including from France and from Arab countries. The Government continued to deny private applications to establish domestic radio stations. However, the Government allowed domestic FM rebroadcasting of Radio France International programming, including news about the country that often covers opposition parties.

There are five domestic Internet servers, which operate without governmental restrictions. Connections were upgraded and service was expanded to Nouadhibou, the major commercial center, and to five regional capitals.

Academic freedom generally is respected, and there were no cases when the Government prevented research or publication or censored lectures. The one university is government funded and operated.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right; however, there was one occasion when it restricted public gatherings. In November it refused a permit to the opposition FPO, which sought to protest upgrading relations with Israel. The law requires that all recognized political parties and NGO's apply to the local prefect for permission for large meetings or assemblies. Permission generally is granted freely, and there were no reports during the year that the Government restricted such gatherings.

Peaceful although unauthorized demonstrations in Nouakchott on January 11 to protest the arrest of opposition leaders Ahmed Ould Daddah, Mohamedden Ould Ichidou, and Mohameden Ould Babah led to the detention for 2 hours of several participating lawyers, university professors, students, journalists, artists, and human rights activists on the grounds that they were inciting intolerance and violence and disturbing order, peace, and public safety. Although the demonstration was authorized, the participants ultimately proceeded to a different location that was not authorized.

The Constitution provides for freedom of association; however, the Government circumscribes the efforts of some groups by denying them official recognition. All political parties must register with the Ministry of the Interior. The number of political parties, labor unions, and NGO's continued to increase. Some 22 political parties and a wide array of NGO's, many of them highly critical of the Government, functioned openly, issued public statements, and chose their own leadership. The Government has not yet granted some NGO's official standing but did not prevent them from functioning. Among these are the Mauritanian Association for Human Rights (AMDH) and SOS-Esclaves (an antislavery NGO), which the Government claims are potentially divisive in that they appeal to specific ethnic groups, namely the southern and Black Moor communities respectively.

Following diplomatic confrontation with Iraq, resulting from Mauritania's opening full diplomatic relations with Israel, the Government accused Iraq of undertaking subversive action against it, fomenting violent antigovernment demonstrations, and financing the Taliaa (Vanguard) political party. The Government disbanded the Taliaa party, whose officials had been meeting with Iraqi Ba'ath party representatives, citing constitutional prohibitions against "cooperation with a foreign party; accepting foreign funds for political propaganda and carrying out illegal acts."

The Government recognizes three trade union confederations, in addition to independent federations and a number of nonaffiliated unions (see Section 6.a.).

Since September 1998, the Government has recognized 75 new NGO's and associations, bringing the total of such organizations to over 600.

c. *Freedom of Religion.*—The Constitution established Mauritania as an Islamic republic and decrees that Islam is the religion of its citizens and the State, and the Government accordingly limits freedom of religion.

All but a small number of citizens are Sunni Muslims and are prohibited by their religion from converting to another religion. Shari'a law, proclaimed under a previous government in 1983, includes the Koranic prohibition against apostasy, but it has never been enforced. The small number of known apostates from Islam suffered no social ostracism, and there were no reports of societal or governmental attempts to punish apostates.

Although the Government provides a small stipend to the imam of the Central Mosque in the capital city of Nouakchott, mosques and Koranic schools normally are supported by their members and other donors.

In addition to privately-run Koranic schools that nearly all children attend, the public schools include classes on religion. These classes teach both the history and principles of Islam and the classical Arabic of the Koran. Although attendance of these religion classes is nominally required, many students, the great majority of whom are Muslims, decline to attend these classes for diverse ethno-linguistic and religious reasons. They are nevertheless able to advance in school and ultimately to graduate with diplomas, provided that they compensate for their failure to attend the required religion classes by their performance in other classes.

Although there is no legal codification of a prohibition against proselytizing by non-Muslims, in practice the Government prohibits proselytizing by non-Muslims under Article 11 of the Press Act, which bans the publication of any material that is against Islam or contradicts or otherwise threatens Islam. The Government views

any attempts by Christians to convert Muslims as undermining Mauritanian society. There are no known non-Muslim groups engaged in proselytizing; foreign Christian NGO's limit their activities to humanitarian and development assistance.

Christian churches have been established in Nouakchott, Atar, Zouerate, Nouadhibou, and Rosso. The expatriate community of Christians and the few citizens who are considered Christians from birth practice their religion openly and freely in these churches. The possession of Bibles and other Christian religious materials in private homes is not illegal.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement and residence within all parts of the territory, and provides for the freedom to enter and leave. Historically there were few restrictions on travel in Mauritania's nomadic society. With urbanization and automobile travel, the Government set up regular road checkpoints where the Gendarmerie checks the papers of travelers, and reportedly often solicit bribes. The Government imposed no nighttime curfews. Early in the year, in response to civil society complaints, the Government reduced the number of official Gendarmerie checkpoints.

Of the approximately 70,000 members of largely southern-based ethnic groups who were expelled by Mauritania or fled to Senegal and Mali during the 1989–91 crisis, and of those born abroad since then, the UNHCR documented 33,248 returnees to four provinces along the Senegal River. Both the UNHCR and the Government agree that many others have returned on their own to the larger towns and cities. Many more returnees among nomads, who are difficult to document, and urban dwellers are not included in UNHCR's figures. Informed observers estimate that the actual number of returnees ranges between 40,000 and 65,000. Many entire villages as well as almost all Peulh (nomadic herders of the Halpulaar ethnic group) have returned. The Government has stated since 1993 that any Mauritanian outside the country may return. However, the Government, the countries of asylum, and the UNHCR have signed no tripartite repatriation agreement. Under the UNHCR-funded, 2-year "Special Plan for Rapid Integration" (PSIR), which began to assist returnees in mid-1996, the Mauritania Red Crescent, the UNHCR, and NGO's have undertaken 223 small agriculture, water, health, education, and construction projects in 130 villages to assist returnees. Considering its mission completed, the UNHCR terminated its Rapid Integration program for refugees at the end of December. The UNHCR estimates that there are 15,000 to 20,000 Mauritanian refugees remaining in Senegal. They still formally are under UNHCR protection but no longer are provided assistance since the UNHCR sees no impediment to their return to Mauritania. The UNHCR terminated its program at the end of 1998.

Cooperation by local authorities in addressing restitution and citizenship matters varies greatly, depending on individual officials and the returnee's region (see Sections 1.d. and 1.f.). Repatriation efforts have achieved greater results in the Trarza and Brakna regions than in Gorgol and Guidimaka to the east. However, observers noted that the situation in Gorgol has improved considerably. Many returnees received their original homes, some property, and all or a portion of their land. Timely restoration of identity papers has varied, and some of those repatriated who returned in 1995 have not yet received identification cards. In some regions, persons lacking identity cards could not travel freely.

The law provides for the grant of refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government grants such status in accordance with these provisions and on the basis of UNHCR recommendations. There is, however, no legislation providing for this practice. The Government, which has cooperated with the UNHCR and other humanitarian organizations in assisting refugees since 1989 signed a headquarters agreement with the UNHCR in May. In recent years, the Government has provided first asylum to refugees from neighboring countries. The Government also has accepted the UNHCR's registration of some 200 asylum seekers, mostly from Sierra Leone and Liberia. There were no reports of refugees being forced to return to a country where they feared persecution.

Mauritania is host to over 50,000 nationals of other West African countries who seek refuge and employment, primarily in Nouakchott and Nouadhibou. An estimated 60 percent of Mauritania's small craft fishermen are Senegalese. There is a population of approximately 300 Sierra Leoneans living in Nouakchott. Some arrived more than 10 years ago and are fully employed. Approximately 225 of these have been granted refugee status and receive UNHCR assistance. The Sierra Leoneans held protest demonstrations at the U.N. compound on several occasions throughout the year demanding increased assistance and refugee status for all of them.

About 2,000 Malian former refugees who could repatriate have remained in the country and largely have integrated with the local population. Nearly all these Malian refugees are Moors. The UNHCR no longer considers them refugees.

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

The Constitution provides citizens with the right to change their government, but the Government circumscribes it in practice. The 1992 multiparty election of a civilian president ended 14 years of military rule, but both the opposition and international observers concluded that the elections were fraudulent. Although civilians fill all ministerial-level positions, some members of the Military Council that ruled from 1984 to 1992, in addition to President Taya, remained in positions of power within the executive branch, the National Assembly, the armed forces, and government-owned enterprises. The armed forces continued to provide potentially critical support to the regime. The Government denied elements of the opposition the opportunity to receive full access to government media and to compete on an equal footing.

The country's first multiparty legislative elections were held in 1996. Only 1 opposition and 6 independent candidates were elected to the 79-member National Assembly; candidates of the ruling PRDS party won the remaining 72 seats. The outcome of the elections was marred by fraud on all sides and pervasive government intervention to support candidates from the ruling PRDS party. After the Government announced that presidential elections would take place on December 12, 1997, the anniversary of the 1984 coup, a coalition of five opposition parties announced on June 26, 1997, that it intended to boycott the election unless certain demands were met. These requirements included enhanced media access, an opposition role in election preparation, creation of an independent electoral commission, enlarging the commission charged with electoral list revision, and provision of official copies of the voting report from each polling station to representatives of each candidate. The Government granted the opposition full access to its media but did not meet the other demands, and four opposition parties declined to participate in the election. However, five individuals, including for the first time a Halpulaar, ran for president. All received equal treatment in the official electronic and print media as well as extensive coverage in the private press. President Taya won an overwhelming victory, although his opponents fared much better in the cities than in the rural areas. The official turnout of 75 percent and the winning percentage of 90 percent were inflated, since many individuals voted more than once. The Government distributed four voter registration cards to some persons, including government employees, instructing them to vote repeatedly for the incumbent. The opposition also distributed multiple voter registration cards to some persons, instructing them to vote repeatedly. The April 1998 Senate elections were boycotted by the opposition. Of the 18 seats up for election, the ruling PRDS gained all but 1, which was won by an independent candidate. Similarly, in the January-February municipal elections, some of the opposition boycotted the elections, which had a very low voter turnout and resulted in overwhelming majorities for the ruling party candidates. The Government determined that there were widespread abuses in several communities and held new elections in those communities. In the second round, fraud was limited but voter turnout remained very low and progovernment candidates virtually swept the races, aided by the continued boycott of some opposition parties.

Elections are held by secret ballot. At polling places on election day, registered citizens receive a package of color-coded cards, containing one card for each candidate. Each citizen votes by depositing into a sealed ballot box, alone inside a closed booth, an envelope containing one of these cards. The unused cards are discarded on the floor. Although voters could in theory take the unused cards out of the polling place with them, the ready availability of many unused cards on the floor makes unused cards worthless as evidence of how a voter has voted and effectively eliminates the potential for abuse in such a multiple ballot system. A countrywide census, taken at the end of 1998, which was aimed at registering all citizens and standardizing the current complex system of names, also was aimed in part at providing the basis for free and fair elections. Tabulation of the results of the census, which are to form the basis of identity cards and voter registration, was not expected to be completed until 2000.

The country is divided into 12 provinces that are divided further into prefectures. The Government appoints the Walis (governors) and Hakems (prefects). Municipal councils are elected by general ballot and they elect their mayors, usually the head of the majority party's list. Most government services are provided by the central government. The elected councils are responsible for some public services, such as

sanitation, and have fiscal autonomy and taxing power. Their administrative staff is independent of the Government. The councils elect the national Senate.

Women have the right to vote, and formed the majority of voters in the 1997 presidential election, but are underrepresented in government. Women occupy some senior government positions, including three cabinet posts, one secretary-general, two senior presidential advisors (including a Halpulaar), and four senior advisors to ministers. Women are well represented in the Secretariat of Women's Affairs, including a number of Halpulaar women. There are three female members of the National Assembly (including one Haratine and one Soninke from the Forgeron caste, a caste of lower status than the former slave caste), but there are no female senators.

Haratines, Halpulaars, Soninkes, and Wolofs are underrepresented in senior government positions. Of the Government's 20 ministerial posts, 4 incumbents are Haratine, 2 are Halpulaar, 1 is Soninke, and 1 is mixed White Moor/Soninke; the remaining 12 are of either White Moor or mixed White Moor/Haratine ethnicity (see Section 5). The full 28-member Cabinet, including secretaries of state, has 4 Haratines, 3 Halpulaars, 1 Soninke, and 1 mixed White Moor/Soninke. The 56-member Senate has 3 Haratines, 4 Halpulaars, 3 Soninkes, and the remaining 46 are of either White Moor or mixed White Moor/Haratine heritage. The 79-member National Assembly has 2 Haratines, 7 Halpulaars, 2 Soninkes, and 1 Wolof.

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

There is an increasing number of human rights organizations. Some operate with official government registration, but others do not have this authorization. The oldest is the Mauritanian League for Human Rights, an independent, government-recognized body. A second organization, the Mauritanian Human Rights Association (AMDH), is still unrecognized (see Section 2.b.). While not affiliated with the opposition, it has many opposition members. The AMDH has been more critical of the Government than the League, particularly on the unresolved abuses of the 1989–91 period.

Other organizations, including 14 unregistered associations, also address human rights issues. The pan-African organization, International Study and Research Group on Democracy and Economic and Social Development in Africa (Gerddes-Africa), established a branch in Mauritania in 1994. Two other groups, SOS-Esclaves and the National Committee for the Struggle Against the Vestiges of Slavery in Mauritania, focus their efforts on overcoming the country's vestiges of slavery (see Section 6.c.). SOS-Esclaves was particularly active in claiming that slavery remains pervasive and appealing to national and international audiences to contribute to its eradication. SOS-Esclaves leader Boubacar Ould Messoud traveled freely abroad in June and made such claims during a speaking tour. He returned to the country in July without incident. SOS-Esclaves also has intervened effectively in the past with government authorities to push resolution of some of the cases, in particular child custody and inheritance cases, brought to the organization by former slaves.

Attention to the events of 1989–91 resurfaced following the arrest on July 3 of Captian Ely Ould Dah in France. Ould Dah, who had been undergoing training at the French Army College, was accused by two Mauritanians resident in France of torturing them in 1990. He was arrested under the International Convention Against Torture despite a general amnesty passed by the Parliament in 1993. The Government reacted strongly to what it considered an infringement on its sovereignty by a French court and refused entry to a French prosecutor who sought to gather information to support the charges. The arrest sparked public debate on ways to further national reconciliation (see Section 1.c.).

The Committee of Solidarity with the Victims of Repression in Mauritania is concerned with the plight of the 1989 expellees. The Consultative Group for the Return of the Refugees was founded to promote the return of the remaining Mauritanian refugees in Senegal. The Collective of Worker Victims of the 1989 Events seeks redress for government employees who lost their jobs in the events of 1989. The Committee of the Widows and the Collective of Survivors focus on the sufferings of the victims of the 1990–91 military purge and their families. The Collective of Survivors of Political Detention and Torture was established in 1996 to seek redress for abuses committed during the 1986–87 period. These, and other groups of individuals with common concerns, function openly and actively, but their efforts are circumscribed somewhat because they are not recognized officially (see Section 2.b.). The Coalition of Human Rights NGO's is an umbrella organization for 12 of these organizations; it represents the group in various forums, including representations to foreign embassies. It includes all the organizations previously mentioned.

The only international association concerned with human rights to visit the country during the year was the International Committee of the Red Cross.

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

The Constitution provides for equality before the law for all citizens, regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda. In practice the Government often favors individuals on the basis of ethnic and tribal affiliation, social status, and political ties. Societal discrimination against women, strongly rooted in traditional society, is endemic, although the situation is improving.

Women.—Human rights monitors and female lawyers report that physical mistreatment of women by their husbands is rare. The police and judiciary occasionally intervene in domestic abuse cases but women in traditional society rarely seek legal redress, relying instead upon family and ethnic group members to resolve domestic disputes. The incidence of reported rape is low. It occurs, but newspaper accounts of attacks are rare.

Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights are recognized. By local tradition, a woman's first marriage, but not subsequent marriages, requires parental consent. In accordance with Shari'a, marriage and divorce do not require the woman's consent, polygyny is allowed, and a woman does not have the right to refuse her husband's wish to marry additional wives. In practice polygyny is very rare among Moors but common among other ethnic groups. Arranged marriages are also increasingly rare, particularly among the Moor population. Women frequently initiate the termination of a marriage, which most often is done by husband or wife by repudiation rather than divorce. It is also common in Moor society for a woman to obtain, at the time of marriage, a contractual agreement that stipulates that her husband must agree to end their marriage if he chooses an additional wife. The rate of divorce among Moors is estimated to be 37 percent and the remarriage rate after divorce is 72.5 percent.

Women still face some legal discrimination. For example the testimony of two women is necessary to equal that of one man and the value placed on women's lives in court-awarded indemnities is only half the amount awarded for a man's death (see Section 1.e.). However, women do not face legal discrimination in areas not specifically addressed by Shari'a. The Secretariat for Women's Affairs works with many NGO's and cooperatives to improve the status of women. A booklet published late in 1996 advises women of their rights. On October 6, the Council of Ministers ratified the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Government entered reservations over requirements of CEDAW that contradict the Shari'a, such as in inheritance cases in which women receive half the portion of a man.

There are no legal restrictions on the education of girls and women. Girls constituted 48.8 percent of all children enrolled in school in 1998. Some 84 percent of school-age girls attended elementary school in 1998–99, up from 44.8 percent in 1990 (compared with 88 percent for boys, up from 58.3 percent). At the secondary level, female students constituted 37.4 percent of those enrolled. Despite the increases, enrollment in eastern Mauritania, the Brakna, and along the Senegal River remained at a lower level. The Government introduced a special countrywide program in 1995–96 to boost female enrollment at the elementary level. Women made up 17 percent of the university's 1998–99 enrollment, compared with 9 percent in 1990. Women also constituted 30.5 percent of students enrolled in technical schools, compared with 2 percent in 1990. The literacy rate for women is 36 percent compared with 50 percent for men.

The Government seeks to open new employment opportunities for women in areas that traditionally were filled by men, such as health care, communications, police, and customs services. Women became more involved in the fishing industry and established several women's fishing cooperatives. For the first time, women were hired by the army to serve as police inspectors and customs officials.

The law provides that men and women receive equal pay for equal work. While not universally applied in practice, the two largest employers, the civil service and the state mining company, respect this law. In the modern wage sector, women also receive generous family benefits, including 3 months of maternity leave.

Children.—The Government does not require attendance at school, primarily because it lacks the financial resources to provide educational facilities and teachers throughout the country, especially in remote areas. However, the Government has made universal primary education a priority and has targeted the year 2000 to achieve that goal. The Government has doubled the percentage of its budget devoted

to education in the past 10 years and has increased the rate of primary school attendance from 45 percent in 1986 to 86 percent in 1999. In addition almost all children, regardless of sex or ethnic group, attend Koranic school from the ages of 5 to 7 and gain at least rudimentary skills in reading and writing Arabic in addition to memorizing Koranic verses.

The law makes special provision for the protection of children's welfare, and the Government has programs to care for abandoned children. However, these programs are hampered by inadequate funding. Local NGO's estimate that there are over 150 street children. The Government relies on foreign donors in such areas as child immunization. Moreover, it does not enforce existing child labor laws, and children perform a significant amount of labor in support of family activities (see Section 6.d.). Following public criticism and government action against families that send their young sons to work abroad as camel jockeys, there were no reports of this practice during the year.

Traditional forms of mistreatment of females continue, mostly in isolated rural communities, but these practices appear to be on the decline. Such mistreatment consists of forced feeding of adolescent girls (gavage) and female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health. Experts previously estimated that between 60 and 70 percent of women experienced gavage, but now conclude that less than 25 percent of Moor women have experienced gavage, which is practiced only among the Moors. The change in figures appears to reflect both prior overestimation and a decline in the practice in recent years. The Government continued intensive media and educational campaigns against FGM and gavage during the year.

FGM is performed most often on young girls, often on the seventh day after birth and almost always before the age of 6 months, and it is practiced among all ethnic groups except the Wolof. A March 1996 report by the United Nations Population Fund and a study published in 1997 by Jeune Afrique Economie cited Mauritania as a country in which 25 percent of the women undergo FGM. Among Halpulaar women, over 95 percent undergo FGM. A broad, foreign-funded study still is underway to obtain more precise data. The Government projects the study's completion by the end of 2000. Preliminary results of the foreign-funded study indicate that 66 percent of those who perform FGM recognize that the practice is detrimental to women's health, and 54 percent of imams agree that the practice is dangerous. Local experts agree that the least severe form of excision is practiced, and not infibulation, the most severe form of FGM. The practice of FGM has decreased in the modern urban sector.

It is the clear public policy of the Government, through the Secretariat of Women's Affairs, that FGM should be stopped, and the Government bars hospitals from performing it. Public health workers and NGO's educate women to the dangers of FGM and to the fact that FGM is not a requirement of Islam. For example a 1996 officially produced Guide to the Rights of Women in Mauritania (with religious endorsement) stresses that Islam does not require FGM and that if medical experts warn against it for medical reasons, it should not be done. The campaign against FGM appears to be changing attitudes towards the practice, according to several women's rights experts.

A 10-day seminar in May conducted by NGO's and the Government for approximately 50 police, judges, and sociologists was aimed at sensitizing them to the rights of children and the special consideration necessary when detaining juvenile suspects.

People with Disabilities.—The law does not provide specifically for the disabled, and the Government does not mandate preference in employment or education or public accessibility for disabled persons. However, it does provide some rehabilitation and other assistance for the disabled. Nongovernmental organizations have become increasingly active in raising public awareness of issues affecting the disabled.

National/Racial/Ethnic Minorities.—Ethnic minorities and low-caste individuals among all ethnic groups confront societal discrimination. Ethnic and cultural tension and discrimination arise from the geographic and cultural line between traditionally nomadic Arabic-speaking (Hassaniya) Moor herders and Peuhl herders of the Halpulaar group in the north and center, and sedentary cultivators of the Halpulaar (Toucouleur), Soninke, and Wolof ethnic groups in the south. Although culturally homogeneous, the Moors are divided among numerous ethno-linguistic clan groups and are racially distinguished as Beydane and Haratine, or White Moors and Black Moors, though it is often difficult to distinguish between the two groups by skin color. The majority of what are known as Black Moors are Haratine, literally "one who has been freed," although some Black Moor families never were enslaved. The Halpulaar (the largest non-Moor group), the Wolof, and the Soninke ethnic groups are concentrated in the south. "White" Moors, large numbers of whom

are dark-skinned after centuries of intermarriage with members of Sub-Saharan African groups, dominate positions in government and business. The southern Halpulaar, Soninke, and Wolof ethnic groups are underrepresented in the military and security sectors.

A number of accounts indicate that redistribution of southern farmland to Moors since the acceleration of desertification in the 1970's has contributed to tensions between Moors and southern-based ethnic groups. Although much of the government's redistribution of land has been from southerners to southerners, some Moors have been resettled in the south. Ethnic tensions surfaced dramatically in the mass expulsions of southern-based ethnic groups—mostly Halpulaars—in 1989–90 and the purge of Halpulaars from the military in 1991. Few regained their positions.

The Constitution designates Arabic along with Pulaar, Soninke, and Wolof as Mauritania's national languages. However, successive governments—both civil and military—have pursued various policies of "Arabization" in the schools and in the workplace. Non-Arabic-speaking ethnic groups have protested this policy, as have Arabic-speaking groups that want their children to obtain a bilingual Arabic-French education. In April the National Assembly approved educational reforms to replace the separate track Arabic-French system of education, which had been in place for the past 20 years, with a unified system for all citizens in which both French and Arabic would be the language of instruction for all students. Under the separate track system, Moors generally attended Arabic language schools, while Halpulaars, Soninke, and Wolof attended French-language schools. The Government concluded that the separate track system had contributed to ethnic divisions. Reversion to the previous unified system, with all students attending the same schools, is expected to promote social cohesion. The reform also provides for English and civics to be introduced at an early stage. The promotion of other national languages, previously included at the elementary level, was moved to the university level.

Ethnic divisions and tensions contribute significantly to political divisions and tensions. Some political parties tend to have readily identifiable ethnic bases, although political coalitions among them are increasingly important. An acceleration of desertification during the 1970's that destroyed much of the traditional economic basis of Moorish society, and an upsurge of Arab nationalism among White Moors during the 1980's, contributed to explosive ethnic violence precipitated by a dispute with Senegal during 1989–91; this violence entailed the expulsion or flight of many non-Moors living in the south and occupation of much of their land by Moors, including Black Moors. Interethnic bitterness and hostility persists, and continues to be aggravated by climatic, land, and population pressures.

A number of accounts suggest that some members of the long-dominant White Moor community, which traditionally enslaved a darker skinned groups, may continue to expect or desire servility on the part of members of the generally darker Black Moors and southern ethnic groups, and that such attitudes may impede efforts to build a nondiscriminatory society and to eliminate the vestiges and consequences of slavery, goals to which both the Government and major opposition parties are committed. There are indications that racism on the part of some White Moors may have contributed both to the persistence of vestiges and consequences of past White Moor enslavement of Black Moors, and to the expulsions and reported dispossession of members of darker southern ethnic groups with no tradition of servility to White Moors. However, southern-based ethnic groups and Black Moors have manifested little racial solidarity socially or politically, and racial differences did not contribute either to historical slavery or to the persistence of its vestiges and consequences among southern-based ethnic groups.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association and the right of citizens to join any political or labor organization. All workers except members of the military and police are free to associate in and establish unions at the local and national levels.

Prior to the 1993 amendment of the Labor Code, which repealed provisions restricting trade union pluralism, the government-controlled labor confederation, the Union of Mauritania Workers (UTM), was the only labor confederation allowed by law. Since 1993 seven new trade union organizations have been recognized, including two confederations and four federations. The oldest of the three confederations, the Union of Mauritanian Workers (UTM), still is viewed by many workers as closely allied with the Government and the ruling Parti Republicain Democratique et Sociale (PRDS). It has lost ground to The General Confederation of Mauritanian Workers (CGTM), which was recognized in 1994 with 23 member unions, and the Free Confederation of Mauritanian Workers (CLTM), which was founded in 1995 and recognized in 1998. The CGTM is not affiliated with any party, although most

of its members tend to favor the opposition. The CLTM is associated with the opposition party, Action for Change.

The Government provides funds to the confederations in proportion to their memberships. All three confederations supplied representatives to the country's four labor tribunals, and were included in most government deliberative or consultative bodies. Several independent trade unions, in particular three for teachers at the elementary, secondary, and university levels, also were active. The three confederations continued to hold seminars under foreign embassy and other sponsorship to educate their members on responsible trade unionism and democratic labor relations, and then replicating them in more remote areas of the country. Discussions at the seminars were open, and sometimes were critical of the Government, which facilitated the seminars by providing logistical support and participating in opening and closing sessions.

The bulk of the labor force is in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent are employed in the wage sector. However, nearly 90 percent of industrial and commercial workers are organized. The law provides workers with the right to strike, and there were several strikes and partial work stoppages. Most strikes were settled quickly due to limited worker and union resources. In 1997 authorities arrested secondary school teachers who threatened to strike and later cut their salaries.

The law provides for tripartite arbitration committees composed of union, business, and government representatives. Once all parties agree to arbitration, the committee may impose binding arbitration that automatically terminates any strike.

International trade union activity increased. The Government included CGTM, UTM, and CLTM representatives in its delegation to the International Labor Organization (ILO) in June, and the ILO conducted an extensive series of training workshops in which the confederations participated as they did in 1997.

Unions are free to affiliate internationally. The UTM participated in regional labor organizations. The CGTM and UTM are both members of the International Confederation of Free Trade Unions (CFTU). The UTM has been accepted into the Organization of African Trade Union Unity (OATUU), but the CGTM's application was not accepted, as the OATUU only accepts one member union from each country.

In recognition of the steps the Government has taken to afford internationally recognized worker rights, the U.S. Government on September 1, restored to Mauritania preferential tariff benefits under the GSP, which had been suspended in 1993.

b. *The Right to Organize and Bargain Collectively.*—The law provides that unions freely may organize workers without government or employer interference. General or sectoral agreements on wages, working conditions, and social and medical benefits are negotiated in tripartite discussion and formalized by government decree. Wages and other benefits also can be negotiated bilaterally between employer and union and the results of such negotiations are filed with the Directorate of Labor.

Laws provide workers with protection against antiunion discrimination and employees or employers may bring labor disputes to three-person labor tribunals administered jointly by the Ministries of Justice and Labor with the participation of union and employer representatives.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced and bonded labor, including by children, but does not enforce this prohibition effectively in specific cases (see Section 5).

Mauritanians continue to suffer the effects and consequences of the practice of slavery over generations and of caste distinctions including the traditional existence of a slave caste in both Moor and Southern communities. Slavery was abolished officially three times in Mauritania, most recently by the post-independence government in 1980. Even before 1980, the practice of slavery among the traditionally pastoralist Moors had been greatly reduced by the accelerated desertification of the 1970's; many White Moors dismissed their former Black Moor slaves because the depletion of their herds left them unable either to employ or to feed slaves. However, widespread slavery was also traditional among ethnic groups of the largely nonpastoralist south, where it had no racial origins or overtones; masters and slaves alike were black. The South has suffered less from desertification, and some reports identify it as the region in which vestiges and consequences of slavery may persist most strongly.

A system of officially sanctioned slavery in which government and society join to force individuals to serve masters does not exist. There has been no open trading in slaves for many years. However, there continue to be unconfirmed reports that slavery in the form of forced and involuntary servitude may persist in some isolated areas. Unofficial voluntary servitude persists, with some former slaves continuing to work for former masters in exchange for monetary or nonmonetary benefits such

as lodging, food, or medical care. Many persons, including some from all ethnic groups, still use the designation of slave in referring to themselves or others. The reasons for the persistence of such practices appear to be economic, psychological, and religious, although they vary widely and may be quite different among pastoralist or formerly pastoralist Moors from what they are among the southerners and the less numerous nonpastoralist Moors. Poverty, persistent drought, and a weak economy provide few economic alternatives for many and leave some former slaves vulnerable to possible exploitation by former masters. There are reports that some former slaves in some sedentary communities have continued to work for their former masters or others in order to retain access to the land they traditionally farmed, although the law provides for distribution of land to former slaves and this law has been enforced in many cases. In addition to their usual compensation, some former slaves, who continue to work for former masters also receive gifts on important family occasions such as births, marriages, and deaths. Deeply embedded psychological and tribal bonds also make it difficult for many individuals who have generations of forebears who were slaves to break their bonds with former masters or their tribes. Finally, because of religious instruction in the past, some individuals continue to link themselves to former masters for fear of religious sanction if that bond is broken.

Adults cannot be obliged by law to remain with former masters nor can they be returned if they leave. However, adult females with children may have greater difficulties and may be compelled by pressures other than physical force to remain in a condition of servitude. For example, in some cases, especially where the former master claims to be the father, former masters refuse to allow children to accompany their mothers. In other cases, the greater economic responsibility of supporting a family may be the principal impediment to a woman seeking a new life. Children's legal status is more tenuous than that of adults. There have been no reports of sales or "transfer" of children or other individuals from one employer or master to another since 1996, when there were occasional confirmed cases of transfers; however, reports of sales are rare, cannot be confirmed, and are confined to past years.

The legacy of caste distinctions continues to affect the status and opportunities available to various groups. In some groups, for example, individuals of a higher caste who seek to marry someone of a lower caste may be barred by the community, and in Soninke communities members of the slave caste cannot be buried in the same cemetery as other castes.

NGO positions on the existence of slavery are not uniform. For example, SOS-Esclaves in an April 1997 report characterized slavery as a persistent social reality, whose occurrence among disadvantaged classes is far from negligible. The Organization of African Unity's (OAU) African Commission on Human and People's Rights report issued in June 1997 disputed the conclusions of the April 1997 SOS-Esclaves report. While allowing for the possibility of isolated cases of slavery in the remote countryside, the Commission concluded that slavery does not exist as an institution, and the persistence of vestiges of slavery was the more convincing explanation of social relations. Anti-Slavery International has stated that there is insufficient evidence one way or the other to conclude whether or not slavery exists, and that an in-depth, long-term study was required to determine whether the practice continues.

Problems related to the vestiges and consequences of slavery usually enter the public domain in judicial cases, most often in the form of child custody and inheritance disputes, between former masters and former slaves or their descendants. However, court adjudication of such cases is rare. Several inheritance disputes between Haratines and the descendants of their former master were adjudicated in court in recent years. Most such disputes were decided in accordance with the law, as the courts ruled that the descendants of the former slaves should inherit their property. However, in some cases involving land tenure, courts reportedly did not uphold the property rights of former slaves. No further action is known to have been taken on such a 1994 land case in which a court ruled against a Black Moor of slave background in favor of a White Moor former master.

In a 1995 case, the Supreme Council of Magistrates removed a magistrate from the bench because he ruled, contrary to the law, that a former master, rather than the former slave's descendants, should inherit the possessions of a former slave. In December 1996, the Supreme Council of Magistrates removed the magistrate in Kankossa from the bench because he refused to accept the provisions of the 1980 law abolishing slavery. The Government censured for a human rights-related cause at least one of the other three judges removed at the same time. The removal of these magistrates reinforced for other judges that the provisions of the 1980 law apply.

A case involving a former master, who was awarded custody of three children in early 1997 because he was deemed to be the father was resolved by mediation dur-

ing the year with the children living with their mothers in Nouakchott. Determination of such cases is problematic in a country where there are polygyny, "secret" marriages, no written records, and divorce by repudiation. The courts are prepared to pursue the concept of genetic testing to determine paternity, but no such cases have yet been brought.

Three NGO's, SOS-Esclaves, the National Committee for the Struggle Against the Vestiges of Slavery in Mauritania, and the Initiative for the Support of the Activities of the President, had as their focus issues related to the history of slavery in Mauritania. Of these, SOS-Esclaves was particularly active in bringing to public attention cases in which it found the rights of former slaves to have been abridged and in assisting former slaves in their difficulties with former masters. Other human rights and civic action NGO's also follow this issue closely. The independent press, which includes journals that are published by Haratines and southern-based ethnic groups who emphasize issues of importance to these ethnic groups, is also quick to report any incident that comes to its attention in which the rights of former slaves have not been respected.

The Government focuses on education, literacy, and agrarian reform as the main means to eradicate the vestiges of slavery and deal with its consequences. The Government has raised the level of primary school attendance from 45 percent in 1986 to 85 percent this year. Classes are fully integrated, including boys and girls from all social and ethnic groups. In recent years, the Government's record in cases in which an individual's civil rights were adversely affected because of status as a former slave was weak. When complaints were filed with the Government to remedy cases involving detention of individuals against their will, the Government intervened in accordance with the law, although sometimes only after considerable prodding and passage of time. On May 21, the Government created a new cabinet post, the Commissariat for Human Rights, Poverty Alleviation, and Integration. A major focus of the commissariat is to address the vestiges and consequences of slavery.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code states explicitly that children must not be employed before the age of 14 in the nonagricultural sector unless the Minister of Labor grants an exception due to local circumstances. The Government has a functional labor inspectorate empowered to refer violations directly to the appropriate judicial authorities. The Government lacks sufficient resources to enforce existing child labor laws (see Section 5). The Government prohibits forced and bonded labor by children but does not enforce this prohibition effectively in certain specific cases (see Sections 5 and 6.c.).

Education is not compulsory and, for financial and other reasons, 15 percent of elementary school-age children do not regularly attend government schools. Labor law specifies that no child under the age of 13 may be employed in the agricultural sector without the permission of the Minister of Labor, nor under the age of 14 in the nonagricultural sector. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage, and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage.

Young children in the countryside commonly pursue herding, cultivation, fishing, and other significant labor in support of their families' activities. In keeping with longstanding tradition, many children serve apprenticeships in small industries and in the informal sector. There is no child labor in the modern industrial sector.

e. *Acceptable Conditions of Work.*—The minimum monthly wage for adults is $48.36 (9,872 ouguiya). It is difficult for the average family to meet minimum needs and maintain a decent standard of living at this salary.

The standard, legal, nonagricultural workweek may not exceed either 40 hours or 6 days without overtime compensation, which is paid at rates that are graduated according to the number of supplemental hours worked. Domestic workers and certain other categories work 56 hours. The Labor Directorate of the Ministry of Labor is responsible for enforcement of the labor laws, but in practice inadequate funding limits the effectiveness of the Directorate's enforcement.

The Ministry of Labor is also responsible for enforcing safety standards but does so inconsistently, due to inadequate funding. In principle workers can remove themselves from hazardous conditions without risking loss of employment; in practice, they cannot.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

MAURITIUS

The Republic of Mauritius, a parliamentary democracy since 1968, is governed by a prime minister, a council of ministers, and a national assembly. The President, who is nominated by the Prime Minister and confirmed by the National Assembly, serves as Head of State, with largely ceremonial powers. Fair and orderly national and local elections, supervised by an independent commission, take place at regular intervals. There are numerous political parties, and partisan politics are open and robust. The judiciary is independent.

A paramilitary Special Mobile Force under civilian control is responsible for internal security. This force, commanded by the Commissioner of Police, is backed by a general duty police force. Both forces are largely apolitical, but were criticized for being inadequately trained to prevent and control rioting that broke out nationwide in February. While human rights violations are infrequent, members of the security forces committed some serious abuses.

The economy is based on labor-intensive, export-oriented manufacturing (mainly textiles), as well as sugar and tourism. The standard of living is high, with a per capita gross domestic product of approximately $3,300 (82,500 rupees) per year. The Government is diversifying the economy by promoting investment in new sectors such as information technology and financial services.

The Government generally respects the human rights of its citizens, but problem areas remain. Police shot and killed three protesters during riots in February, and judicial inquiries were ongoing in at least eight cases of deaths in police custody. There continued to be occasional reports that police abused suspects and detainees, and delayed their access to defense counsel. Although the law to establish a national human rights commission to investigate complaints against the police, including allegations of police brutality, went into effect in February, the commission was not established by year's end. In some cases, police restricted freedom of assembly. Violence and discrimination against women and abuse of children continued to be problems. Interethnic tensions led to violence on at least two occasions. Child labor remains a problem. The Government continued to prepare a curriculum for human rights education for introduction in the schools; however, it did not meet the original goal of introducing such a curriculum in the primary grades during the year. There were reports that women and children were trafficked to the country.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—A judicial inquiry is ongoing into the February death in police custody of a popular Creole singer, Kaya. Kaya's death sparked 3 days of rioting in February during which police shot and killed three protesters, one police officer died of cardiac arrest, and shops, homes, and churches were burned and looted, resulting in an estimated $50 million (1,250 million rupees) in damages. A second inquiry is investigating the death of another Creole musician, who was shot and killed by police during the February riots.

On March 23, the Prime Minister responded to a parliamentary question and stated that eight detainees had been found dead in police cells between January 1, 1998 and February 28, 1999. The deaths were under investigation at year's end. Three persons died in prison in August and November (see Section 1.c.).

Little progress was made in resolving the cases of two persons who died in police custody, one in 1996 and one in 1994. In 1994 three police officers were charged with manslaughter but found not guilty. An April 1998 preliminary inquiry into the 1996 case did not result in any charges being filed against police officers. Human rights lawyers asserted that the police were attempting to conceal the facts surrounding the deaths and were not conducting thorough, unbiased investigations.

On May 23, seven persons died in a fire at a Chinese social club in Port Louis set by predominantly Muslim demonstrators who were protesting the result of a soccer game (see Section 5).

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and inhuman punishment, and authorities generally respected it; however, there continued to be complaints of abuses by the police. The most common form of alleged police abuse is the use of force to coerce a suspect to sign a confession. Police on occasion used force and tear gas to disperse protesters, resulting in a few injuries (see Section 2.b.). A judicial inquiry is ongoing into the circumstances behind the death in police custody of the popular singer Kaya (see Section 1.a.).

In response to the eight reported deaths in police custody between January 1, 1998, and February 28, 1999 (see Section 1.a.), the Commissioner of Police announced plans to establish a central investigation bureau under the supervision of the national human rights commission, to investigate complaints against police.

While the law to establish the national human rights commission went into effect on February 23, the commission had not been established by year's end. The Attorney General and the Minister of Human Rights announced that they still were searching for the appropriate former Supreme Court judge to chair the commission, a condition stipulated by the law. The commission is to have three other members, of whom one must be a lawyer or a judge with 10 years of experience and the other two must have experience in the human rights field. The commission is to investigate abuses by any public servants, but cannot investigate complaints that are already the subject of an inquiry by the Ombudsman, the Director of Public Prosecutions, the Public Service Commission, or the Disciplined Forces Service Commission. The commission is to have the authority to visit centers of detention or prisons to assess living conditions and make recommendations on conditions. The commission first is to try to resolve complaints through conciliation. If not successful, the commission can forward cases to the Director of Public Prosecutions (if criminal in nature), to the service commissions for disciplinary measures, or to the responsible authority in question.

Prison conditions generally meet minimum international standards.

In August a recently sentenced prisoner hung himself in the infirmary of the central prison. In November another prisoner in the central prison hung himself. Also in November, a recently arrested prisoner was found dead in his cell in a prison just outside of Port Louis, reportedly due to respiratory problems. Police investigated the deaths and there were no reports of abuse or neglect.

The Government has permitted prison visits by foreign diplomats, the national Ombudsman, a team from the United Nations Commission for Human Rights, and the press. The Government stated that it would investigate conditions and treatment in police holding cells; however, it did not begin an investigation by year's end.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions. In most cases, suspects are provided prompt access to family and defense counsel; however, police at times delayed suspects' access to defense counsel. Minors and those who did not know their rights were more likely not to be provided prompt access.

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

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

The judicial system consists of the Supreme Court, which has appellate powers, and a series of lower courts. Final appeal may be made to the Privy Council in the United Kingdom. There are no political or military courts.

The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right. Defendants have the right to private or court-appointed counsel. The 1995 Dangerous Drugs Act, which would permit law enforcement authorities to hold suspected drug traffickers for up to 36 hours without access to bail or legal counsel, is undergoing judicial review and has not been implemented. Attempts to introduce new legislation to permit authorities to withhold access to bail or counsel from suspected drug traffickers for 36 hours failed because of public opposition.

There are no political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these provisions, and violations are subject to legal sanction. Both human rights lawyers and police authorities stated that illegal entry by the intelligence apparatus had ceased. The acting Commissioner of Police stated that police do not use illegal wiretaps on telephones.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Debate in the National Assembly is lively and open. On April 26, a Supreme Court judge issued an interlocutory order requiring Parliament to readmit the leader of the opposition, who had been expelled for alleged unruly behavior during the April 6 parliamentary session. In his decision, the judge criticized the Speaker of Parliament for publishing officially a false account of the parliamentary proceedings in question and for not following proper procedures in suspending the opposition leader. The judge also suggested that a government minister had perjured himself in an affidavit filed in support of the Speaker.

More than a dozen privately owned newspapers presented varying political viewpoints and expressed partisan views freely. The Government has the ability to counter press criticism by using strict libel laws; however, the Government has not invoked these measures to inhibit the press. Libel suits between private parties are common.

The government monopoly in broadcasting local news and programming continued, but it was undermined by a Supreme Court decision in 1997. This decision resulted in the opening of broadcasting to private parties with the exception of local news programming, which remained under government control pending passage of legislation for complete liberalization. One private news organization began local news broadcasts in July 1998 on the Internet, thereby circumventing the ban on private party television or radio local news broadcasts. Foreign international news services, such as the United Kingdom's Sky News, France's Canal Plus, and Cable Network News, are available to the public by subscription.

The state-owned Mauritius Broadcasting Corporation (MBC) was criticized after the February riots for not adequately covering the disturbances, while the privately owned print media covered the events extensively. A communique released by the MBC in March stated that it would have been "out of the question" for MBC to cover the riots live, because of fears that such coverage would needlessly dramatize the events and lead viewers to believe that a "full civil insurrection" was taking place in the country. The opposition Mauritian Socialist Movement/Militant Mauritian Movement Federation, in a judicial challenge to the results of a September 19 by-election, formally accused the MBC of providing biased coverage favoring the Government's candidate during the by-election campaign; the MBC rejected this charge. The Supreme Court postponed a hearing on this matter, which was scheduled for November. The hearing was not rescheduled by year's end.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, police permission is required for demonstrations and mass meetings and such permission was refused in certain cases this year. While groups have the right to challenge denials, some of those who went ahead with demonstrations after a denial or never asked for police permission to gather at all were confronted with a heavy police response. After police refused to allow the Unemployed Workers' Movement and the Rodrigues Government Employees Association on the island of Rodrigues to hold a second demonstration in April, the group gathered anyway, and police used tear gas to disperse the protesters and arrested eight persons. In July leaders of the Federation of Civil Servants gathered outside Government House, which houses the National Assembly and ministerial offices, to deliver a letter to the Minister of the Public Sector. A team from the police's special Support Unit arrived and forcibly dispersed the protesters, slightly injuring three persons in the process.

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

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

While the Government generally is secular in both name and practice, it has favored the Hindu majority of the population. The Government spent approximately $3 million (75 million rupees) in 1998 to expand a road going to the Hindu pilgrimage site for the annual Maha Shrivaratree festival. The Government couched the expense in terms of public safety, since the large portable shrines carried by the pilgrims had caused significant traffic hazards. In February 1998, the Prime Minister declared a national holiday for all Hindus who celebrated Maha Shrivaratree. There were outspoken protests by those who were not Hindu or did not have "Hindu-sounding" last names and were, therefore, not eligible for the paid holiday.

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

In August six Congolese refugees were stopped by immigration authorities and detained. The six requested political asylum, which the Government refused to grant. The Government does not grant political asylum to refugees in general on the grounds that the country is small, has limited resources, and does not wish to become a haven for large numbers of refugees. The Government allowed the six Congolese refugees to remain in the country while their attorney sought asylum for them in another country; all had been granted political asylum in another country by year's end. In November the Government allowed a Seychelles citizen and his family seeking refugee status in another country to remain in the country. The U.N.

High Commissioner on Refugees had not made a determination regarding their status as refugees by year's end.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice. Free and fair national elections based on universal suffrage were held in 1995, and a free by-election was held in September. The September by-election was held without violence and was won by the Government's candidate. The opposition judicially contested the result, alleging that the Government abused the state apparatus to favor its candidate and "corrupted" voters. In December 1998, the National Assembly passed legislation granting voting rights in the general elections to the 300 residents of the island of Agalega. Previously, they had not been represented in the National Assembly. This leaves only the residents of the island of Saint Brandon without suffrage. There only are about 100 fishermen on 6- to 12-month contracts living on Saint Brandon.

Women are underrepresented in government and politics. Of the 66 National Assembly seats, 5 are held by women.

In the National Assembly, up to eight members are appointed through a "best loser" system to ensure that all ethnic groups are represented. There are four such members.

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

A number of human rights groups are organized and actively investigate and publish their findings on human rights cases. They operate without government restriction. Government officials cooperated with and responded to the views of human rights groups.

The constitutionally mandated ombudsman investigates complaints of human rights abuses. A national human rights commission, provided for by a 1998 law, had not been established by year's end. (see Section 1.c.).

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

The Constitution specifically prohibits discrimination on the basis of race, caste, place of origin, political opinion, color, religion, or sex. The Government generally respected these provisions. The Government continued to prepare a curriculum for human rights education to be introduced into social studies courses at the primary and secondary levels; however, it did not meet the original goal of introducing such a curriculum in the primary grades during the year.

Women.—Violence against women, particularly spousal abuse, is a problem according to the Ministry of Women's Rights and Family Welfare, attorneys, and nongovernmental organizations (NGO's). The Protection from Domestic Violence Act, partially enacted in 1997, came into full force in March 1998 with the criminalization of domestic violence, and the updated law provides the judicial system with greater powers to combat this problem. Between January and June, 310 protection orders against abusive partners were issued, and a total of 843 protection orders have been issued since 1997. According to officials, the number of reported spousal abuse cases has risen in the last 4 years, primarily due to a greater awareness of women's rights and the Government's readiness to enforce them. Nevertheless, many victims still choose not to prosecute their attacker, primarily due to cultural pressures. A UNICEF-funded study reported that there were 1,013 cases of domestic violence between November 15, 1997 and May 15, 1998. Women were the victims in 974 of these cases with alcohol being a contributing factor in 56 percent of the cases.

Since women often depend on their spouses for financial security, many remain in abusive situations for fear of being unable to provide for their children as single parents. While a magistrate can order a spouse to pay child support, some spouses have stopped working in order to avoid payment. However, in July 1998, several amendments to the Criminal Code were enacted that made it a crime to abandon one's family or a pregnant spouse for more than 2 months, not to pay court-ordered food support, or to engage in sexual harassment.

Traditionally women have played subordinate roles in society, and societal discrimination continues; however, women have access to education, employment, and government services. The Minister of Women, Family Welfare, and Child Development stated in August that 25.8 percent of managers are women.

Children.—The Government placed strong emphasis on the health and welfare of children and displayed a commitment to expand educational opportunities for children. Education is mandatory until the age of 12, and the Government has set a goal to increase this to age 15 once 60 new schools are authorized and built. In July 1998, the legislature passed additional provisions to the Protection of the Child Act, thereby making certain acts compromising the health, security, or morality of children a crime.

Although incidents of child abuse are reported, private voluntary organizations claim that the problem is more widespread than is acknowledged publicly. Most government programs are administered by the state-funded National Children's Council and the Child Development Unit at the Ministry of Women, Family Welfare, and Child Development, which provides counseling, investigates reports of child abuse, and takes remedial action to protect affected children. In 1998 there were 2,897 reported cases of child abuse, including physical abuse, neglect, and sexual abuse. Between January and May, 1,375 cases were reported, a 429 case increase over the same time period in 1998.

People with Disabilities.—There is no discrimination against disabled persons in employment, education, or in the provision of other government services. The law requires organizations that employ more than 10 persons to set aside at least 3 percent of their positions for the disabled. There is no law mandating access to public buildings or facilities. The law does not require that work sites be accessible to the disabled, making it difficult for persons with disabilities to fill many jobs.

Religious Minorities.—Tensions between the Hindu majority and Christian, Creole, and Muslim minorities persist and resulted in at least two violent confrontations during the year. This tension and violence has both religious and ethnic elements. In April the head of the Catholic diocese invited all other religious heads to meet to discuss solutions to the tensions, but none accepted. After a second invitation, the head of Hindu House responded favorably. The outcome of their meeting included an invitation to the President to establish an interreligious council.

National/Racial/Ethnic Minorities.—Tensions among the Hindu, Creole, Muslim, European, and Chinese communities persist and resulted in at least two violent confrontations during the year. In February there were several days of rioting and interethnic confrontations after a popular Creole singer died in police custody. Protests by members of the Creole community against suspected police misconduct in the case escalated into full-scale rioting and violent confrontations between ethnic groups, resulting in four deaths and approximately $50 million (1,250 million rupees) in property damage (see Section 1.c.).

On May 23, fans rioted when a historically Creole team defeated a historically Muslim team for the national soccer championship. That night seven persons died in a fire set at a Chinese social club in Port Louis by predominantly Muslim demonstrators who rioted after the soccer game. The precise motives for the arson attack remain unclear, but observers believe that the social club was targeted because it permitted gambling, served alcoholic beverages, and allegedly permitted prostitution from its location near the city's main mosque.

As a result of the ethnic violence that occurred in February and May, several initiatives were taken to improve relations between ethnic groups. After meeting in April, the heads of the Catholic Diocese and the Hindu House recommended that the President establish an interreligious council; however, such a council had not been created by year's end. The President established a Committee for the Promotion of National Unity, which consists of 20 members from a wide cross section of the public and private sectors. The committee has sponsored a variety of activities to promote goodwill between ethnic groups. The Mauritian Council of Social Service, which serves as an umbrella group for NGO's in the country, created a conflict resolution working group to address ethnic tensions. A citizen based abroad established the Mauritius Peace Initiative to facilitate contact between domestic community leaders and international conflict resolution experts.

The Rodrigues Government Employees Association is suing the Public Service Commission and the Government for placing different service conditions on those civil servants who were born and live on Rodrigues, an island 360 miles off the country's east coast with a population of 36,000, compared with civil servants who were born on the main island of Mauritius and work on Rodrigues. The Supreme Court heard the case at the end of November, but had not issued a decision by year's end.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution explicitly protects the right of workers to associate in trade unions, and there is an active trade union movement. More than 335 unions represent over 125,000 workers, or about 25 percent of the

work force. Many unions are small, having fewer than 1,000 members. Eight major labor federations serve as umbrella organizations for these smaller unions. With the exception of members of the "disciplined force," namely, the police and the Special Mobile Force, and persons in state services who are not public officers such as contractors, workers are free to form and join unions and to organize in all sectors including in the export processing zone (EPZ). Although only 12.5 percent of EPZ workers are unionized, these workers are covered by national labor laws. The Mauritian Labor Congress asserts that union membership is low in the EPZ in part because employers in the EPZ intimidate employees and restrict access to union organizers. Labor unions are independent of the Government, and they have pressed wage demands, established ties to domestic political parties, and addressed political issues.

Under the Industrial Relations Act (IRA), unions have the legal right to strike; however, in practice the IRA requires a 21-day cooling-off period, followed by binding arbitration, which has the effect of making most strikes illegal. The IRA states that worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals are unjustified. There were no major strikes during the year.

Under the law, unions may establish ties with international labor bodies, and some unions have done so.

b. *The Right to Organize and Bargain Collectively.*—The law protects the right of employees to bargain collectively with their employers. Minimum wages for nonmanagerial level workers are set by the National Remuneration Board (NRB), whose chairman is appointed by the Minister of Labor; however, most unions negotiate wages higher than those set by the NRB. Almost 13 percent of the labor force works for national or local government. The IRA prohibits antiunion discrimination. There is an arbitration tribunal that handles any such complaints.

Approximately 91,559 persons work in the EPZ. While there are some EPZ-specific labor laws, such as provisions allowing EPZ employers to request up to 10 hours per week of paid overtime from their employees, workers in these firms enjoy the same basic protections as workers in other firms.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor, including that by children, is prohibited by law, and is not practiced.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment of children is 15 years; however, children unable to attend secondary school often seek apprenticeships in the trades. The Government has set a goal to increase mandatory education to 9 years of schooling in January 2000. Six vocational schools were opened in January 1998 to train students who fail the primary education certificate exam taken by students at the end of the sixth year of primary education.

The Ministry of Labor is responsible for enforcement and conducts frequent inspections. According to the Ministry of Women, Family, and Child Development, 2,000 children between the ages of 12 and 14 were employed or looking for work in 1998. Child labor in homes, on farms, and in shops is common on the relatively isolated island of Rodrigues. Forced or bonded labor involving children is prohibited by law and does not exist (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Government administratively establishes minimum wages, which vary according to the sector of employment, and it mandates minimum wage increases each year based on inflation. The minimum wage for an unskilled worker in the EPZ is about $12.74 (320 rupees) per week, while the lowest weekly wage for a non-EPZ worker is about $15.48 (389 rupees). This sum is below the level needed to provide a decent standard of living for a worker and family, but the actual market wage for most workers is much higher due to a labor shortage and collective bargaining. The standard legal workweek in the industrial sector is 45 hours. In the EPZ, an employee may work an additional 10 hours per week, although at a higher hourly wage (see Section 6.b.).

There are more than 12,200 legal foreign workers. Since they often do not speak English, French, or Creole, it is difficult for them to demand their rights, which are the same as those of citizen employees, including the right to belong to a union. However, there were cases in which foreign workers obtained local legal counsel to redress their grievances.

The Government sets health and safety standards, and Ministry of Labor officials inspect working conditions and ensure compliance with the 1988 Occupational Safety, Health, and Welfare Act. The small number of inspectors limits the Government's enforcement ability; however, through voluntary compliance, the number of occupational accidents has been cut by two-thirds since the Act's passage. Workers have the right to remove themselves from dangerous situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—The law prohibits trafficking in children, but does not specifically mention trafficking in adults. There were reports from the nearby island of Madagascar that women and children were trafficked to the islands of Reunion and Mauritius for prostitution.

MOZAMBIQUE

Mozambique's constitutional Government, headed by President Joaquim Chissano, held its second general multiparty elections in December (the first multiparty elections were held in 1994). President Chissano was reelected and his party, the Front for the Liberation of Mozambique (FRELIMO), won 133 seats in the 250-seat Assembly of the Republic, with the remaining 117 seats going to the opposition coalition of the Mozambique National Resistance—Electoral Union (RENAMO-UE). The elections were peaceful and orderly; however, they were marred by allegations of vote-counting irregularities. Chissano and the leadership of FRELIMO, which has ruled the country since independence in 1975, dominate policymaking and implementation. The Assembly is a multiparty parliament that provides increasingly useful debate on national policy issues and generates some proposals independently. During legislative sessions, the Assembly's FRELIMO majority influenced the executive branch on some policy issues. Opposition parties in the Assembly, working together with FRELIMO, were able to develop and enact some legislation on a bipartisan basis. The Constitution provides for an independent judiciary; however, the executive branch dominates the judiciary, which lacks adequate resources, and is chronically understaffed, susceptible to corruption, and largely ineffectual.

The forces responsible for internal security under the Ministry of Interior include: the Criminal Investigation Police (PIC), the Mozambican National Police (PRM), and the Rapid Reaction Police. The State Information and Security Service reports directly to the President. The military continued to suffer from a lack of money and long term strategy. Many former military personnel of all ranks work in other government security forces. Members of the security forces committed numerous serious human rights abuses.

Mozambique is a very poor country. Approximately 80 percent of the population are employed in agriculture, mostly on a subsistence level, and approximately 75 percent of the population live in poverty. The primary exports are shrimp, sugar, cotton, and cashew nuts. The transition to a market economy continued during the year. In 1998 the gross domestic product (GDP) was about $3.4 billion, up over 10 percent in each of the last 3 years. Inflation was less than 5 percent in 1998. The economy and government budget remained heavily dependent on foreign aid. The economy had a $204 million trade deficit in 1998, down from $377 million deficit in 1995. Annual per capita income was approximately $180. High unemployment and underemployment in the formal and informal sectors continued. Corruption continued to be a problem in the public and private sectors.

The Government's human rights record, although poor in numerous areas, continued to show improvements in several others. Police continued to commit numerous abuses, including extrajudicial killings, excessive use of force, torture, and other abuses. Police officers tortured and beat persons in custody, and abused prostitutes and street children. Prison conditions remain extremely harsh and life-threatening; many prisoners died due to the harsh conditions. Police continued to use arbitrary arrest and detention, and lengthy pretrial detention was common. Fair and expeditious trials were not possible due to an inefficient, understaffed, and underfunded judiciary, which is dominated by the executive and subject to corruption. The Government generally respected freedom of the press; however, there were some limitations. Media outlets owned by the Government and State enterprises largely reflected the views of factions within the ruling party; however, the number and diversity of independent media increased, and their criticism of the Government, its leaders, and their families largely is tolerated. Human rights violations received extensive coverage in both government and independent media during the year. Both the Government and the law imposed some limits on freedom of association. The Government, at times, infringed on freedom of movement. The country's movement toward decentralization and expanding democracy progressed; the voter registration process was successful with 85 percent of the estimated eligible population registering to vote in the general elections. Domestic violence against women as well as widespread discrimination against women in employment and property rights, remained problems. The abuse and criminal exploitation of street children increased in urban areas, and child prostitution remained a problem. Discrimination against the disabled, child labor, and forced child labor remained problems. The media re-

ported a few cases of trafficking in women and children. Occasional mob violence resulted in several deaths.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, there were a few reports of extrajudicial killing. In March relatives of a detainee accused police of killing him in Beira central prison. Authorities attributed the man's death to an unspecified illness; an eyewitness testified in March that he saw police beating the victim on the way to the prison. The case was referred by the Mozambican Human Rights League (LDH) to the Attorney General's office, but still was pending at year's end.

In October a new organization, Human Rights and Democracy (DHD), published a critical assessment of human rights conditions (see Section 4); among the complaints were alleged police killings.

Extremely harsh prison conditions and torture resulted in the deaths of some persons in custody (see Section 1.c.).

In 1998 a journalist in Cabo Delgado province reported that an accused thief, Cabral Manica, died while in police custody because of torture. The police officer allegedly responsible for Manica's death was convicted in June and sentenced to 3 months in prison.

There was no investigation into the 1998 death in police custody of Intipa Faque in the northern province of Nampula; nor was any action taken against the officers responsible.

The Government reportedly investigated the police killing of a demonstrator during a labor strike at a security services company in 1998; however, no report was released publicly, nor was any action taken against the officers responsible (see Section 6.a.).

An investigation was ongoing at year's end into the 1997 police killing of Eduardo Machava, allegedly for refusing a shakedown attempt.

Police denied wrongdoing in the 1997 killings of Abel Zefanias dos Anjos and Crescensio Sergio Muchange, and reportedly have not yet referred either case to the criminal investigation branch.

Occasional mob and vigilante killings continued in both urban and rural areas due to general public frustration with rising crime. In August a man in Maputo was caught stealing from a residence and was beaten by a crowd until the police intervened. Another man was beaten to death by a mob in a Maputo suburb after breaking into a residence.

Some of the hundreds of thousands of landmines still in the ground after decades of civil war caused 12 deaths during the year.

b. *Disappearance.*—There were no reports of politically motivated disappearances; however, police were responsible for unexplained disappearances of prisoners.

The fate of thousands of citizens who disappeared during the civil war still remains unresolved.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits torture and cruel or inhuman treatment; however, the police continued to commit serious abuses and torture, beatings, death threats, physical and mental abuse, extortion, and unexplained disappearances of some prisoners remained problems. From January to September, the LDH reported 78 complaints of torture, including several instances involving the mistreatment of women, beating, illegal detention, and death threats.

Corruption in the police forces extends throughout the ranks, and the PRM used violence and detention to intimidate persons from reporting abuses.

Journalists continued to report that police extorted money from street vendors, many of whom are widowed and divorced women, sometimes beating the women, and often stealing their merchandise. There also were reports of police abuse of prostitutes and street children (see Section 5).

The national budget allocated more funding for the hiring and training of police, as well as for higher salaries. New standards for the police force were imposed, requiring a minimum educational level of the tenth grade. A new police academy is scheduled to be opened in early 2000 to provide some university level training to police officers. Human rights training is becoming mandatory for all security officers, with human rights groups like the LDH teaching some of the courses. The LDH's president noted in October that there had been overall improvement in police performance.

There was some sporadic political violence related to the December elections, attributable to both RENAMO-UE and FRELIMO supporters (see Section 3).

Prison conditions in most of the country are extremely harsh and continued to pose a threat to inmates' health and lives. A LDH report released in January on the Beira central prison found that conditions remain significantly below minimum international standards. Latrine facilities are primitive; in some prisons, inmates must keep human waste in their cells until they persuade or bribe attendants to remove it. Food is substandard and scarce. Most prisoners receive only one meal per day on a regular basis. There are many deaths in prison, the vast majority due to illness and disease. In March after being transferred to Maputo Central Hospital, three minor prisoners died due to illness and an alleged lack of food while imprisoned. While the health problems of most inmates remain unattended, the Ministry of Health made specific efforts to address some of the more serious diseases in the prison system, including cholera, tuberculosis, and HIV/AIDS-related illnesses.

The Beira chapter of the LDH visited Beira central prison in December 1998, and January, and found that torture, death threats by agents of the State, extortion, physical and mental abuse, and unexplained disappearances of some prisoners still are problems. There are reported cases in which inmates complained of extortion, and of denial of visitation rights and medical care. During its visit the LDH noted a marked drop in the number of complaints from inmates from a high of 700 during a previous visit in 1998, to 300. In September a woman's prison, which included a prison school, was opened in Ndlavela.

In October the Ministry of Justice held a 4-day symposium on prison reform, seeking ways to improve conditions and the rehabilitation of inmates. In connection with the symposium, Justice Minister Jose Abudo admitted that the penal system was "imperfect and lacking, beset with serious structural problems that demanded profound reforms."

In November 1998, a newspaper reported the discovery of a clandestine prison in Buzi District, Sofala Province, where police allegedly detained prisoners in underground cisterns. Local authorities denied the existence of this illegal prison.

Two National Directorates of Prisons (DNP's), one under the Ministry of Justice (MOJ) and the other under the Ministry of Interior (MOI), operate prisons in all the provincial capitals. The DNP's also hold prisoners at an agricultural penitentiary in Mabalane and industrial penitentiaries in Nampula and Maputo. According to nongovernmental organization (NGO) sources, MOI inmates generally are unconvicted suspects who may have been interviewed by a judge but not sentenced, some of whom have been held for years (see Section 1.d.). MOJ inmates generally have been tried and sentenced in a conventional legal process. In most prisons, inmates under MOJ jurisdiction are imprisoned with those under MOI jurisdiction. Military and civilian prisoners are held in the same prisons.

Detention facilities remained severely overcrowded, generally housing four to six times the number of prisoners that they were built to accommodate. During the year, Beira central prison held 653 prisoners in a prison built to hold 200; Manica held 1,000 in a prison built to hold 300; Tete held 405 in a prison built to hold 90. Inhambane provincial prison held 150 in a prison built to hold 75; Nampula held 400 in a prison built for 70; and Pemba held 413 in a prison built for 90. Maputo central prison, built to hold 800 inmates, held 2,300, of whom 1,570 were awaiting trial. However, the Maputo Machava maximum security prison, with a capacity of 600, held considerably less than that.

Minors are incarcerated with adult inmates. During a visit to the Beira central prison in August, the Minister of Coordination of Social Action found 25 minors detained there. However, the LDH reported noticeably fewer minors held in detention nationwide. At times Maputo city prison houses children as young as 3 years of age, brought there by mothers sentenced for long periods for crimes.

International as well as domestic human rights groups may have access to prisoners at the discretion of the MOJ and MOI; however, officials sometimes cite unsanitary conditions or security risks as reasons to delay or cancel visits.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that the duration of preventive imprisonment be set by law; however, the police continued to arbitrarily arrest and detain citizens in practice. Under the law, the maximum preventive imprisonment is 48 hours, during which time a detainee has the right to have his case reviewed by judicial authorities, after which he can be detained up to another 60 days while the case is investigated by the PIC. In cases where a person is accused of a very serious crime carrying a sentence of more than 8 years, he may be detained up to 84 days without being charged formally. If a court approves, such detainees may be held for two more periods of 84 days each without charge while the police complete the investigation process. The law provides that if the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases, the authorities either are unaware of

these regulations or ignore them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends.

In February police detained a Pakistani imam for questioning in connection with the criminal investigation of the murder and decapitation of a young black man (see Section 2.c.). An investigating magistrate released the imam on bail after 8 days in detention, but ordered him to remain in the country for further questioning. In August the Imam was rearrested and remained in detention at year's end pending a trial.

In 1998 a radio journalist, Fernando Quinova, was detained without charge after reporting on Radio Mozambique that a prisoner died while in the custody of the police (see Section 2.a.). Quinova escaped from prison, but was rearrested on March 2, and charged with slandering the police and illegally leaking documents: neither charge exists under the Penal Code. On March 8, Quinova was freed after the media publicized his plight. In May the Cabo Delgado provincial court convicted a police commander of illegally detaining Quinova. The commander was fined approximately $44 (546,000 meticais) and ordered to pay Quinova approximately $240 (3 million meticais) in compensation.

Many persons complained that security officials often detained them for spurious reasons and demanded identification documents; many officers also demanded bribes to permit persons to continue toward their destinations. The media reported that citizens in Nampula province complained to authorities that police detained persons for not carrying identification documents, and demanded money when they could not produce documents. Many victims lived in areas where there was no notary public available to validate their documents. Many victims chose not to seek police assistance because of their usual demand for bribes or a lack of confidence that the police would help.

Most citizens also are unaware of their rights, particularly those provided by the Constitution, the law, and the Penal Process Code. As a result, detainees can spend many weeks, months, and even years in pretrial status. The bail system remains poorly defined, and prisoners, their families, and NGO's continue to complain that police and prison officials demand bribes to release prisoners.

Under the Penal Code, only those suspects caught in the act of committing a crime can be held in detention. Justice Ministry officials say that some police lack adequate training and do not know how to charge a person properly with a stated crime. An unfortunate detainee thus may be subjected to indefinite detention. The National Directorate of Prisons reported that there are an estimated 7,500 persons in the prison system, 4,758 of whom were detainees who had not been charged. In response to this problem, a legal enforcement commission convened in May and ordered cases of detainees to be reviewed so that those who had served their time or were being held illegally (without charge) could be released. In Beira alone, 230 prisoners were released from the central prison during May and June. The DHD report on human rights conditions released in October gave particular emphasis to the problem of arbitrary arrest and detention (see Section 4).

Drug cases are subject to a special regime. A 1996 law specifies that the legal period of preventive detention in drug trafficking cases is 10 days. The same law authorizes a long period of investigation—up to 9 months—in cases involving drug smuggling, drug production and transfer, and criminal association.

The Constitution expressly prohibits exile, and the Government does not use exile as a form of punishment.

e. *Denial of Fair Public Trial.*—The Constitution formally established an independent judiciary and specifically states that the decisions of the courts take precedence over all other authorities and individuals and must be obeyed; however the executive, and by extension the FRELIMO party, continued to dominate the judiciary, which is understaffed and manned by inadequately trained appointees. The DHD report on human rights conditions released in October gave particular emphasis to problems in the judiciary (see Section 4).

The President appoints the President and Vice President of the most important tribunal, the Supreme Court. Supreme Court nominations initially are prepared by the Supreme Higher Magistrate's Council (CSMJ), the body responsible for overseeing professional behavior among magistrates. The CSMJ, generally all FRELIMO party members, submits a list of qualified persons to the President of the Republic. The president then submits his choices to the National Assembly for approval. No assembly approval is needed for other judicial appointments.

There are two complementary formal justice systems: The civil/criminal system, and the military system. Civilians are not under the jurisdiction of, or tried in, military courts. A 1991 law empowered the Supreme Court to administer the civil/criminal system; it also hears appeals, including military cases, although the Ministry of Defense administers the military courts. Below the Supreme Court there are pro-

vincial and district courts. There also are courts that exercise limited, specialized jurisdiction, such as the administrative court, customs court, fiscal court, maritime court, and labor court. The Constitution called for the creation of a Constitutional Council, but the Government has not yet passed implementing legislation. In the absence of this body, the Supreme Court is tasked with ruling on issues of constitutionality, as it did when assessing the eligibility of presidential candidates for the general elections. In November the Supreme Court overruled the National Election Commission and allowed the United Front of Mozambique (FUMO) party to participate in the RENAMO-UE coalition (see Section 3). Persons 16 years old and younger fall under the jurisdiction of a court system for minors. Through this legal channel, the Government can send minors to correctional, educational, or other institutions. As with the provincial and district courts, the specialized and minor court systems are ineffective due to a lack of qualified professionals.

In August Supreme Court Chief Justice Mario Mangaze complained that only 25 percent of citizens had access to the official judicial system. Outside the formal court system, a number of local customary courts adjudicate matters such as estate and divorce cases. These courts are staffed by respected local arbiters who have no formal training but who exercise a substantial judicial and executive role, particularly in the area of arbitration.

Persons accused of crimes against the State are tried in regular civilian courts under standard criminal judicial procedures. The law provides definitions of crimes against the State, such as treason, terrorism, and sabotage. The Supreme Court has original jurisdiction over members of Parliament and other persons who are immune from trial in the lower courts. Early in the year, an administrative judge was arrested and detained for shooting a homeless man and is now on trial in the Supreme Court.

A judge may order a closed trial because of national security interests or to protect the privacy of the plaintiff in cases concerning rape.

In regular courts, all accused persons are in principle presumed innocent and have the right to legal counsel and the right of appeal; however, authorities do not always respect these rights. The great majority of the population is either unaware of these rights or does not possess the means to obtain any form of legal counsel. Although the law specifically provides for public defenders, such assistance is not available in practice, particularly in the rural areas. Some NGO's, such as LDH, the Government's National Institute for Legal Assistance, and the Mozambican Association of Women in Judicial Careers, continued to offer limited legal counsel at little or no cost to both defendants and prisoners.

A lack of licensed attorneys exacerbates the judicial system's weakness. There are an estimated 200 licensed attorneys in the country; the vast majority work in Maputo. There continued to be a shortage of qualified judicial personnel, with only 20 to 30 nationwide. There are appeals courts in all provinces, but few of these courts are staffed by formally trained judges, despite the fact that the Judicial Magistrates Statute requires a law degree. Some districts have no formal courts or judges at all. Several donor initiatives to remedy these shortages were continued or completed, including Danish and World Bank-financed training of district court judges and public prosecutors.

In 1998 while speaking at the opening of the Supreme Court session, Chief Justice Mangaze complained that a number of judges and others responsible to the courts are guilty of unacceptable practices, including corruption and bribe taking, chronic absence, unequal treatment, and deliberate delays and omissions in handling cases. Justice Mangaze also presides over the Higher Magistrate's Council (CSMJ), which expelled 23 judges for corruption since 1995. A Ministry of Justice official estimated that 16 judges have been removed from office since 1998, including three judges whose cases were heard during the year. In 1998 the National Assembly passed a law, which was implemented during the year, that speeds the implementation of CSMJ decisions affecting judges who appeal charges of misconduct, thus removing them from the bench more swiftly.

In November 1998, a young man accused of stealing from his employer was beaten, bound, and left in the sun by his employer, who accused him of stealing. His resulting injuries were so severe that both of his arms had to be amputated. The judge hearing the case was criticized widely by the press and public for only imposing a $40 (500,000 meticais) fine against the employer, who later absconded.

The Penal Code contains legal guidelines for the judicial treatment of minors and forbids the imprisonment of minors below the age of 20; however, there are many documented reports that some judges ordered the incarceration of minors in common prisons without trial (see Section 1.c.).

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right of privacy and expressly forbids the use of surveillance techniques, and the Government generally respected these provisions. By law police need a warrant to enter homes and businesses. There were no documented reports of such search activity; however, some political groups suspected that their telephones were tapped by government intelligence agencies, and claimed that security forces kept watch on their activities.

Section 2. Respect for Civil Liberties:

a. *Freedom of Speech and Press.*—The Constitution, the 1991 Press Law, and the 1992 Rome Peace Accords provided for freedom of expression and of the press, and the Government generally respected these provisions; however, limitations on these freedoms are permitted if they relate to the media's obligations to respect the Constitution, human dignity, and imperatives of foreign policy and national defense. A media watchdog organization expressed concern that the vagueness of "imperatives of foreign policy and national defense" could lead to unwarranted restrictions. While criticism of the President is not prohibited, the 1991 Press Law holds that in cases of defamation against the President, truth is not a sufficient defense against libel. This law has not been tested in court; however, the President experienced considerable verbal and written criticism during the year—especially during the course of the electoral campaign—without invoking this clause.

Police harassment and detention of radio journalist Fernando Quinova continued in the beginning of the year (see Section 1.d.). Quinova was released in March after the media publicized his plight in the northern province of Cabo Delgado. The National Journalists Union and Radio Mozambique provided legal counsel. In May a police commander was convicted of illegally detaining Quinova. Another officer was convicted and sentenced to 3 months imprisonment in June for the death in custody of Cabral Manica, which Quinova reported. In April the Tete district court absolved the newspaper Fax Do Interior, of charges of defamation, which had been levied in 1997. In June a Maputo court dismissed a suit of libel brought by an opposition politician against the state-owned newspaper Domingo.

Government and state-owned media largely reflected the views of the ruling party, but many such media sources also carried significant criticism of the Government's handling of the local election administration. Media ownership is diversified—the U.N. Educational, Scientific, and Cultural Organization (UNESCO) Media Project estimated that 34 percent of the country's media were public, 36 percent were private commercial, and 28 percent were private nonprofit (church affiliated); however, the public category includes the country's only daily newspapers, the only Sunday newspaper, and the only weekly newsmagazine. Two progovernment newspapers—Noticias and Domingo—together with a third sports-oriented weekly are owned by a single corporation, Noticias Sarl, in which state-owned enterprises hold majority shares. Both evidenced blatant bias in favor of the ruling party, FRELIMO, during the election period; however Domingo continued pushing for reform of the justice system. In June one fairly modern government-owned printing press in Maputo was privatized.

A large number of periodicals and broadcasting entities have been licensed since 1992 and the independent media criticisms of government leaders and their families largely is tolerated. An independent publisher started a daily newspaper in Maputo during the year, but was forced to limit publications to one per week due to financial constraints. There were four independent weekly newspapers published in Maputo, and five other independent weekly journals published in provincial capitals. According to a survey by the Panos Institute, the nine weekly newspapers had a combined total circulation of 45,910. There are an additional 20 printed periodicals with a combined circulation of 34,000. There also are eight periodicals that transmitted daily editions electronically, with a combined subscription of more than 1,500. The second oldest faxed daily, Imparcial, is owned by RENAMO. Websites were developed during the year for several independent media. Only a small minority of the population receives news directly through either television or the print media.

While the Government no longer owns most radio and television stations, government stations are the only broadcasters capable of countrywide transmission; however, there are local and independent broadcasts in almost all urban areas. Government media are showing greater transparency in reporting and some independence of editorial content. Radio Mozambique, the public's most important source of information, is government owned, but its news coverage is considered unbiased and fair. Radio Mozambique receives the largest single subsidy from the state budget of any public company. It broadcasts in Portuguese and 18 indigenous languages; its external service broadcasts in English as well as in Portuguese for citizens in neigh-

boring South Africa. Radio Mozambique regularly broadcasts public debates that include a variety of participants with differing opinions.

In addition to Radio Mozambique, there are 16 independent (primarily church-supported) and state-supported radio stations, most using local languages in addition to Portuguese, which have spread to over a dozen cities. One such station, Radio Terra Verde, is linked directly to the principal opposition party. Radio Terra Verde (RTV) is second only to Radio Mozambique's youth-oriented Radio Cidade in popularity, outside of broadcast times for soccer matches. Foreign radio programs, including the British Broadcasting Corporation (BBC), Radio France International (RFI), Radio Diffusao Portugal (RDP)-Africa, and the Voice Of America (VOA) reach all major population centers and report local news via Mozambican-based part-time reporters; the BBC and the RFI carry news in Portuguese but broadcast most of the day in English and French, respectively.

TV Mozambique moved into a new Portuguese-built studio in 1998 and began broadcasting during the year. During the elections, TV Mozambique was biased towards the ruling party. Portuguese Television for Africa (RTP Africa) offers a second source of televised news to all parts of the country reached by TVM. Privately owned television transmission continued to be limited to Maputo; transmissions from Quelimane did not begin during the year due to financial constraints. International television news via cable in Maputo and via satellite is available nationwide.

A media development report released by UNESCO expressed concern about the strong concentration of national and local media in Maputo city and province, mirroring lopsided socio-economic development nationwide. Furthermore, a 1997 census revealed that 60.5 percent of citizens over age 15 are illiterate in any language and 70 percent of the population over 5 years of age do not speak Portuguese, which further limits the reach of the media beyond Maputo.

Article 19, a United Kingdom-based NGO, reported that the independent media are constrained by the high cost of newsprint, distribution, and equipment. It claimed that publications close to the Government have an advantage in securing exemptions from customs duties. In September UNESCO's Media Diversity Project announced that it would assist 24 private sector print and faxed journals from all provinces to lower their paper costs and strengthen their ability to negotiate better commercial arrangements with the now privatized Cegraf printing press in Maputo; however, this arrangement had not been finalized at year's end.

The National Union of Journalists (SNJ) continued to work with the Austrian Institute for North-South Development to improve working relationships between journalists and police officers. The SNJ defended the state-owned Diario de Mozambique journalists' right to strike for back pay and benefits in Beira.

Final debate on recommendations that membership in the media watchdog committee, the Higher Council of Social Communications (CSCS), be redefined to eliminate majority control by governmental appointees was deferred for another year. The CSCS was among the several organizations, including a joint operation by the LDH and Article 19, which monitored media fairness during the December presidential and parliamentary elections. The CSCS did not issue an evaluation of the elections by year's end.

The Prime Minister's weekly press conferences are important opportunities for journalists to discuss politics and government policies; however, they were suspended during the electoral campaign. The Prime Minister's information office seeks to facilitate international press access to key government officials and to provide policy guidance on how new media should be regulated. The Prime Minister's information office continues to monitor press content informally.

There are no formal restrictions on academic freedom. Private educational institutions, both church-related and secular, are well established and continued to expand in several cities. A new Islamic University announced in 1998 is not yet in active development. Students from Catholic University again served as election monitors during the year.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. The law regulates public demonstrations but does not apply to private gatherings held indoors and by individual invitation, nor does it cover religious gatherings or election campaigning.

The law specifies some time limitations on the exercise of the right to gather or demonstrate peacefully. The law states that marches, parades, and processions cannot be held on Saturdays, Sundays, holidays, or between 5:00 p.m. and 12:30 a.m. on other days. The law provides for possible exceptions to this regulation, if justified, but such decisions are not made in an open and established manner. Further, the law states that any organizers of gatherings or demonstrations must submit a

notice to civil and police authorities with at least 10 signatures, for the holding of any such demonstration, along with a justification of the purpose of the gathering. The law stipulates that the Government must reply to any such request within 2 days of receiving the request, and that no reply within this period shall be understood to mean governmental acceptance. During the election campaign, political parties were not required to request authorization to hold political rallies.

The law provides for freedom of association; however, both the Government and the law imposed some limits on this right. Legislation promulgated in 1991 sets forth the process for the registration of political parties. There are over 20 registered, active political parties. Under 1992 legislation, a political party must demonstrate that it has no racial, ethnic, or religious exclusiveness and secure at least 2,000 signatures of citizens in order to be recognized.

The Government requires nonpolitical groups such as NGO's and religious organizations to register. In 1998 the Government issued a decree regulating the registration and activates of foreign NGO's. NGO's must register their presence and scope of work with the Ministry of Foreign Affairs; the Ministry then issues permits to those NGO's whose programs the Government decides complement its priorities. Observers believe that these new requirements worsen the already lengthy bureaucratic process that NGO's must follow to work in the country. Although the registration process is not always transparent and can take many months, the authorities rarely reject applications from new associations. The law forbids religious parties from organizing; however, there were no reports of government attempts to impede the right of association for political purposes during the year.

c. *Freedom of Religion.*—The Constitution provides that all citizens have the freedom to practice or not to practice a religion, and gives religious denominations the right to pursue their religious aims freely, and the Government generally respects these rights in practice.

The 1989 Law on Religious Freedom requires religious institutions and missionary organizations to register with the Ministry of Justice, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. No particular benefits or privileges are associated with the registration process. The Government requires foreign missionaries to register with the Office of Religious Affairs in the Ministry of Justice, but routinely grants visas and residence permits to them.

In February police detained a Pakistani imam for questioning in connection with a murder (see Section 1.d.). The media reaction to the detention sparked sharp public debate (see Section 5).

The law governing political parties specifically forbids religious parties from organizing, and any party from sponsoring religious propaganda.

The Constitution gives religious groups the right to own and acquire assets, and these institutions are allowed to operate schools. While virtually all places of worship nationalized by the State in 1977 have been returned to the respective religious organizations, the Catholic Church and certain Muslim communities complained that some other properties such as schools, health centers and residences unjustly remain in state hands, and continued to press for the return of such properties. The Government claimed that all "erroneously" nationalized properties have been returned. These complaints and the Government's responses to them have been aired in the press and debated in Parliament. The Conference of Catholic Bishops repeatedly raised this issue in its regular periodic meetings with the President, noting that many properties remain in state hands. In April an independent newsletter published a list of properties that the Government has failed to return, including Catholic schools and seminary properties in Inhambane, Maputo, Niassa, and Zambezia provinces, and a Muslim school in Sofala province. In 1998 the Catholic Church successfully negotiated for the return of many educational, social, and residential facilities that had remained in state hands.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for the right to live anywhere within national territory and to travel within the country and abroad; however, at times authorities infringed on these rights.

Police traffic checkpoints occasionally affected freedom of movement, sometimes for security concerns. In an effort to reduce harassment and confiscation of travelers' possessions at the borders, customs supervisors levied disciplinary fines and fired abusive customs agents. In large cities, the police often stop foreign pedestrians and order them to present original passports or resident papers, sometimes refusing to accept notarized copies, and fining those who failed to show proper documents (most persons do not like to carry the originals of documents due to the risk of theft). Police also detained local citizens routinely for failure to carry identity papers and demanded bribes (see Section 1.d.).

The law includes provisions for the granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Mozambique continued to offer shelter to approximately 370 refugees from 7 African countries and Cuba in cooperation with the U.N. High Commissioner for Refugees (UNHCR). The Government operates two transit centers near Maputo. Niassa and Tete provinces have scattered groups of transients from Burundi, Rwanda, Angola, Somalia, and Liberia. Due to the heightened conflict in the Democratic Republic of Congo, there were additional refugees in Niassa province. Refugee camp conditions continued to be poor, and some refugees claim to fear attack by fellow refugees on the basis of ethnicity. The UNHCR makes alternative shelter available to those who feel threatened. The Government offers first asylum, and offered it to some refugees during the year.

There were three cases of voluntary repatriation and no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to elect their representatives in universal, direct, secret, and periodic elections, and in December citizens freely exercised their right to vote in the country's second multiparty general elections that international observers considered to be generally free and fair; however, the elections were marred by allegations of vote counting irregularities. President Chissano was returned to office with approximately 52 percent of the vote, and the ruling FRELIMO party won 133 of the 250 assembly seats. The largest opposition group, RENAMO-UE, made a strong showing in the elections, winning 117 seats in the Assembly and 48 percent of the presidential vote. Prior to the election, FRELIMO party members held all Cabinet positions and provincial governorships, since the President appoints governors. New cabinet members and governors had not been appointed by year's end.

In September in an extraordinary session, the Assembly amended the electoral law by consensus to permit the general elections to be held on December 3–4. In November the Supreme Court overruled the National Election Commission and allowed the FUMO party to join the RENAMO-UE opposition coalition (see Section 1.e.).

Voter registration commenced on July 20 for 60 days. Despite some minor technical difficulties, including long lines and missing equipment, the registration process ran smoothly. Approximately 85 percent of the eligible voting population registered to vote. The 6-week campaign period was marked by some sporadic violence attributable to both FRELIMO and RENAMO-UE supporters (see Section 1.c.), although at significantly reduced levels than during the 1994 elections. Leaders of both parties called for an end to the violence.

According to international and domestic observers, the voting process was transparent, peaceful and orderly with approximately 75 percent of the population participating; however, international and domestic observers complained of a lack of full access to the vote count and the opposition coalition RENAMO-UE charged that there was fraud in the vote-counting process. There were a significant number of ballots on which preferences were unclear, largely due to illiteracy, which required interpretation by the Electoral Commission. The Commission also did not count tally sheets from several hundred polling stations at both the provincial or national level due to mathematical errors, omissions, and other problems. International observers were not given full access to the process of examining the contested ballots and tally sheets, or to the vote counting. RENAMO-UE charged that this affected them disproportionately because tally sheets were discarded from provinces where RENAMO-UE support was strong. RENAMO-UE took this issue and several others to the Supreme Court on December 23, and a few days later the Court unanimously rejected RENAMO-UE's complaints, acknowledging that there were some minor irregularities but concluding that these did not change the results of the elections.

Article 19 and the LDH monitored media coverage of the national electoral campaign. Radio Mozambique generally presented balanced coverage, whereas TVM was biased towards the ruling party. The government-supported newspapers Noticias, Diario de Mozambique, and Domingo demonstrated pro-government partisanship. The National Election Commission was criticized for categorizing these government-supported newspapers as private-sector media, thereby exempting them from the electoral law's requirement that public media provide fair and balanced treatment of all parties during the electoral campaign.

There are no legal restrictions hindering women's involvement in government; however, women are underrepresented in government and politics. Cultural factors inhibit women's effectiveness in public life (see Section 5). There were 62 women

in the 250-member National Assembly, one female Cabinet minister, and three female vice ministers, before the December elections. The new National Assembly was not sworn in by year's end, nor had the President appointed a new Cabinet. FRELIMO's policy mandates that at least 30 percent of the party's two governing bodies must be women. During the year, the Political Commission met this mandate, while the Central Committee fell short by about 2 percent.

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

There are no legal obstacles to the formation of domestic human rights groups, although registration procedures applying to NGO's are onerous and expensive (see Section 2.b.). In October a new organization, the DHD, published the first edition of what is to be an annual report on human rights conditions in the country. The report's critical assessment gave particular emphasis to problems in the judiciary, conditions in prisons, and arbitrary arrest and detention of citizens. Among the complaints were alleged police killings, domestic violence, labor disputes, and land title conflicts. The DHD and the LDH conduct human rights education seminars and workshops for a wide range of audiences including political parties, security agencies, businesses, and NGO's.

The Government responded to human rights-related inquiries from Amnesty International, Transparency International, the LDH, and the DHD on a case-by-case basis. Other rights-oriented groups also have had contact with the Government.

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

The Constitution forbids discrimination based on race, sex, religion, or disability; however, in practice discrimination against women and the disabled persists.

Women.—Although official statistics are not kept, according to health officials, women's groups, and other sources, domestic violence against women—particularly rape and beating—is widespread. Many women believe that their spouses have the right to beat them, and cultural pressures discourage women from taking legal action against abusive spouses. There is no law that defines domestic violence as a crime; however, domestic violence can be prosecuted under other crimes such as rape, battery, and assault. During the year, the NGO Women, Law, and Development (MULEIDE) registered 300 requests for assistance in cases involving domestic violence, of which 70 were forwarded to the courts. The police normally do not intervene in domestic disputes. Hospitals usually do not ascribe evidence of physical abuse to domestic violence. The DHD report on human rights conditions released in October gave particular emphasis to the problem of domestic violence (see Section 4).

A group of women's NGO's, including Women in Law and Development, Mozambican Women in Education, Women in Judicial Careers, and the FRELIMO-sponsored Mozambican Women's Organization, support the organization Everybody Against Violence, which serves as a monitoring and educational group for issues of domestic violence and sexual abuse of women and children, including counseling of victims and mediating within families. The organization continued to expand during the year. All NGO's actively opposing domestic violence worked to involve police in education, enforcement, and identifying domestic violence as a public order problem.

Despite constitutional provisions for the equality of men and women in all aspects of political, economic, social, and cultural life, the civil and commercial legal codes contradict one another and the Constitution. Under the law of the Family and Inheritance, the husband or father is the head of household, and both wives and daughters must obtain male approval for all legal undertakings. For example, a woman must have the written approval of her husband, father, or closest male relative in order to start a business. Without such approval, a woman cannot lease property, obtain a loan, or contract for goods and services. The legal domicile of a married woman is her husband's house, and she may work outside the home only with the express consent of her husband. While it appears that these legal restrictions on women's freedom are not enforced commonly, especially in the informal economy, they leave women open to extortion and other pressures.

Family law provides that a married couple's assets belong to the husband, who has full authority to decide on their disposition. When a husband dies, his widow is only fourth in line (after sons, fathers, and brothers) to inherit the household goods. A contradictory provision of the law states that a widow is entitled to one-half of those goods that are acquired during the marriage, but in practice women rarely know of or demand this right.

Customary law varies within the country. In some places, it appears to provide women less protection than family law, and unless a marriage is registered, a

woman has no recourse to the judicial branch for enforcement of the rights provided her by the civil codes.

A new Land Law was adopted in 1997; sections pertaining to rural areas came into force in 1998, and those related to urban areas became effective during the year. The law is expected to have a significant effect on women, who are the primary cultivators of family land. Under customary law, they often had no rights to the disposition of the land. The revised Land Law specifically permits women to exercise rights over community land held through customary rights. However, domestic NGO's such as the Rural Women's Development Association and Rural Mutual Assistance Association have cautioned that a considerable investment of time and education would be necessary before the new rights granted to women would supersede traditional practice.

The Constitution grants citizenship to the foreign-born wife of a male citizen, but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination in practice. Women constitute slightly more than half the population but are responsible for two-thirds of economic production, according to the 1997 census. The Presidential Minister for Social and Economic Affairs reported that women in the workplace receive lower pay than men for the same work. According to Members of Parliament who debated the proposed revision of the Labor Law, women are subject to sexual harassment and to discrimination in hiring because of potential absences on maternity leave; although the Labor Law entitles a woman to 60 days of maternity leave, employers often violate this right. The Government continued to target maternal and child health and focused on immunizations for women in childbearing years and for young children. The Ministry of Health estimates that the rate of maternal mortality is 662 per 100,000. Numerous other health and community development NGO's also emphasize programs to improve women's health and increasingly are looking to combat the spread of HIV/AIDS and related health problems.

Children.—The Government has made children's rights and welfare a priority, but admits that some children are in trouble. Primary education is not compulsory. More than 1000 new primary schools opened during the year throughout the country; however, schools are overcrowded, and there is much corruption in the school system. Newspapers frequently reported that the parents of school children had to bribe teachers, or that girls exchanged, or were forced to exchange, sex with teachers for passing grades. The 1997 census estimated that some 50 percent of children of ages 6 through 10 are in primary school. Only a fraction of children continue with secondary studies.

An NGO, the Association for Mozambican Children (ASEM), opened 2 alternative-learning centers during the year for more than 900 children who were not able to return to their regular schools after being expelled from their homes or because they had left school to work. During the year, the Government supplied ASEM with textbooks.

Girls continued to have less access to education than boys above the primary level: 42 percent of students in grades 1 through 5 were girls, and 40 percent of students in grades 6 through 10 were girls. The percentage increased to 48.4 percent for grades 11 and 12. However, there are only 82 public secondary schools nationwide, of which only 18 offer classes through grade 12. About 76 percent of females over 15 years of age are illiterate. Outside the main cities, secondary schools are fewer, and where boarding is required for attendance, the number of female students drops significantly. In a case that gained national attention in 1998, residents of Morrumbene district in Inhambane Province demanded the exclusion of girls from the dormitories at the Cambine secondary school. In the absence of separate boarding facilities, local residents blamed schoolgirls for immoral behavior in the community and pressured authorities to comply with the illegal demand, which effectively prevented many girls from attending the school. The few out-of-town girls who remained to study were forced to live in unprotected shacks.

NGO's and the Government took some steps to protect and reintegrate into families or other supervised conditions an estimated 3,000 street children in the Maputo metropolitan area. Street children sometimes are beaten by police and frequently are victims of sexual abuse. Some remedial government programs continued, including programs on education, information dissemination, health care, and family reunification. The 1997 census found that the mortality rate for infants was 145 per 1,000, and for children under the age of 5 it was 116 per 1,000. The Maputo City Social Action Coordination Office continued its program of rescuing abandoned orphans and assisting single mothers who head families of three or more persons. The same group offered special classes to children of broken homes in local schools. Other NGO groups sponsored food, shelter, and education programs in all major cities. The Association for Mozambican Children, in Beira, also provided counseling to

parents who have expelled children from their homes, usually when a wife has children unacceptable to a new husband.

Social workers found that some parents of disabled children in several districts, including the populous towns of Gorongosa and Dondo, did not permit their children to leave their homes. In 1998 social workers made similar findings in Sofala. Provincial social action officials continued their educational campaign to reverse traditional attitudes toward disabled children.

Authorities in several provinces took steps to combat child prostitution; however, sexual abuse and exploitation of children below the age of 15 continued (see Sections 6.c. and 6.f.). In Sofala province, where child prostitution flourishes along the Beira development corridor (frequented by truck drivers, businessmen, and tourists), the Government established information centers in affected areas to provide information to families and friends of children who are raped and exploited, and counseled them on how to deal with the police, public prosecutors, and judges.

In May an Africa-wide conference on child soldiers was held in Maputo to consider the reintegration of child soldiers into civil society. The resulting "Maputo Declaration" called for an end of the use of child soldiers and for pressure to be placed on nations in violation. The conference was supported by the Government, political parties, and religious organizations. The NGO Restore Hope was successful in obtaining a promise from the Defense Ministry that former child soldiers would not be conscripted.

There were reports that children often were used as bargaining chips to settle financial and other disputes in rural areas (see Sections 6.c. and 6.f.). According to Domingos do Rosario, a sociologist with the Cultural Patrimony Department, children sometimes were used as labor to settle outstanding economic accounts in rural areas.

There are numerous reports that children are incarcerated with adults in prisons throughout the country (see Sections 1.c. and 1.e.).

People with Disabilities.—The Constitution states that "disabled citizens shall enjoy fully the rights" that it provides for; however, the Government provided few resources to implement this provision. Representatives of disabled groups and wounded veterans frequently protested that societal discrimination continues against the disabled. Victims of landmine detonations are among the most visible disabled citizens. About 1.9 percent of citizens are physically or mentally disabled.

Disabled women protested in 1998 that the Government only provided four schools nationwide for hearing and vision impaired persons and for the physically and mentally disabled. There are few job opportunities for disabled persons in the formal sector, although the 1997 census reported that 55 percent of disabled persons worked or held a job.

Social workers found that some parents of disabled children in several districts, including the populous towns of Gorongosa and Dondo, did not permit their children to leave their homes. Provincial social action officials continued their educational campaign to reverse traditional attitudes toward disabled children.

The Government continued to rely on NGO's to assist the disabled. Founded in 1991, the Association of Mozambican Disabled addresses social and economic needs of the disabled. Smaller NGO's also have formed, notably the Association of Handicapped Military and Paramilitary Mozambicans, which represents disabled demobilized soldiers, and the Association of Blind and Visually Impaired Mozambicans. There is a new organization in Pemba for hearing-impaired persons.

On June 23, the Cabinet issued a resolution that approved the first national policy on disabled persons, and laid out principles and strategies aimed at encouraging their active participation in the country's socio-economic development. The plan is scheduled to be implemented in 2000 and would address, in part, concerns of the disabled regarding access to public buildings and the government infrastructure.

A major concern of the disabled is accessibility to buildings and transportation. The only provisions that the Government has enacted for accessibility to buildings and transportation for the disabled were in the electoral law governing the country's first multiparty elections, which addressed the needs of disabled voters in the polling booths. Special access facilities are rare.

Religious Minorities.—Relations among communities of different faiths generally are amicable, especially at the grassroots level. However, there has been a long-standing racial division within the Muslim community, particularly between black and Indian Muslims.

In February the police detained and questioned a Pakistani imam in connection with a murder (see Sections 1.a and 2.c.). In April a state-owned newspaper stated in a series of poorly documented articles that the imam had confessed to the crime. The newspaper's allegations unleashed an intense debate in Parliament and the media and included accusations that the press was anti-Muslim, that black Muslims

and Indian Muslims harbored racial prejudices against each other, and that Indian Muslims were involved in drug trafficking and organized crime.

National/Racial/Ethnic Minorities.—There was no systematic persecution or discrimination on the basis of race or ethnicity; however, the FRELIMO Government traditionally has included at all levels a large number of southerners, mostly from the Shangaan ethnic group, which has engendered complaints from residents of other parts of the country. There also were complaints against the Government that it favors economic development in the southern part of the country over other areas. To address such complaints, the Government has taken some steps to correct the imbalance since the 1994 elections by appointing provincial governors native to their respective provinces. The Government also includes in senior positions persons originally from the northern part of the country.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides that all workers are free to join or refrain from joining a trade union, and workers enjoy these rights in practice. Labor relations are governed by the 1991 Labor Law, which protects workers' rights to organize and engage in union activities, and the 1985 Labor Law which was revised and promulgated in 1998. Some observers fear that free trade zones created under the revised 1998 law would refuse to honor existing rights.

Until 1992 the only trade union federation was the Organization of Mozambican Workers (OTM), which was affiliated with, and dominated by, the FRELIMO party. Three unions broke away from the OTM in 1992, and by 1994 had formed their own central union, the Free and Independent Union of Mozambique (SLIM). In January the Ministry of Labor recognized this second central union as a legal entity, known as the Confederation of Free and Independent Unions of Mozambique (CONSILMO). CONSILMO is permitted to participate in national negotiations on the minimum wage with the Consultative Labor Commission, a body including representatives from labor, private employers, and Government. CONSILMO maintained the SLIM's working relationship with the OTM, and includes the powerful 28,000-member Sinticim construction trades union, an early champion of the rights of female workers.

In 1994 the OTM declared itself free of commitments to any political party, companies, or religious groups, and ruled that members affiliated with any political party could not hold elected union offices. Independent unions maintain that the OTM is not independent of the Government. A new organization, the Committee of Women Workers, protested the industrial trend of laying off women before men whenever possible, citing the loss of 120 jobs in Sofala alone during the year.

The Constitution explicitly provides for the right to strike, with the exception of civil servants, police, military personnel, and other essential services (which include sanitation, fire fighting, air traffic control, health care, water, electricity, fuel, post office, telecommunications, and grave digging). In January unskilled construction workers struck at the Mozal Aluminum smelter project in protest of certain allegedly unsafe working conditions, and to protest their perception of a wage disparity with marginally more skilled workers brought in from South Africa. The dispute lasted a few days and was resolved after a pledge by Mozal managers to heighten job site occupational safety.

Provisions of the 1991 Labor Law forbid retribution against strikers, the hiring of substitute workers, and lockouts by employers. Specific labor disputes generally are arbitrated through special workers' committees, formally recognized by the Government.

Two members of the workers' committee of a security services company were suspended from their duties after giving advance notification of a January 1998 strike action to company management. The law specifies that strikers must notify police, government, union, and employers 48 hours in advance of intended strikes. The firm charged the two with illegally representing employees who were protesting the company's failure to answer a wage and benefits appeal made in late 1997 and with allegedly assaulting company managers. Their case has not yet been resolved.

The Constitution and labor legislation give unions the right to join and participate in international bodies. The OTM is a member of the Organization of African Trade Union Unity and the Southern African Trade Union Coordinating Council.

b. *The Right to Organize and Bargain Collectively.*—The Labor Law protects the right of workers to organize and engage in collective bargaining. It expressly prohibits discrimination against organized labor. In 1991 the Government decreed that it would no longer set all salary levels. Negotiation of wage increases was left in the hands of existing unions. The Consultative Commission on Labor met periodically to negotiate changes in the minimum wage. In 1998 for the first time since independence, the country's banks, which are entirely privatized, signed a collective

bargaining agreement, regulating the labor relationship between bank management and staff.

The law provides for the creation of export processing zones (EPZ's); however, no firms began production in an EPZ during the year.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor is prohibited by law; however, while there were no reports of such practices in the formal economy, there were reports that persons were trafficked into neighboring countries (see Section 6.f.). The law does not prohibit forced and bonded labor by children specifically, and such practices occur, especially within an extended family. Children in rural areas sometimes are used as labor to settle economic accounts, with their families delegating their children to work limited periods of time (see Sections 5, 6.d., and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Ministry of Labor regulates child labor, although there are no specific child labor statutes. In rural areas, children sometimes work alongside their parents or independently in seasonal harvests on commercial plantations. Employers normally do not pay children wages for such work, but compensate them with gifts such as school supplies and books.

In the wage economy, the minimum working age is 18 years. The recently revised Labor Law sets the minimum age at 15. Children between the ages of 15 and 18 may work with the permission of their parents and the Ministry of Education. Children younger than the age of 15 are not permitted to work. The minimum wage laws apply and the maximum workweek for children is 38 hours.

Because of high adult unemployment in the formal sector, estimated at around 50 percent, few children are employed in regular wage positions; however, children, including those under age 15, commonly work on family farms or in the urban informal sector, where they perform such tasks as "guarding" cars, collecting scrap metal, or selling trinkets and food in the streets. The informal labor sector is unregulated. Children also are employed in domestic positions, and in a September newspaper survey, labor union representatives noted the growing presence of children in construction jobs.

Primary education is not compulsory, and less than 50 percent of school-age children attend classes. Children not in school frequently are employed in the agricultural and casual labor sectors.

The law does not specifically prohibit forced and bonded labor by children, and such practices are known to occur in rural areas (see Sections 5, 6.c., and 6.f.).

e. *Acceptable Conditions of Work.*—The industrial minimum wage of approximately $35 (450,000 meticais) per month, is set by ministerial decree, although the level is recommended through an administrative process. There is also an agricultural minimum wage of about $24 (305,000 meticais), which is set by ministerial decree after informal consultation with agricultural unions. Neither minimum wage is considered sufficient to provide a decent standard of living for an average worker and family, and many workers must turn to a second job, if available; maintain their own gardens; or depend on the income of other family members to survive. The OTM calculates that the real minimum wage fell 33 percent in the past decade.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector, and the Ministry of Finance in the public sector. Violations of minimum wage rates usually are investigated only after workers register a complaint. It is customary for workers to receive benefits such as transportation and food in addition to wages. There is an obligation for workers or employers to participate in a social security scheme, although they voluntarily may create and contribute to private accounts or plans with the National Institute of Social Security, to cover retirement, unemployment compensation, and emergency benefits. Worker complaints grew of employers deducting social security contributions from wages but failing to pay them into accounts.

The standard legal workweek is 44 hours, with a weekly 24-hour rest period.

In the small formal sector, the Government has enacted health and environmental laws to protect workers. However, the Ministry of Labor enforces these laws ineffectively, and the Government only occasionally has closed firms for noncompliance. The Labor Ministry reported 730 industrial accidents during the year, with 36 deaths. Most of these accidents were blamed on unsafe practices or the lack of safety equipment. During the parliamentary debate in 1998 on revision of the Labor Law, delegates noted that there continued to be significant violations of labor legislation in many companies and services. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment.

f. *Trafficking in Persons.*—There are no specific laws that prohibit trafficking in persons, although trafficking can be addressed under labor, immigration, and child

welfare laws; however, there were credible reports that there is some trafficking in persons, primarily women and children, to South Africa and Swaziland. Both countries apparently offer economic opportunities that attract poor women and children, who sometimes are victimized by traffickers. On occasion, the media reported that citizens worked in foreign countries for low wages or in poor conditions. In August there were several press reports about the discovery of a group of Mozambican women held against their will in a brothel in South Africa. The women had been recruited in Mozambique to work as domestic servants, and after they arrived in South Africa they were forced to work as prostitutes. There have been other credible reports that citizens were lured into South Africa by Nigerian and other organized crime syndicates based in South Africa by promises of jobs and decent wages, and then held as near-slaves on farms and other enterprises.

There were reports that children in rural areas often were used as bargaining chips to settle financial and other disputes in rural areas (see Sections 5 and 6.c.). Families delegate their children to work limited periods of time to settle economic debts.

NAMIBIA

Namibia is a multiparty, multiracial democracy. President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), was reelected in November 30–December 1 general elections, which international and domestic observers agreed were free, but included some instances of government harassment of the opposition and unequal access to media coverage and campaign financing. Although the Constitution formerly limited the President to two terms in office, in November 1998, the National Assembly passed a bill to amend the Constitution to permit President Nujoma to run for a third term. President Nujoma won 77 percent of the vote and SWAPO won three-quarters of the seats in the National Assembly. In the wake of an August attack by the Caprivi Liberation Army (CLA), President Nujoma invoked Article 26 of the Constitution to declare a state of emergency, which for more than 3 weeks suspended certain fundamental constitutional freedoms. The judiciary is independent.

The police, including the paramilitary Special Field Force, supervised by the Ministry of Home Affairs, and the Namibian Defense Force (NDF), supervised by the Ministry of Defense, share responsibility for internal security. Approximately 2,000 NDF soldiers were sent to the Democratic Republic of Congo (DROC) in 1998 and remained there throughout the year. The civilian authorities generally maintain effective control over the security forces; however, members of the police force committed numerous, serious human rights abuses.

Namibia's modern market sector produces most of its wealth, while a traditional subsistence agricultural sector (mainly in the north) supports most of its labor force. The principal exports are diamonds and other minerals, cattle, and fish. Mining, ranching, and fishing—the mainstays of the market sector—still are controlled largely by white citizens and foreign interests. However, government policy has been to "Namibianize" the fishing sector, so that an increasing number of indigenous entrepreneurs are able to participate, and to provide opportunities for black citizens in the potentially lucrative and labor-intensive tourism industry. Per capita annual gross domestic product is $1,860. However, there remains a wide disparity between income levels of black citizens and white citizens. White citizens have an average per capita income of $14,000 a year, while many of the poorest black citizens earn just $165 a year. Unemployment was nearly 40 percent and affected primarily the black majority.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Members of the security forces committed several extrajudicial killings. The Government did not account for the whereabouts of some persons detained by the security forces. Security forces beat suspects during arrest and while in custody during operations in the Caprivi region. Security forces beat citizens and Angolan refugees during security operations in both Kavango and Caprivi that were the result of fighting between Angola government troops and National Union for the Total Independence of Angola (UNITA) forces along the border with Angola. There were other reports of police mistreatment of suspects in detention. Prison conditions remain harsh, but the Government took some steps to improve conditions. The Government arbitrarily arrested and detained citizens under the state of emergency. Lengthy pretrial detention is a problem. A large court backlog continues to lead to lengthy delays of trials.

In the wake of the August attack by the CLA, President Nujoma declared a state of emergency pursuant to Article 26 of the Constitution, and granted security forces wide-ranging powers. Many of the fundamental freedoms contained in the Constitution were suspended, including freedom from detention without trial, search and seizure without a warrant, and confiscation of property. The decree also limited freedom of assembly, freedom of movement, and other political rights. In practice, these measures generally were confined to the Caprivi region, although several suspects were detained outside the region. The Government announced the termination of the state of emergency at midnight on August 25.

The Government still refuses to provide a full accounting of missing detainees who were in SWAPO camps before independence. In 1997 the Government rejected a request by the South African Truth and Reconciliation Commission to hold hearings in Namibia. High-level government officials continued to use abusive language in responding to criticism of ruling party and government policies. The Prime Minister singled out for criticism a human rights lawyer who provided to the media photographic evidence that security forces seriously beat his client. The President and other high-level government and ruling party officials made a number of verbal attacks on the press, nongovernmental organizations (NGO's), and opposition parties. There continued to be pressure on journalists who worked for government-owned media outlets not to report critically on the Government. There continued to be a ban on all public demonstrations that did not have prior police approval. The authorities continued to deport military-age Angolan illegal immigrants and Angolan refugees without judicial review, as required by the law. This led the National Society for Human Rights (NSHR) to charge the police with assisting the Angolan Government in its conscription efforts. More than 1,000 refugees, of the 2,500 persons who fled heavy-handed security force operations in the Caprivi region in 1998, remained in Dukwe refugee camp in Botswana. Attempts by the United Nations High Commissioner for Refugees (UNHCR) to repatriate some of the refugees were suspended after the CLA attack on August 2. The refugees told the UNHCR that they feared ongoing security operations and possible retribution by security forces should they return to Caprivi.

Although violence against women and children, including rape and child abuse, continued to be serious problems, the President, members of his Cabinet, and parliamentarians have spoken out forcefully on these problems, which received significant attention at all levels of government. Courts are handing down much more severe sentences to convicted rapists and child abusers; however, problems remain with court testimony by vulnerable witnesses. Women married under customary law continued to experience serious legal and cultural discrimination. In a June 1998 speech to traditional chiefs, President Nujoma called on the leaders to protect the rights of women in rural areas. However, relatively little has been done to elevate women to high-level positions in government and the ruling party, despite promises by the President to nominate more women. Racial and ethnic discrimination and glaring disparities in education, health, employment, and working conditions continued, despite sustained efforts by the Government to reduce them. Discrimination against indigenous persons persists, especially in remote rural areas where indigenous persons often are unaware of their rights.

Members of the Caprivi Liberation Army (CLA) committed serious abuses, including several extrajudicial killings. UNITA rebels from Angola reportedly were responsible for a number of civilian deaths in the country. Elements of the Armed Forces of Angola (FAA) beat Namibian citizens and Angolan refugees, and committed at least one rape.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Members of the security forces committed several extrajudicial killings. In November a police officer in Okahandja beat to death while in custody a student arrested for disorderly conduct. The police officer responsible was placed on administrative leave and the criminal case against him was pending at year's end.

During security operations undertaken in response to a CLA attack in August, government forces killed eight CLA rebels, and members of the security forces—particularly the paramilitary police Special Field Force (SFF)—shot civilians and beat suspects during arrest and while in custody. Several civilians were killed or injured during fighting in neighborhoods of the Caprivi regional capital of Katima Mulilo and in subsequent security operations throughout the region. On August 8, security forces shot and killed Gilbert Tubaze Simasiku, a mentally-impaired man who was walking along a street in Katima Mulilo and apparently failed to heed a security

officer's request to stop. Simasiku died on August 9. On August 16, security forces shot and killed Dr. Lucas Ilonga on the compound of the Katima Mulilo state hospital. Ilonga apparently was running to respond to an emergency medical case and was mistaken for a CLA rebel by police. Despite promises by high-level officials, the Government took no action—either to enforce internal disciplinary measures or to press criminal charges—against perpetrators in the security forces by year's end.

Several weeks before the August CLA attack, an officer of the SFF shot and killed a civilian named James Chilunda in the Caprivi village of Singalamwe on July 18, after an altercation between two SFF officers and villagers. The SFF officer was arrested on murder charges and is out on bail awaiting trial.

In September two soldiers deployed with the NDF contingent in the DROC were convicted and sentenced by a Namibian court martial for killing two Congolese civilians in separate incidents in late 1998 and early during the year.

In 1997 the Government admitted that since 1994 security forces along the northern border with Angola had killed seven civilians. One NDF officer was charged with murder and another was found guilty of culpable homicide; however, investigations into the other killings reportedly were dropped.

On August 2, CLA rebels attacked military, police, and other government installations around Katima Mulilo. The attack resulted in the deaths of three soldiers, three police officers, and several civilians. Security forces responded by killing or capturing many of the rebels.

UNITA rebels from Angola reportedly were responsible for a number of civilian deaths in the country.

b. *Disappearance.*—During the Caprivi state of emergency, security forces detained hundreds of persons without giving public notice for 2 weeks, but did publish a list of detainees 1 day after the 2-week constitutional deadline. Immediately before publishing its list of detainees, the Government deported 99 noncitizens to their countries of origin and released from detention 105 citizens. Those 204 persons were not enumerated on the final list. The NSHR charged that security forces failed to account for all those who were detained, and cited four specific individuals who were not accounted for: Louis Ndilwa Mbanga, who was detained on August 4; Kester Silemu Kabunga and Martin Sabo Chainda, who were detained on August 23; and Fidelis Sinvula, who was detained on August 25 (also see Section 1.d.).

Human rights organizations, political parties, and the public continued to call for a full accounting of unexplained disappearances of persons detained by SWAPO prior to independence. In 1996 President Nujoma released the long-promised, official SWAPO memorial book, known as the Heroes Book, which lists the names of nearly 8,000 persons who died during the liberation struggle. Local human rights organizations harshly criticized the book, characterizing it as an unconvincing cover-up, and declared that the listing was fraught with inaccuracies and omissions regarding those who died or disappeared in SWAPO detention camps.

In 1997 the Government formally rejected a request by the South African Truth and Reconciliation Commission to hold hearings in Namibia on disappearances of persons that occurred on both sides during the liberation struggle.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides that "no persons shall be subject to torture or to cruel, inhuman, or degrading treatment or punishment"; however, in practice, prisoners sometimes were beaten or otherwise mistreated by police, especially by members of the SFF. In November a police officer in Okahandja beat to death while in custody a student arrested for disorderly conduct (see Section 1.a.). In October 1998, security forces moved into the Caprivi region to break up an armed secessionist movement. There were reports that the SFF beat and detained civilians and looted property, and that the regular police shot and wounded civilians fleeing arrest. Caprivian refugees in Botswana claimed that security forces engaged in extrajudicial killings and rape. In December during security operations in Kavango and Caprivi due to an outbreak of fighting between Angolan government troops and UNITA in the Kavango region on the border with Angola, Namibian security forces beat and otherwise abused citizens and Angolan refugees.

Security operations during the year in the Caprivi region included widespread abuse of civilians and detainees. Beatings with rubber whips, called sjamboks, and with rifle butts were inflicted during some arrests and while some detainees were incarcerated. Former parliamentarian Geoffrey Mwilima was arrested on August 4 on suspicion of supporting the CLA. During his arrest, security forces beat him severely with rifle butts and sjamboks, resulting in a broken jaw and extensive whip lacerations on his back. A diabetic, Mwilima also initially was denied medical care and food. The Legal Assistance Center (LAC) is to represent Mwilima and others in a suit against the Government. Human rights groups reported other cases as well. Security forces arrested NSHR activists Gabriel Mwilima and Joseph Muchali

on August 2 and 6, respectively. Mwilima reportedly was beaten severely during his arrest. On August 19, Chrispin Sinfua was arrested on suspicion of supporting the CLA. According to press accounts, members of the security forces tied Sinfua's hands and feet and whipped him with sjamboks. Security forces apparently determined that Sinfua had no connection to the rebel attack and released him on August 23. Sinfua plans to bring a civil suit against the Government. As detainees were brought to court for bail hearings in late September, many exhibited evidence of extensive injuries inflicted by police during their detention, including detainees Oscar Lupalezwi, Stephan Ntelamo, and Allen Sameja. All three identified their abusers as police sergeant Patrick Liswani and two constables named "Haipa" and "Oupa." Neither the executive or judicial branches of government had taken action against the police officers by year's end.

During an August fact-finding mission to the region, Defense Minister Erkki Nghimtina admitted that the security forces had committed abuses and promised that they would not continue. On August 17, after criticism from human rights groups, the Government announced that it had granted the Namibian chapter of the Red Cross access to the detainees. The Red Cross released its findings concerning detainee welfare only to the Government. A Defense Ministry spokesman confirmed that several incidents were being investigated internally and stated that if abuse was found to have been committed, internal military disciplinary action would be taken. A police spokesperson separately confirmed that the Police Complaints and Discipline Unit had initiated investigations into abuse of detainees, although no further action was taken against those responsible by year's end.

In response to a case brought by a human rights NGO, the Supreme Court found in July that the use of leg irons at any time was unconstitutional and ordered security forces to discontinue their use.

In several instances, supporters of the ruling party broke up opposition rallies, which at times led to injuries (see Section 3). For example, on November 25, SWAPO supporters in the town of Swakopmund threw rocks at a COD meeting site, injuring several persons. In some instances, police took no action to prevent the attacks or restore order, while in other cases, such as in Swakopmund, police officers intervened in attempts to restore order. SWAPO officials were unable or unwilling to restrain such attacks.

In December during fighting between Angolan government troops and UNITA in the Kavango and Caprivi regions along the border with Angola, elements of the FAA beat Namibian citizens and Angolan refugees, and abused women. In December Namibian police discovered FAA soldiers raping an Angolan refugee woman near Rundu. No action was taken against the officers responsible.

Prison conditions are harsh, although the Government focused greater attention on rehabilitation programs and vocational training for inmates. Human rights organizations continued to complain about prison overcrowding. In 1995 the Government created a Ministry of Prisons and Correctional Services, charged with administering the country's prisons and jails. The Government also made efforts to separate youthful offenders from adult criminals, although in many rural areas juveniles continued to be held with adults. There are several pilot programs that provide alternatives to incarceration for juvenile offenders.

The Government continued to grant NGO's regular access to prisons and prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution forbids arbitrary arrest or detention except in situations of national emergency, and the Government generally respected these provisions in practice. According to the Constitution, persons who are arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. However, in practice many accused persons in remote and rural areas are not represented by counsel, primarily due to resource constraints. A trial must take place within "a reasonable time," or the accused must be released. Human rights organizations have criticized the length of time that pretrial detainees were held, which have stretched up to 1 year in some cases. Under a state of emergency, the Constitution permits detention without trial, although the names of detainees must be published in the government gazette within 14 days, and their cases must be reviewed within 1 month by an advisory board appointed by the President.

In the wake of the August 2 CLA attack in Katima Mulilo, security forces detained hundreds of persons suspected of involvement with the CLA, or thought to be supportive of Caprivi independence. Security forces detained some persons merely for questioning. At an August 31 press conference, the NSHR released a detailed list with the name, ethnic group, and date of detention of each of the 278 detainees,

but expressed concern that its list was incomplete. Detainees were overwhelmingly from the Mafwe ethnic group of CLA leader Mishake Muyongo. While most detentions under the state of emergency occurred in the Caprivi region, on August 7–8, Albert Sibeya and Martin Sichimwa Mutumba were arrested in Ongwediva in north-central Namibia. The NSHR protested the use of emergency measures to detain suspects outside of the Caprivi region, and a lawyer for the two detainees announced that he would bring a constitutional case to have the arrests thrown out. While detainees theoretically are allowed access to legal counsel even under emergency rules, the Government initially denied Caprivi detainees this right. This right was limited further in practice because, for the first 2 weeks of detention, the Government is not obliged to reveal where detainees are being held. On August 17, the day after the constitutionally prescribed deadline, a list of 103 detainees was published in the government gazette. The Government also declared that 99 noncitizen state of emergency detainees had been deported to their countries of origin. Just prior to publishing its list, the Government released a large number of detainees. The names of those detainees, some held as long as 2 weeks, were not published.

The NSHR charged that NAMPOL was assisting Angolan authorities in rounding up and extrajudicially deporting military-age Angolans in northern border towns. There were also reports that Zambians in the Caprivi region were suffering extrajudicial deportation (see Section 1.b.).

Some traditional leaders reportedly continued to detain and imprison persons accused of minor offenses without recourse to police or judicial review. In response the Government instructed traditional leaders on the legal limits of their authority.

The Government generally does not use forced exile.

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

The formal court system has three levels: 30 magistrates' courts, the High Court, and the Supreme Court. The latter also serves as the court of appeals and as a constitutional review court.

Most rural citizens first encounter the legal system through the traditional courts, which deal with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The Traditional Authorities Act delineates which offenses may be dealt with under the traditional system.

The constitutional right to a fair trial with a presumption of innocence until proven guilty generally is afforded by the judiciary. However, this right is somewhat limited in practice by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system.

The lack of qualified magistrates, other court officials, and private attorneys has resulted in a serious backlog of criminal cases, which often translated into delays of up to a year or more between arrest and trial, contravening constitutional provisions for the right to a speedy trial. Many of those awaiting trial are treated as convicted criminals.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search, except in situations of national emergency. Apart from searches conducted under the state of emergency in the Caprivi region, government authorities generally respected these rights in practice, and violations were subject to legal action.

Under the Namibian Central Intelligence Service (NCIS) Bill passed by the National Assembly in 1997, the NCIS is authorized to conduct wiretaps, intercept mail, and engage in other covert activities, both inside and outside the country, to protect national security. However, wiretaps and covert surveillance require the consent of a judge. There were reports in 1998 that the NCIS requested footage from the Namibian Broadcasting Corporation (NBC) of a demonstration in the northern town of Katima Mulilo. It was reported that the intelligence service was seeking to identify demonstrators from the tapes. The NBC denied that the government-run station provided videotapes to the intelligence service.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, subject to "reasonable restrictions" in situations such as a state of emergency, and the Government generally respected these rights; however, there continued to be instances of abusive responses by the nation's political leaders to editorial criticism and increased reports of government pressure on reporters who worked for the government-owned media.

Reporters for independent newspapers continue to criticize the Government openly and do not engage in self-censorship. During the year, high-level government offi-

cials publicly attacked journalists, human rights groups, and opposition politicians in response to perceived criticism of the Government or ruling party. The NSHR issued a report citing 20 such incidents. While such verbal attacks may have been calculated to quiet criticism, they do not appear to have had a major impact on the aggressive style of the independent media or the work of human rights groups or opposition political parties. NGO's involved in media issues maintained that reporters working for the government-owned newspaper were subjected to indirect and direct pressure not to report on certain controversial topics. In August the Government forbade the newspaper The Namibian to cover the situation in DROC. This blackout was lifted after several days in response to public criticism. The government-run New Era newspaper gave some coverage to opposition parties and views critical of the government, although it sometimes avoided controversial issues. A libel suit brought by a senior government official against the New Era in September 1998 was being watched closely by human rights groups. During the Caprivi state of emergency, the NDF and police gave daily press briefings, but were criticized for providing some incorrect information.

The government-owned NBC operates most radio and television services. The NBC provided some coverage to opposition points of view. Media observers believe that NBC reporters exercise considerable self-censorship on certain controversial issues, such as human rights abuses in Caprivi, allegations of corruption, the question of missing SWAPO detainees, and the amendment of the Constitution to allow President Nujoma to run for a third term. Despite these complaints, the NBC gave some coverage to viewpoints critical of government policies.

There are five private radio stations, one private television station in the town of Rehoboth, and a private cable and satellite television service that broadcasts the Cable News Network, the British Broadcasting Corporation, and a range of South African and international news and entertainment programs. The ruling SWAPO party owns 51 percent of this cable service. There are no restrictions on the private ownership of satellite dishes, and the use of satellite dishes and cable television is growing. There are no restrictions on Internet access or use. There are growing numbers of Namibian web pages, and one of the independent newspapers has a popular web site.

In October 1997, the Ministry of Information and Broadcasting (MOIB) issued new regulations that require foreign journalists who seek to visit the country to provide 1 month's advance notice to the MOIB, stating the purpose of their proposed visit. Journalists are required to schedule appointments with government officials through the MOIB and request permission to visit areas under the control of the Ministry of Environment and Tourism. Additionally, journalists must obtain a temporary work permit from the Ministry of Home Affairs. The MOIB reaffirmed the regulations in May 1998, but there have been no reports of complaints from journalists. Several major conferences in the country attracted large numbers of international journalists. In November 1998, two foreign journalists were arrested and held overnight for entering the country to cover the secession story without a work permit. The Ministry of Home Affairs also temporarily seized their videotapes. In December security forces near Rundu seized the camera of a foreign national citing security concerns due to fighting in Angola.

The Government respects academic freedom. During the year, there were numerous seminars held at universities and other venues in Windhoek on controversial issues. There were no reports of interference with, or harassment of, these activities.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, except in situations of national emergency; while in the past the Government generally has respected this right in practice, in 1997 the President announced a ban on all public demonstrations that did not have prior police approval. The ban was enforced selectively in late July 1997 when police in the northern town of Okanguati broke up private meetings between a public interest law firm and its clients, Himba tribesmen, who were opposed to the construction of the Epupa Dam, which the Government supports (see Section 5). In August 1997, the High Court struck down the 1989 law used by the President to justify the ban. Organizers of public meetings still are required to obtain prior police approval; however, in practice many public gatherings took place without such approval and without interference. Under the Caprivi state of emergency, the Government had the authority to restrict public gatherings, although there were no cases in which the police denied a meeting request. Various organizations, including political parties, civic and religious groups, women's organizations, students, the unemployed, and former combatants held large meetings and public gatherings without Government interference.

In several instances, supporters of the ruling party broke up opposition rallies (see Section 3). In some instances, police took no action to prevent the attacks or

restore order, while in other cases, such as in Swakopmund, police officers intervened in attempts to restore order. SWAPO officials were unable or unwilling to restrain such attacks.

The Constitution provides for freedom of association, even in times of national emergency, and the Government generally respected this right in practice.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, except in situations of national emergency, and in the past the Government has respected them in practice; however, the forced return in May 1998 of a recognized refugee and human rights activist, Dr. Manuel Neto, to Angola, seriously damaged the Government's record on refugee issues. According to local human rights groups, the Ministry of Home Affairs violated a court decision that barred Neto's deportation. The refoulement resulted in strong criticism of the Government by international human rights groups. The authorities continued to deport military-age Angolan illegal immigrants without judicial review, as required by the law. The NSHR charged the police with assisting Angolan authorities in rounding up illegal immigrants who had come to Namibia to avoid being conscripted into the Angolan army. There also were reports of extrajudicial deportations from the Caprivi region of illegal Zambian and Angolan immigrants following the secessionist crisis in that region. In December authorities forcibly returned to Angola fifty Angolan refugees who were fleeing the fighting in southern Angola; there was no judicial review of this action.

The Government cooperates with the UNHCR on the granting of refugee status to asylum seekers. A law containing provisions for dealing with refugees in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol was passed in 1998 and signed into law by the President in March. The Government's eligibility committee continued to meet on a regular basis to consider asylum requests. The Government also assisted in the voluntary return of Angolan asylum seekers in late 1997. Illegal immigrants continued to be detained. There was a report in June 1998 that children were imprisoned temporarily during a raid on homes of illegal immigrants.

Namibia is a first asylum country and continues to permit asylum seekers to enter the country. According to the UNHCR, there are more than 8,000 refugees and asylum seekers at the Osire camp, 90 percent of whom are from Angola. The rest are from the Democratic Republic of the Congo, Burundi, Rwanda, Tanzania, and other African countries. Government officials interview asylum seekers. Those granted refugee status generally are not permitted to work, live outside the Osire refugee camp, or attend schools, including the University of Namibia. Schools have been established at the Osire refugee camp. Residents of the camp are not supposed to leave the unfenced facility, but many travel to Windhoek and other towns on personal business and to sell handicrafts. More than 3000 Angolan refugees entered the country in the latter part of the year, and initially took refuge in and around a police station in the town of Kahenge. Attempts to bus these refugees to the Osire camp were hampered initially due to resource constraints.

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

Citizens exercised their right to change their government by electing a President and National Assembly for the second time since independence during the November 30–December 1 general election, which international and domestic observers agreed was generally free and well-administered despite some irregularities. Observers noted instances of harassment of opposition members during the campaign, and unequal access to media coverage and campaign financing were problems.

Nevertheless, voter turnout was over 60 percent and the election proceeded peacefully. Sam Nujoma, leader of the ruling party SWAPO, was reelected; although the Constitution formerly limited the President to two terms in office, in November 1998, the National Assembly passed a bill to amend the Constitution to permit President Nujoma to run for a third term. President Nujoma won 77 percent of the vote and SWAPO won 55 of 72 elected National Assembly seats. Four opposition parties won a total of 17 seats in the National Assembly, including the Congress of Democrats (COD) party, which won the largest number of opposition votes, the Democratic Turnhalle Alliance (DTA), the United Democratic Front, and the Monitor Action Group.

The Constitution establishes a bicameral Parliament and provides for general elections every 5 years and regional elections every 6 years.

The Directorate of Elections makes special efforts to keep voters informed by printing posters and distributing useful and informative voter guides with lists of

government and opposition candidates. In the period prior to the election, all parties were afforded broadcast advertising time on the government-run national television and radio stations to promote their platforms. Debates between candidates also were broadcast on television and radio. Election observers noted that the allocation of free broadcast time, while in accordance with parliamentary rules, provided substantially more time for SWAPO. The parliamentary rules governing public campaign financing provided a similar advantage for SWAPO.

Opposition parties generally are able to undertake political activity such as holding party conferences and public rallies, and advertising; however, in several instances, supporters of the ruling party broke up opposition rallies. For example, on November 25, SWAPO supporters in the town of Swakopmund threw rocks at a COD meeting site, injuring several persons. COD recruiters complained that they were chased away from schools by members of the SWAPO youth wing. In some instances, police took no action to prevent the attacks or restore order, while in other cases, such as in Swakopmund, police officers intervened in attempts to restore order. SWAPO officials were unable or unwilling to restrain such attacks.

The Government took further steps in July 1998 to ensure free and fair elections by creating an independent electoral commission and naming a broad-based group of respected individuals to the commission. The Government also named a well-respected former journalist as the new Director of Elections.

Leaders of the opposition have criticized the ruling party for its decision to amend the Constitution to permit the President to seek a third term. Ambassador Ben Ulenga, the High Commissioner to Great Britain and also a high-level ruling party official, resigned in 1998 from his diplomatic post after he was unsuccessful in getting the ruling party to debate the third term issue. With his resignation, he lost his pension and other work-related benefits. In March Ulenga formed the COD opposition party, and in the general election the COD won approximately 10 percent of the vote and seven seats in the National Assembly. While opposition parties were allowed to hold meetings and campaign freely, the COD periodically was attacked in public statements by both government and SWAPO officials who accused members of the COD of being "traitors," "hooligans," and "puppets of a racist plot by white citizens". At a SWAPO public rally on May 6, Minister of Home Affairs Jerry Ekandjo referred to a "war" against the COD. In April the COD complained publicly that Namibian Central Intelligence Service (NICS) officials were following party leaders and discouraging persons from attending COD rallies. Shortly after the COD's March inaugural meeting, Director General of the Namibia Central Intelligence Service, Peter Tsheehama, was quoted as admitting that intelligence agents were following the party closely. Tsheehama subsequently denied that he said this, although the newspaper stood by the quote.

Prior to the general election, the ruling SWAPO party held 53 of the 72 elected National Assembly seats, and opposition parties held 19 seats. When former DTA chief (and leader of the Caprivi secessionist movement) Mishake Muyongo fled to Botswana in 1998, he forfeited his seat under parliamentary rules. In addition, another DTA politician from Caprivi resigned his seat. Both seats were filled by the DTA with other party members, in accordance with the Constitution.

Members of the National Assembly are elected on a party list system on a proportional basis.

In 1997 the ruling SWAPO party voted to change the voting procedure under the Local Authorities Act to require that local elections be held on a party list instead of a ward system. While it was believed that this change would favor the ruling SWAPO party, opposition parties competed fully in local elections held in February 1998, capturing 19 of 45 municipalities. There also were major gains for women, as they won 131 seats, roughly 40 percent of all local council elected positions. In February 1998, a national conference in Windhoek brought together locally elected female officials from all over the country.

Women increasingly are involved in the political process; however, women remain seriously underrepresented in government and politics despite promises by SWAPO to increase the number of women on the party's appointed central committee. There are 2 female ministers and 3 female deputy ministers out of a total of 42 ministerial and deputy ministerial positions. In addition, two women hold cabinet-level positions, as Director of the Department of Women Affairs in the Office of the President and Director of the National Planning Commission. Another woman serves as Ombudswoman. Women hold 15 of 98 parliamentary seats in the National Assembly. In 1996 female legislators formed a Women's Caucus in Parliament to review legislation for gender sensitivity.

Historic economic and educational disadvantages have served to limit the participation of the indigenous San ethnic group in politics, although virtually all of the country's other ethnic minorities are represented in Parliament and in senior posi-

tions in the Cabinet. Members of smaller ethnic groups hold the offices of Prime Minister, Deputy Prime Minister, Minister of Foreign Affairs, and Speaker of the National Assembly.

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

During the year, high-level government officials continued to use abusive language in responding to criticisms of the ruling party and government policies by nongovernmental organizations. Following the publication in newspapers of graphic photos that showed abuse of Caprivi detainees, Prime Minister Hage Geingob issued a public statement criticizing lawyers from the Legal Assistance Center (LAC), a well-respected indigenous NGO with a long record of opposing apartheid and fighting for the rights of the most underprivileged elements in society. The LAC also has drawn criticism from government officials for providing legal counsel to the Himba people, a traditional semi-nomadic group that opposes construction of the Epupa dam. Government officials also have attacked verbally the NSHR and the Breaking of Walls of Silence (BWS) movement, which acts as an advocate for former detainees imprisoned by SWAPO prior to independence. Some observers believe that government attacks on BWS head Reverend Ngeno Nakamhela resulted in Nakamhela's removal from his position as secretary general of the Council of Churches of Namibia (CCN). Despite abusive remarks by government officials, no action was taken to suppress NGO's.

The deportation of Angolan human rights activist Dr. Manuel Neto in May 1998 also came shortly after Dr. Neto had announced the formation of the Angolan League for Human Rights (LADH), an NGO closely aligned with the NSHR. The NSHR is a frequent critic of the Government, and in 1997 the Government briefly opposed the granting of consultative status at the U.N. Economic and Social Council to the NSHR. Nevertheless, the NGO was granted consultative status.

Despite the verbal attacks on the LAC, local NGO's such as the LAC, the NSHR, the BWS Movement, and those working with indigenous groups, continue to criticize government policies freely. In addition, human rights organizations such as the Media Institute for Southern Africa, the Center for Applied Social Sciences, and the Human Rights Documentation Center worked openly on a variety of human rights issues affecting the press, women, ethnic minorities, and other groups. In June 1998, the Namibian Nongovernmental Organization Forum (NANGOF) publicly criticized "growing sentiments and practices of political intolerance" by the nation's political leadership. In the period prior to the general election, the CCN and the NANGOF organized a domestic observer effort in cooperation with the directorate of elections.

Representatives of international human rights organizations traveled to the country and discussed human rights issues with governmental and nongovernmental representatives on several occasions; however, in 1998 President Nujoma accused "foreigners" of interfering in Namibia's affairs on several occasions, and in June of that year threatened to "deport" or "get rid of" foreign nationals who "disturb the peace in Namibia."

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

The Constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits "the practice and ideology of apartheid." During the year there was a significant improvement in the attention paid to women's issues and the rights of the disabled.

Women.—Violence against women, including beating and rape, is widespread. Traditional attitudes regarding the subordination of women exacerbate problems of sexual and domestic violence. However, there continued to be an improvement in the attention paid to the problems of rape and domestic violence. Government ministers joined in public protests against violence. The President, members of his Cabinet, and parliamentarians continued to speak out against violence. Longer prison sentences have been handed down to convicted rapists and abusers, although a problem remained with respect to vulnerable witnesses in rape and abuse cases. Police stated that more women came forward to report cases of rape and domestic violence. After extensive consultations with NGO's and prominent women, in March the government introduced a bill in Parliament to combat rape. The Combating of Rape Bill was debated extensively on the floor of the National Assembly and then sent to a parliamentary committee, which is to allow private citizens to comment on aspects of the bill. Observers anticipate passage of the bill in 2000. A Ministry of Justice official announced in June 1998 that a special course in gender sensitivity would be introduced at the newly inaugurated police training center. Centers for abused

women and children in Oshakati, Windhoek, Keetmanshoop, Walvis Bay, and Rehoboth are staffed with specially trained female police officers to assist victims of sexual assaults. Safe houses are opening in Mariental, Swakopmund, and Tsumeb.

In 1996 the President elevated the head of the Department of Women Affairs to cabinet rank. The passage in that year of the Married Persons Equality Act also prohibited discriminatory practices against women married under civil law. Women married in customary (traditional) marriages continue to face legal and cultural discrimination. In 1998 Oshiwambo chiefs denounced traditional practices that permit family members to confiscate the property of deceased men from their widows and children. Efforts are underway to address this problem, and it has been reduced considerably.

In June 1998, President Nujoma addressed traditional leaders and made a forceful case for better treatment of women in traditional communities.

Children.—The Constitution enumerates children's rights, including those in the area of education and health. In previous years, the Government devoted 31 percent of the national budget to education and an additional 15 to 20 percent towards health. However, in practice, outmoded policies and laws and an untrained work force lead to inadequate attention to child welfare. Many San children do not attend school, and it is difficult for the Government to afford basic protections to children living on remote commercial farms.

Child abuse is a serious and increasingly acknowledged problem. The authorities vigorously prosecuted cases involving crimes against children, particularly rape and incest. Courts handed down stiffer sentences against child rapists, and the Government provided training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children are working actively to reduce the trauma suffered by abused children. The LAC has launched a national campaign to revise legislation on child maintenance. The Child Maintenance Bill was sent to the Cabinet for discussion, and the Cabinet referred the bill back to the Ministry of Justice for further comment. The bill would enable women to break out of the cycle of marital dependence and escape domestic violence by requiring divorced spouses to provide maintenance allowances for their children. However, the bill is still far from being tabled in Parliament.

The Government expanded programs to separate juvenile offenders from adults in the criminal justice system. Separate facilities for child offenders have been established in Windhoek and Mariental.

People With Disabilities.—While discrimination on the basis of disability is not addressed in the Constitution, the Labor Act of 1992 prohibits discrimination against disabled persons in employment. However, enforcement in this area is weak.

The Government legally does not require special access to public buildings for the disabled, and many ministries remain inaccessible to the disabled. However, some municipal governments have installed ramps and special curbing for the disabled at street crossings. Disability issues received greater attention during the year, with wider press coverage of the human rights problems that confront persons with disabilities. In December 1998, the Government launched a campaign to expand economic opportunities for and change attitudes about persons with disabilities.

Indigenous People.—The Bushmen, also known as the San people, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. The Government has taken a number of measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally-held lands and increasing their access to primary education. However, little has been done to bring San representatives into the Government, and many San children do not attend school. Reports from the NSHR and in the press claim that civilians from the Mafwe and Khoe San ethnic groups were targeted for harassment during the police campaign against Caprivi separatists.

By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources. However, Bushmen and other indigenous citizens have been unable to exercise fully these rights as a result of minimal access to education and economic opportunities under colonial rule, and their relative isolation.

In 1997 authorities arrested 73 members of the Hei//om Bushmen community for blocking the gates to a national game park. The Bushmen were protesting in support of the return of their ancestral lands, which had been seized in order to create the park. The Hei//om maintained that their previous requests to discuss the case with government officials had been ignored. The protesters were released on bail, and the case was dropped later in the year.

In 1997 the Government unilaterally announced plans to expand a prison in the West Caprivi Game Park on land claimed by the Kxoe ethnic group. The expansion would deny access by members of the Kxoe ethnic group to revenues from commu-

nity-based tourism projects on their lands. The projects are an important mechanism for empowering the Kxoe to benefit from tourism activities in their community. However, there is some question regarding the Kxoe's right to occupy that land. As of year's end, no final decision on the prison expansion had been announced.

The Government plans to build a hydroelectric dam on the Kunene River that would flood ancestral graves and grazing areas of the semi-nomadic Himba people. The project is highly controversial. The Government has made repeated efforts to consult with Himba leaders regarding the project, but many of the Himba chiefs remain adamantly opposed to the project. Government leaders have criticized harshly those opposed to the project, terming them "enemies of development."

The Traditional Authorities Act, which came into effect in 1995, defined the role, duties, and powers of traditional leaders. The act provided that customary law is invalid if it is inconsistent with provisions of the Constitution. It enumerated the types of crimes that may be dealt with in traditional courts. The act assigned to traditional leaders the role of guardians of culture and tradition, and also mandated that traditional leaders elected to Parliament choose between their traditional and elected offices before the end of 1996. This provision has not been enforced, and several traditional leaders remain in Parliament.

The Government's power to confer recognition or withhold it from traditional leaders, even in opposition to local preference, is especially controversial because of the leaders' influence on local events including local police powers. In some cases, the Government has withheld recognition from genuine traditional leaders who have sympathy for the political opposition. This has been especially true in the Khoe San and Mafwe communities in the Caprivi and in the Herero community. Mafwe chief Boniface Mamili fled the country with other Caprivi separatists in late 1998. Despite opposition from the Mafwe community itself, Minister of Local Government Nicky Iyambo ruled that Mamili had forfeited his position, and in March the Government installed a rival chief. In June 1998, a number of traditional leaders boycotted the inauguration of the Traditional Leaders' Council, claiming that the installation was illegal, as some of the leaders chosen by the Government did not represent their communities.

National/Racial/Ethnic Minorities.—The Constitution prohibits discrimination based on race and other factors and specifically prohibits "the practice and ideology of apartheid." In July 1998, Parliament passed amendments to the 1991 Racial Discrimination Prohibition Act that strengthened the act and the penalties for discriminatory practices. The act codified certain protections for those who cite racial discrimination in the course of research or in trying to reduce racial disharmony. Nevertheless, as a result of more than 70 years of South African administration, societal, racial, and ethnic discrimination persists. There were several reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners. In two instances, black farm workers were not allowed to vote in the general election after white farm owners barred mobile election teams from their property. Increasing references in 1998 to white citizens as "foreigners" by senior government officials were contrary to professed government efforts to promote national reconciliation. Many non-whites continued to complain that the Government was not moving quickly enough in education, health, housing, employment, and access to land.

Some citizens complained that the SWAPO-led government provided more development assistance to the numerically dominant Ovambo ethnic group of the far north than to other groups or regions of the country. In 1997 leaders of the "Baster" community in Rehoboth reached an understanding with the Government and dropped their demand that the Government return the community's "traditional lands" that had reverted to the central Government upon independence.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association, including freedom to form and join trade unions, and the Government respects this right in practice. The 1992 Labor Act extended that right to public servants, farm workers, and domestic employees. However, farm workers and domestic servants working on rural and remote farms often are ignorant of their rights and as a result, suffer abuse. Trade unions have no difficulty registering, and there are no government restrictions on who may serve as a union official. The Ministry of Labor expressed concern in their annual report released in September over the growing number of trade unions. The Labor Commissioner reported in the Ministry's annual report that it would apply to the Labor Court for deregistration of organizations that have not complied with the statutory requirements in the Labor Act. The announcement caused concern among some observers, who worried that the Government would use the process to target independent unions not affiliated with the rul-

ing party. No union has been dissolved by government action. In 1997 government employees held vigorously contested union elections.

Unions are independent of the Government and may form federations. The two principal trade union organizations are the National Union of Namibian Workers (NUNW) and the Namibia Federation of Trade Unions (NFTU). Prior to independence, the NUNW formerly was affiliated with SWAPO, but claims that its affiliation had ended at independence; however, the NUNW was invited to nominate candidates for SWAPO's National Assembly slate, and the NUNW was nominated by SWAPO and elected to the National Assembly. In 1997 the mine workers union established the Mine Workers Union Investment Company to supplement union dues. The NFTU, launched in October 1998 and made up of several large public service, teachers, mining, and maritime unions, is more critical of the Government. Less than 20 percent of full-time wage earners are organized.

Except for workers providing essential services such as jobs related to public health and safety, and workers in the export processing zones (EPZ's), workers enjoy the right to strike once conciliation procedures have been exhausted. There are EPZ's at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZ's outside of these parks. Under the Labor Act, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration. The Labor Act protects workers engaged in legal strikes from unfair dismissal.

Unemployment, which is nearly 40 percent, remained a significant problem and affected primarily the black majority. Apartheid-era attitudes among some employers contributed to a divisive, 10-week strike at a major mining firm in 1997. The atmosphere at the three mine sites was tense and occasionally violent. Although the confrontation was defused temporarily by high-level government intervention, the mine filed for bankruptcy.

Trade unions are free to exchange visits with foreign trade unions and to affiliate with international trade union organizations. Unions have exercised this right without interference.

b. *The Right to Organize and Bargain Collectively.*—The 1992 Labor Act provides employees with the right to bargain individually or collectively. Collective bargaining is not practiced widely outside the mining and construction industries. However, as unions become more active, informal collective bargaining is becoming more common. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

The Labor Act provides a process for employer recognition of trade unions and protection for members and organizers. The law also empowers the Labor Court to remedy unfair labor practices and explicitly forbids unfair dismissals, which may be appealed to the Labor Court. The Government expects to redraft the 1992 Labor Act to close existing loopholes that allow employers to exploit workers.

The Labor Act applies to the EPZ in Walvis Bay with certain exceptions. Some trade unionists continued to challenge the constitutionality of the agreement reached by government and NUNW representatives codified in the Export Processing Zone Act of April 1995 because it precludes strikes and lockouts. Under the agreement, labor-related issues in the EPZ are referred to a special EPZ dispute settlement panel composed of employers and workers for expeditious resolution. With only a few businesses operating in the Walvis Bay EPZ, the effectiveness of this agreement in securing the rights of workers in the EPZ could not be determined.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and bonded labor by adults and children; however, during the year, there were ongoing reports in the media that farm workers (including some children on commercial farms) and domestic workers often receive inadequate compensation for their labor and are subject to strict control by employers. Ministry of Labor inspectors sometimes encountered problems in gaining access to the country's large, privately-owned commercial farms in order to investigate possible labor code violations.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Under the 1992 Labor Act, the minimum age for employment is 14 years, with higher age requirements for night work and for certain sectors such as mining and construction. Ministry of Labor inspectors generally enforce minimum age regulations, but children below the age of 14 often work on family and commercial farms and in the informal sector. The 1991 census, which reported on the status of children, estimated that 13,800 children under 15 years of age were in the labor force. Of this total, 41 percent were working as unpaid laborers on family and commercial farms. Boys in rural areas traditionally start herding livestock at the age of 7. According to 1991 figures, approximately 2 percent of farm workers were children (mainly from the San ethnic group). There were also reports that Angolan and Zambian chil-

dren, who are not protected by the Labor Act, worked on communal and cattle farms in border areas. The Government prohibits forced and bonded labor by children; however, some children worked without compensation on commercial farms (see Section 6.c.).

e. *Acceptable Conditions of Work.*—There is no statutory minimum wage law. In Windhoek's non-white urban area townships, many workers and their families have difficulty maintaining a minimal standard of living. White citizens earn significantly more on average than do black citizens, in large part because whites own most of the country's productive resources and have had access to education that enables them to take advantage of the skilled labor shortage.

After independence, the standard legal workweek was reduced from 46 to 45 hours, and requires at least one 24-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 consecutive days of annual leave, at least 30 workdays of sick leave per year, and 3 months of unpaid maternity leave. However, in practice these provisions are not observed or enforced rigorously by the Ministry of Labor. In 1996 two important NGO studies—one of farm workers and the other of domestic employees—highlighted the extremely poor conditions that some employees encounter while working in these occupations.

The Government mandates occupational health and safety standards. The Labor Act empowers the President to enforce these standards through inspections and criminal penalties. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers do not have this right in practice.

f. *Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, it does prohibit slavery, kidnapping, forced labor, including forced prostitution, child labor, and alien smuggling, and there were no reports that persons were trafficked in, to, or from the country.

NIGER

Niger is in transition following its second military coup d'etat in 3 years. On April 9, 2 days after the Supreme Court annulled the results of the February 7 local elections, President Ibrahim Mainassara Bare, who came to power by a coup d'etat in January 1996, was assassinated by members of his presidential guard. Several days after Bare's assasination, a group of military officers led by Major Daouda Malam Wanke asserted control over the Government, called the assassination an "unfortunate accident," and subsequently suspended the Constitution, dissolved the National Assembly, and created three bodies to oversee a 9-month transition to a democratically elected government. Major Wanke's transition plan was supported by members of 11 of the country's opposition parties. The military officers retained effective control of the country during the interim period through the National Reconciliation Council (CRN), which was led by Major Wanke. The CRN appointed Ibrahim Assane Mayaki as Prime Minister, formed a cabinet with civilian members of political parties, traditional chiefs, and former government leaders, and scheduled a first round of presidential elections for October 17, and a presidential runoff and legislative elections for November 24. The National Consulative Council consisted of members of political parties, civil society, traditional chiefs, and former government leaders and addressed fundamental questions, such as the role of political parties, the Electoral Code, and a new Constitution. The National Consultative Council was created to fill the role of the dissolved National Assembly; however, this body was limited to making recommendations and was not granted legislative powers. On July 18, citizens voted in a popular referendum and approved a new Constitution that provides for power sharing between the President and Prime Minister and granted amnesty to perpetrators of the 1996 and 1999 coups. Tandja Mamadou was elected President in November with 60 percent of the vote in an election that was considered by international observers to be generally free and fair. In the November 24 National Assembly elections, the National Movement for the Development of Society and the Democratic and Socialist Convention (MNSD/CDS) coalition backing Tandja won 55 of the 83 seats in the Assembly. Tandja was inaugurated on December 22 and was expected to appoint a new Prime Minister at the beginning of 2000. The judiciary remains subject to executive interference.

Security forces consist of the army, the Republican Guard, the gendarmerie (paramilitary police), and the national police. The police and gendarmerie traditionally have primary responsibility for internal security. However, since the 1996 coup, the

army has had a much more prominent role. The April coup was led by a small group of junior army officers and resulted in early retirement for more senior members of the armed forces. Some members of the security forces committed serious human rights abuses.

The economy is based mainly on traditional subsistence farming, herding, small trading, and informal markets. Less than 15 percent of the economy is in the modern sector. Uranium is the most important export. Per capita income is about $200. Drought, deforestation, soil degradation, low literacy, a depressed uranium market, high import prices, and burdensome debt further weakened the already troubled economy. The country is heavily dependent on foreign assistance, most of which was suspended after the April coup d'etat.

The Government's human rights record remained poor, and the Government continued to commit serious abuses. The 1996 coup, the fraudulent 1996 presidential elections, the disputed February local elections, and the April coup effectively disenfranchised citizens, preventing them from exercising their right to change their government; however, citizens finally were able to exercise this right late in the year in generally free and fair elections. Security forces assassinated the Head of State, committed other extrajudicial killings, beat and abused persons, intimidated and injured independent election officials, and destroyed election results and equipment. Security forces on occasion intimidated opposition political figures and violated laws governing searches, treatment of prisoners, and length of detention. Prison conditions remained poor, and arbitrary arrest and detention remain problems. The overloaded judicial system and delays in trials resulted in long periods of pretrial confinement. There were several prison disturbances, one of which led to the deaths of 29 persons in detention. The judiciary also is subject to executive influence. Security forces infringed on citizens' privacy rights. The Bare Government restricted freedom of speech and of the press; however, the transition government significantly reduced the extent of such abuses. The Bare Government continued to ban some peaceable meetings and demonstrations and intimidated the private press; however, the transition government significantly reduced the extent of such abuses. The Government restricted freedom of movement. Domestic violence and societal discrimination against women continued to be serious problems. Female genital mutilation (FGM) persists, despite government efforts to combat it. There is societal discrimination against the disabled and ethnic minorities. The Government restricts some worker rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Members of the presidential guard on April 9 assassinated President Ibrahim Mainassara Bare. They also killed his driver and one bodyguard. At least five other persons were injured seriously by stray gunfire. Major Daouda Malam Wanke, commander of the presidential guard, became President of the National Reconciliation Council and Head of State. The transition government insisted that Bare was killed in an "unfortunate accident," and all coup perpetrators were granted amnesty by the July Constitution.

At the Niamey central prison on August 29, prison guards forced 74 rebellious inmates into a 324 square foot cell. When the prisoners objected to the overcrowding, the guards used tear gas, killing 29 prisoners by asphyxiation. The Minister of Justice promised a full investigation and the reform of the prison and justice systems. The prison supervisor and one guard were arrested as a result of the deaths. At year's end, one guard remained in prison and the other was released provisionally while he awaits judicial proceedings (see Section 1.c.).

In January a Nigerien-Algerian team of security forces attacked a camp of alleged Islamic fundamentalists in the northwestern corner of Niger, killing between 4 and 15 persons and arresting a number of wealthy merchants suspected of supporting the alleged fundamentalists. The attack reportedly was an attempt to prevent the fundamentalists from escaping to Algeria.

The Lake Chad area continues to be patrolled by Nigerian-Nigerien-Chadian joint military forces while armed Kanouri, Toubou, Peul (Fulani), and Arab militias fight among themselves. The region is very insecure, and it is difficult to confirm reports; however, there have been other allegations of extrajudicial killings by the security forces and armed militias.

Despite such incidents, the August 1998 peace agreement with the Toubou ethnic group's Democratic Front for Renewal (FDR) generally has been respected.

In February a mass grave containing 149 bodies alleged to be those of missing Toubou former rebels was discovered in the far eastern region of Bosso. The missing men had been expelled from Nigeria to Niger as part of a Chad-Niger-Nigeria joint

military operation. When last seen by their families in October 1998, the Toubous were in the custody of the Nigerien armed forces. The Government acknowledged the existence of the mass grave. Domestic and international human rights groups called for an independent investigation but so far, none has been forthcoming.

No charges were brought against the member of the presidential guard who shot and killed a member of the Republican Guard in February 1998; he was released from custody during the year. No charges were brought against the leaders of a Republican Guard May 1998 mutiny; they also were released from custody during the year.

Disagreements over land use between sedentary farmers and herders as well as among different groups of herders led to several incidents of mob violence and killings, particularly in the Tillaberry Department along the Malian border and the Lake Chad region.

On July 26, the Security Coordinating Committee called upon the Government to take necessary action in response to the deteriorating security situation in the North Tillaberry pastoral zones. Frequent attacks by Tuaregs from the Malian side of the border, which were countered by Peul self-defense militias, resulted in the deaths of at least 150 persons as well as incidents of rape, kidnaping, and theft of 20,000 head of cattle.

Unlike the previous year, there were no reports of violence related to the Tuareg ethnic insurgency in the north, which effectively ended with the November 1997 supplemental peace accord.

In January two men accused of armed robbery were killed by vigilantes in the Zongo neighborhood of Niamey. No action was taken against the vigilantes.

b. *Disappearance.*—There were no reports of politically motivated disappearances; however, conflict between Tuaregs based in Mali and Peul self-defense militias led to kidnapings (see Section 1.a.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, on occasion police beat and otherwise abused persons. In January a taxi driver accused of stealing a package worth $400 (225,000 CFA francs) was arrested and detained for 8 days without charge. He was suspended from a bar by his ankles and fists and beaten, sustaining severe injuries. Eventually he was released, but no charges were brought against the abusive prison guards.

In November hundreds of university students held a sit-in on the Kennedy Bridge in Niamey to press claims for payment of their scholarships, which they reportedly had not received for 2 years. Police officials used tear gas to disperse students from the bridge; at least 20 students were injured (see Section 2.b.).

According to local press reports, on March 13 the publishing director of La Voix du Citoyen was ambushed and beaten by military personnel. Neither police personnel nor military personnel conducted an investigation of this alleged attack.

Police extorted bribes at checkpoints (see Section 2.d.).

Prison conditions are poor. Prisons are underfunded and understaffed. They are overcrowded and diet, health, and sanitary conditions are very poor. In August four inmates died when a prison roof collapsed on them in the Diffa (far eastern) region. Prisoners are segregated by sex, but minors and adults are incarcerated together. Family visits are allowed, and prisoners can receive supplemental food and other necessities from their families. Corruption among prison staff is rampant.

Anger at the comparatively expeditious treatment and amnesty of those accused of "political" crimes such as destroying election results led to several prison riots, including one that resulted in 29 deaths (see Section 1.a.).

In September 74 prisoners escaped from prison in Zinder following protests over conditions in the prisons and delays over legal proceedings. The prisoners reportedly set fire to tires then broke through the main gates of the jail. Police personnel caught several of the escaped prisoners during the first days following the escape; however, the majority of the escaped prisoners were not caught. Following the breakout, police personnel arrested 200 persons suspected of harboring the escapees (see Section 1.d.).

There are reliable reports that prisoners who have financial means leave prison for the day and serve their sentences in the evenings or claim illness and serve their sentences in the national hospital.

Human rights monitors, including the International Committee of the Red Cross, have unrestricted access to prisons and detention centers and visit them.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are problems. Although the Constitution prohibits arbitrary arrest and detention, and laws officially prohibit detention without charge in excess of 48 hours, police violate these provisions in practice. If police fail to gather sufficient evidence within the detention period, the prosecutor gives the case to another officer, and a new 48-hour detention

period begins. Police, acting under authority given them by the Security Law, conduct sweeps to detain criminals and ensure that identity documents are in order.

On May 29, former Minister of Defense, Yahaya Tounkara, was placed under house arrest after reading a declaration calling for an investigation into Bare's assassination. Military forces blocked the entrance to his house for several days; however, they were subsequently discharged.

On September 17, five members the RDP were arrested and held at the State Documentation Center (CDE), the intelligence center, for questioning. No charges were brought against them. All five were released before the October election campaign.

In August the editor of Le Canardo newspaper was arrested and held for questioning due to his refusal to comply with a ban on the publication of Le Canardo. No charges were brought against him and he was released after several hours (see Section 2.a.).

In September police officials arrested 200 persons suspected of harboring 74 escaped prisoners from Zinder; they were released within several days (see Section 1.c.).

In October 100 soldiers in Maradi mutinied and took several government officials hostage, reportedly due to nonpayment of a promised salary supplement; there were no reported deaths among the hostages. The mutinous soldiers later were dismissed by the transition government.

In October Yusuf Bashar, the former Nigerien ambassador to Libya, was arrested without charge upon his return to the country from his post. He was released several days later. Press reports alleged that the transition government considered Bashar too close to the late President Bare.

The judicial system is seriously overloaded. There are no statutory limits on pretrial confinement of indicted persons. Detention frequently lasts months or years. Some persons have been waiting as long as 8 years to be charged. Of the 644 prisoners in Niamey's central prison 515 are awaiting trial or had no charges brought against them.

The law provides for a right to counsel, although there is only one defense attorney known to have a private practice outside the capital. A defendant has the right to a lawyer immediately upon detention. The State provides a defense attorney for indigents. Bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevent full exercise of these rights.

The Constitution prohibits exile, and there were no reports of its use.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it is subject to executive interference. Although the Supreme Court on occasion has asserted its independence, human rights groups assert that family and business ties influence the lower courts and undermine their integrity. Judges sometimes fear reassignment or having their financial benefits reduced if they render a decision unfavorable to the Government.

Defendants and prosecutors may appeal a verdict, first to the Court of Appeals, then to the Supreme Court. The Court of Appeals reviews questions of fact and law, while the Supreme Court reviews only the application of the law and constitutional questions. There are also customary courts.

Traditional chiefs can act as mediators and counselors and have authority in the realm of customary law as well as status under modern law where they are designated as auxiliaries to local administrators. They are charged with collecting local taxes and receive stipends from the Government but do not have police or judicial powers and can only mediate, not arbitrate, disputes under customary law. Customary courts, located only in large towns and cities, try cases involving divorce or inheritance. They are headed by a legal practitioner with basic legal education who is advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts are not regulated by code, and defendants may appeal a verdict to the formal court system. Women do not have equal legal status with men and do not enjoy the same access to legal redress (see Section 5).

Defendants have the right to counsel, to be present at trial, to confront witnesses, to examine the evidence against them, and to appeal verdicts. The Constitution affirms the presumption of innocence. The law provides for counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Although lawyers comply with government requests to provide counsel, they generally are not remunerated by the Government.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires that police have a search warrant, normally issued by a judge; however, human rights organizations report that police often conduct routine searches with-

out warrants. Police may search without warrants when they have strong suspicion that a house shelters criminals or stolen property. The State Security Law also provides for warrantless searches.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the transition government generally respected this right in practice, although the Bare government did not. In June the transition government created the National Communications Oversight (ONC) group to provide for independence of the media and ethics in journalism.

The Government publishes a French-language daily newspaper, Le Sahel, and its weekend edition. There are about 12 domestically published private French-language weekly or monthly newspapers, some of which are affiliated loosely with political parties. The private press remained relatively assertive in criticizing government actions; however, there were several attempts by the former government to stifle freedom of the press. Foreign journals circulate and report freely. However, strict accreditation requirements imposed on journalists by the 1997 press law remained in place. In the February local elections campaign, opposition parties did not receive the same media access that the RDP enjoyed.

In July the ONC censured the editor of the Canardo newspaper and banned its publication because the editor was allegedly not a licensed professional journalist. When the editor did not comply, he was arrested on August 31 and held for questioning for several hours before being released (see Section 1.d.). In November the President of the ONC announced a new amendment for election campaign media access. The amendment prohibited incendiary rhetoric on racial or ethnic grounds and prohibited the publication of any declaration by dissenting groups within a political party or associated with defection of members of a party in favor of another party.

On September 10, the ONC announced the creation of the Media Access Control Committee for the presidential elections in collaboration with the Independent Electoral Commission, the Minister of Justice, the president of the lawyer's union, and political parties. The committee is charged with ensuring that all presidential candidates get equitable and free access to the public media and monitor coverage in the private media. Prior to the presidential and legislative elections in November, all of the country's political parties reportedly received free and equitable access to the public media.

Since literacy and personal incomes are both very low, radio is the most important medium of public communication. The government-owned radio Voix du Sahel transmits 14 hours per day, providing news and other programs in French, Hausa, Djerma, Tamashek, Fulfulde, Kanouri, and several other local languages. Several private radio stations broadcast on FM in Niamey, including Radio France International, Africa Number One, Radio et Musique, Radio Souda, Radio Tenere, and Anfani; the last four are locally owned and feature popular news programs in local languages, including Djerma and Hausa.

These private radio stations generally were less critical of government actions than the private newspapers were. Radio Afani remained the domestic station most critical of the Bare and transition governments. Radio et Musique tried to present news coverage that includes opposition as well as government points of view. The other private domestic radio stations are smaller and offer little domestic news programming.

The government-operated multilingual national radio service provided equitable air time for all political parties since the transition government assumed power.

On August 1, 1998, the Government's Superior Council on Communication prohibited domestic broadcasting services from rebroadcasting programs of foreign origin, such as Voice of America (VOA), British Broadcasting Corporation (BBC), and Deutsche Welle programs without a time delay that would enable the Government to hold local broadcasters responsible for the programs' content. However, domestic affiliates of international services generally did not comply with this prohibition, and the Government apparently did not enforce it.

Television is a far less important medium than radio. Government-owned Tele-Sahel broadcasts about 4 hours every evening, with programming emphasizing news in French and other major national languages. There are no private television broadcasting stations, apparently because they would not be commercially viable in the country's economy. The director of a private radio station operates a wireless cable television service for the capital, offering access to international channels.

SONITEL, the state-owned telephone monopoly, is the country's only Internet service provider. There are no private Internet service providers because government regulation of the telecommunications sector sets prices at prohibitive levels; several individuals hope to enter the Internet service provider market after an an-

ticipated deregulation of the sector. The Government does not restrict access to the Internet through SONITEL, although technical difficulties often do.

The news coverage of the state-owned media reflects government priorities. Presidential activities and conferences dealing with development issues always are reported. Analysis or investigative reporting on domestic topics is extremely rare. During the February local elections campaign, state media gave much more coverage to the ruling party than to all opposition parties combined. The transition government gave equal access and coverage to political parties and their views; at least 16 major and minor political parties had access to the state press during the preelection period.

Academic freedom is respected. In November university students protested nonpayment of their scholarships (see Sections 1.c. and 2.b.).

b. *Freedom of Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Bare government on occasion banned peaceable meetings and demonstrations, and the transition government suspended political party activity during the first days following the coup. The Government retains the authority to prohibit gatherings either under tense social conditions or if advance notice (48 hours) is not provided. Political parties legally are permitted to hold demonstrations, and there were no reports of political parties being denied permission for demonstrations during the year.

In November hundreds of university students held a sit-in demonstration on the Kennedy Bridge in Niamey to press claims for payment of their long overdue scholarships. Police officials used tear gas to disperse students from the bridge, injuring at least 20 students (see Section 1.c.).

The Constitution provides for freedom of association with the limitation that citizens may not form political parties based on ethnicity, religion, or region, and the Government respects these provisions in practice. There are 24 political parties.

c. *Freedom of Religion.*—The new Constitution, provides for "the right of the free development of each individual in their . . . spiritual, cultural and religious dimensions," and the Government supports the freedom to practice one's religious beliefs, as long as persons respect public order, social peace, and national unity.

Religious organizations must register with the Interior Ministry. This registration is a formality and there is no evidence that it ever has been denied.

Islam is the dominant religion and is practiced by over 90 percent of the population. Christians (including Jehovah's Witnesses) and Baha'is practice freely. The cities of Say, Kiota, Agadez, and Madarounfa are considered holy by the local Islamic communities, and the practice of other religions in those cities is not as well tolerated as in other areas. No religious group is subsidized officially, although the Islamic Association has a weekly broadcast on the government-owned (and the only) television station. Christian programming generally is broadcast only on special occasions such as Christmas.

The State must authorize construction of any place of worship.

Foreign missionaries work freely, but their organizations must be registered officially as associations.

There were instances during the year in which local police stated that they were not confident that they could ensure the safety of foreign missionaries.

On April 15, the Assemblies of God Church in Niamey was notified by the mayor's office that it must close until the "new order" is established, presumably until a democratically elected government is in place in early 2000. The church has been in its location since 1996 and has had an ongoing problem with one of it neighbors. The neighbor, who is from another Christian group, has been trying actively to have the church closed since its establishment. The church has been trying to find an amicable solution to maintain its good relationships in the community while protecting its interests against attacks by the neighbor. The police and local authorities had been responsive and supported the church's right to exist in the neighborhood. The authorities ordered the church to close; however, this order was not enforced and the church remained open (see Section 5).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement and does not restrict either emigration or repatriation; however, authorities imposed some restrictions on these rights. Some ministers of the former government were prohibited from leaving the country pending inquiries into their financial affairs. International election monitors were prohibited from traveling to polling stations throughout the country during the February local elections. In addition security forces at checkpoints monitor the travel of persons and the circulation of goods, particularly near major population centers, and sometimes demand extra payments. Attacks by bandits on major routes to the north have declined considerably. Among the Hausa and Peul in the east,

some women are cloistered and may leave their homes only if escorted by a man and usually only after dark (see Section 5).

The law does not provide for granting asylum or refugee status in accordance with the standards of the U.N. Convention Relating to the Status of Refugees. However, the Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. In accordance with U.N. principles, the Government offers first asylum. To date it has offered asylum to several thousand persons from neighboring countries as well as smaller numbers from distant countries. A few Chadian refugee families remain in the country.

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

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

The Constitution provides for the right of citizens to change their government; however, the January 1996 coup, the fraudulent 1996 presidential election, the disruption of February local elections, and the April coup effectively disenfranchised citizens, preventing them from exercising this right. The July Constitution provides for a semipresidential system with the President as head of state and the Prime Minister as head of government. The President must choose the Prime Minister from a list of three presented by the majority party or coalition in the National Assembly. Seven candidates qualified for the first round of presidential elections held on October 17. Since no candidate received 51 percent of the vote, a second round was held on November 24. In the second round, Tandja Mamadou was elected President with 60 percent of the vote in an election that was considered by international observers to be generally free and fair. Reportedly 39 percent of the country's population participated in the election. In the November 24 National Assembly elections, the National Movement for the Development of Society and the Democratic and Social Convention (MNSD/CDS) coalition backing Tandja won 55 of the 83 seats in the Assembly. Five of the country's 11 political parties are represented in the National Assembly. Tandja was inaugurated on December 22 and was expected to appoint a new Prime Minister at the beginning of 2000.

In February local elections were held to start the process of decentralization, which had been initiated before 1996. Communities were to elect municipal, departmental, and regional councils giving localities more autonomy to manage their affairs. All political parties participated in the elections. Although security forces tried to impede the movement and access of international observers before the voting began, the observers judged the elections to be free and fair in their technical conduct; however, the more serious disruptions occurred in the compilation and publication of the results. After the vote counts (which clearly showed that the presidential RDP party would not have an overwhelming majority), the results were transferred to the Independent Election Commission (CENI) offices where security forces broke in, destroyed results and equipment, and in some cases injured workers. As each polling station had political party representatives present during the vote count, actual results could have been reconstructed; however, the Government acknowledged problems but deferred to the constitutional chamber of the Supreme Court to rule on the results and to the judicial system to deal with any irregularities.

On April 6, the Supreme Court, holding to a strict interpretation of the law, only validated those results for which original, signed official records were available. To replace the missing vote tallies, voting would have to be repeated in about 4,000 polling stations, approximately 40 percent of the total. On April 8, the Government called on the public to respect the decision of the court and to remain calm. It also promised to take the necessary measures to identify and punish those responsible for the "troubles."

On April 9, President Ibrahim Mainassara Bare, who came to power by a coup d'etat in January 1996, was assassinated by members of his presidential guard. Several days after Bare's assasination, a group of military officers led by Major Daouda Malam Wanke (commander of the presidential guard) asserted control over the Government, called the assassination an "unfortunate accident," and subsequently suspended the Constitution, dissolved the National Assembly, and created three bodies to oversee a 9-month transition to a democratically elected government. Major Wanke's transition plan was supported by members of 11 of the country's opposition parties. Major Wanke and his military officers retained effective control of the country during the interim period through the CRN. The CRN formed a cabinet with civilian members of political parties, traditional chiefs, and former government leaders, and scheduled a first round of presidential elections for October 17, and a presidential runoff and legislative elections for November 24. The National Consultative

Council consisted of members of political parties, civil society, traditional chiefs, and former government leaders and addressed fundamental questions, such as the role of political parties, the Electoral Code, and a new Constitution. The National Consultative Council was created to fill the role of the dissolved National Assembly; however, this body was limited to making recommendations and was not granted legislative powers.

On July 18, a new Constitution was approved by 90 percent of the 31 percent of the population that voted in the referendum. It reiterates rights granted under the 1992 and 1996 constitutions. The Constitution provides for a political system with checks and balances, a representative one chamber national assembly, and an independent judiciary. Citizens 18 years of age and over can vote, and voting is by secret ballot. The Prime Minister is no longer subordinate to the President; however, the Prime Minister must be chosen from a list of three candidates submitted to the President by the majority of the National Assembly.

The Constitution also granted a general amnesty to the perpetrators of the 1996 and 1999 coups; the amnesty is scheduled to be approved in the first session of the next National Assembly, which was expected to meet in January 2000. The Constitution also allowed governmental authorities to remain in place until new elections were held.

Women traditionally play a subordinate role in politics. The societal practice of husbands' voting their wives' proxy ballots effectively disenfranchises many women. This practice was used widely in presidential and National Assembly elections.

Women are underrepresented in government. Only one woman won a seat in the new National Assembly and there are two female ministers in the Government.

The Government supported greater minority representation in the National Assembly, but no seats in the National Assembly are reserved for ethnic minorities. President Tandja is the country's first president who is not from either the Hausa or the Djerma ethnic groups, which make up about 56 percent and 22 percent, respectively, of the country's population (see Section 5). Although there are some questions about President Tandja's ethnicity, he is reportedly half Peul and half Kanouri. All major ethnic groups are represented in the Government.

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

Several independent human rights groups and associations normally operate without government hindrance, and they publish findings and conclusions that often are highly critical of the Government in their own publications and in the small independent press. Notable among the associations are the Nigerian Association for the Defense of Human Rights (ANDDH); Democracy, Liberty, and Development (DLD); the Nigerien League for the Defense of Human Rights (LNDH); the Association for the Protection and Defense of Nigerien Human Rights (ADALCI); the Network for the Integration and Diffusion of the Rights in the Rural Milieu (RIDD–FITLA); the Niger Independent Magistrates Association (SAMAN); and the Association of Women Jurists of Niger. There are several other women's rights groups. The International Committee for the Red Cross is active in the country. The Government invited international observers to the February municipal elections and the October and November presidential and legislative elections. During the February elections, some international observers were prevented by RDP authorities from traveling to polling places throughout the country. However, during the October and November elections, about 200 international observers monitored polling stations throughout the country, reportedly with no intervention.

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

The Constitution prohibits discrimination based on sex, social origin, race, ethnicity, or religion. However, in practice there is discrimination against women, children, ethnic minorities, and disabled persons, including limited economic and political opportunities.

Women.—Domestic violence against women is widespread, although firm statistics are lacking. Wife beating is reportedly common, even in upper social classes. Families often intervene to prevent the worst abuses, and women may (and do) divorce because of physical abuse. While women have the right to seek redress in the customary or modern courts, few do so, due to ignorance of the legal system, fear of social stigma, or fear of repudiation. Women's rights organizations report that prostitution is often the only economic alternative for a woman who wants to leave her husband.

Despite the Constitution's provisions for women's rights, the deep-seated traditional belief in the submission of women to men results in discrimination in education, employment, and property rights.

Discrimination is worse in rural areas, where women do much of the subsistence farming as well as child-rearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the work force, women have made only modest inroads in civil service and professional employment and remain underrepresented in these areas.

Women's inferior legal status is evident, for example, in head of household status: A male head of household has certain legal rights, but divorced or widowed women, even with children, are not considered to be heads of households. Among the Hausa and Peul in the east, some women are cloistered and may leave their homes only if escorted by a male and usually only after dark. In 1994 the Government considered a draft family code intended to eliminate gender bias in inheritance rights, land tenure, and child custody, as well as end the practice of repudiation, which permits a husband to obtain an immediate divorce with no further responsibility for his wife or children. However, in June 1994 when Islamic associations criticized the draft code, the then-Government suspended discussions. The Government has taken no further action on the family code, although on August 13, it ratified the Convention for the Elimination of All Forms of Discrimination Against Women. Some Islamic groups criticized the treaty and complained that they were not consulted beforehand. Women's groups have so far been silent, allegedly due to fear of reprisals. The same Islamic militant groups worked against the family code, and reportedly threatened women who supported the code with physical harm.

Children.—Although the Constitution provides that the State promote children's welfare, financial resources are extremely limited. The minimum period of compulsory education is 6 years; however, only about 32 percent of children of primary school age attend school, and about 60 percent of those who finish primary schools are boys. The majority of young girls are kept at home to work and rarely attend school for more than a few years, resulting in a female literacy rate of 7 percent, compared with 18 percent for males.

Secondary school students in May conducted two violent demonstrations to protest the nonpayment of their stipends. Students used rocks, burned tires, and stopped traffic. There were no reported injuries and classes resumed within a few days.

Tradition among some ethnic groups allows young girls from rural families to enter into marriage agreements on the basis of which girls are sent by the age of 10 or 12 (or younger) to join their husband's family under the tutelage of their mother-in-law. There are credible reports of underage girls being drawn into prostitution, sometimes with the complicity of the family.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced by several ethnic groups in the extreme west and far eastern areas of the country. Clitoridectomy is the most common form of FGM. FGM is not illegal, but the Government is engaged firmly in an effort to eliminate the practice. The Government is working closely with a local NGO, the United Nations Children's Fund, and other donors to develop and distribute educational materials at government clinics and maternal health centers.

People with Disabilities.—The Constitution mandates that the State provide for the disabled; however, the Government has yet to implement regulations to mandate accessibility to buildings and education for those with special needs. Regulations do not mandate accessibility to public transport, of which there is little. Societal discrimination against persons with disabilities exists.

Religious Minorities.—At times Muslims have not been tolerant of the rights of minority religions to practice their faith. On April 19, 1998, Catholic and Protestant churches in Maradi, in the south central region on the Nigerian border, were attacked by a group of demonstrators who allegedly included some local Shi'ite Muslims. Some injuries to parishioners were reported and altars and religious artifacts were damaged or destroyed. Police responded within 40 minutes and arrested some of the demonstrators.

In mid-November 1998, members of a Baptist mission encountered problems with some members of the local Muslim community in Say, one of the Islamic holy cities and site of the Islamic University. Baptist missionaries had been active in the region for over a year and were well accepted by the population until they considered building a church. At that time, some local community members threatened to burn down the missionaries' houses unless they left Say by the end of the week. When the Baptist mission members reported this threat to the authorities, they were told that, while it was within their rights to be there, the local police force could not

ensure their safety. The missionaries continued to work in the Say region, but they decided to postpone their church-building plans.

On August 20, members of the Southern Baptist Mission in Say received threats of physical harm from members of a local Islamic association unless they left the city by the end of the week. The missionaries have been receiving periodic threats since November 1998 when they announced their intention to build a church in Say, which is considered an Islamic holy city. The missionaries reportedly left Say following these threats and permanently relocated to another location in the country (see Section 5).

National/Racial/Ethnic Minorities.—The Hausa and Djerma ethnic groups make up about 56 percent and 22 percent, respectively, of the country's population of more than 10 million. These two groups also dominate government and business. Tandja Mamadou is the country's first president who is neither Hausa nor Djerma. Ethnic minorities—Tuareg, Peul, Toubou, Kanouri, and Arab—continue to assert that the Hausa and Djerma discriminate against them. However, the Government recently has increased education and health care for ethnic minorities. It supports the April 1995 peace accord calling for special development efforts in the north where the Tuareg population is dominant. However, nomadic people, such as Tuaregs and many Peul, continue to have less access to government services, and the suspension of foreign assistance has limited the Government's ability to fulfill its commitments to former rebel areas.

Section 6. Worker Rights

a. *The Right of Association*.—The Constitution provides formal recognition of workers' longstanding right to establish and join trade unions. However, more than 95 percent of the work force is employed in the nonunionized subsistence agricultural and small trading sectors.

The National Union of Nigerian Workers (USTN), a federation made up of 38 unions, represents the majority of salary earners; most are government employees, such as civil servants, teachers, and employees in state-owned corporations. The USTN and affiliated National Union of Nigerian Teachers (SNEN) profess political autonomy, but like most unions, have informal ties to political parties. There is also a small breakaway union confederation, and independent teachers' and magistrates' unions. However, police, water, and forest worker unions, shut down by the Government in 1996 because of their "paramilitary nature," remain suspended. The customs workers union, suspended in 1996 for the same reason, was dissolved in 1997.

The Constitution provides for the right to strike, except for security forces and police, although the police held a 2-day work stoppage in July to protest nonpayment of salaries. In 1994 the National Assembly passed a strike law specifying that labor must give notice and begin negotiations before work is stopped; that public workers must maintain a minimum level of service during a strike; that the Government can requisition workers to provide minimum service; and that striking public sector workers not be paid for the time they are on strike. The latter condition already prevailed in the private sector.

During the year, labor continued to challenge the Government on various issues affecting workers. The USTN called many short strikes, generally of 1 to 3 days' duration, to support demands for: Payment of several months' wage arrears; the repeal of a new mandatory retirement law; the removal of the Minister of Finance; cancellation of salary reductions for civil servants and an increase in income tax rates; and an end to government plans to privatize several state enterprises. Many of these objectives were achieved in cooperation with the transition government.

The USTN is a member of the Organization of African Trade Union Unity and abides by that organization's policy of having no formal affiliations outside the African continent. However, it enjoys assistance from some international unions, and individual unions such as the teachers union are affiliated with international trade union secretariats.

b. *The Right to Bargain Collectively*.—In addition to the Constitution and the Labor Code, there is a basic framework agreement, negotiated by the USTN's predecessor, employers, and the Government that defines all classes and categories of work, establishes basic conditions of work, and defines union activities. In private and state-owned enterprises, unions widely use their right to bargain collectively with management without government interference for wages over and above the statutory minimum as well as for more favorable work conditions. Collective bargaining also exists in the public sector. However, since most organized workers, including teachers, are government employees, the Government is involved in most bargaining agreements. The USTN represents civil servants in bargaining with the Government, and agreements between labor and management apply uniformly to all employees.

The Labor Code is based on International Labor Organization principles. It protects the right to organize and prohibits antiunion discrimination by employers. Labor unions reported no such discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code prohibits forced or compulsory labor, except by legally convicted prisoners. The code does not specifically prohibit forced or bonded labor by children; however, there were no reports that it occurred. Although slavery is prohibited by the Constitution, there were a few media reports that slavery still is practiced by the Tuareg and Arab minorities, particularly in remote northern regions. During the year, one traditional chief was arrested based on charges that he practiced slavery. While there is a traditional indentured servant caste, it could not be confirmed that these individuals are forced into servitude.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Child labor in nonindustrialized enterprises is permitted by law under certain conditions. Children under the age of 14 must obtain special authorization to work, and those 14 to 18 years of age are subject to limitation on hours (a maximum of 4½ hours per day) and types of employment (no industrial work) so that schooling may continue. Minimum compulsory education is 6 years, but far fewer than half of school-age children complete 6 years of education.

The law requires employers to ensure minimum sanitary working conditions for children. Law and practice prohibit child labor in industrial work. Forced or bonded labor by children is not prohibited specifically; however, there were no reports of its use (see Section 6.c.). Ministry of Labor inspectors enforce child labor laws. Child labor is practically nonexistent in the formal (wage) sector, although children work in the unregulated agricultural, commercial, and artisan sectors, and some, especially foreign youths, are hired in homes as general helpers and baby sitters for very low pay. Rural children (the majority) regularly work with their families from a very early age—helping in the fields, pounding grain, tending animals, getting firewood and water, and other similar tasks. Some children are kept out of school to guide a blind relative on begging rounds. Others sometimes are employed by marabouts (Koranic teachers) to beg in the streets. There is no official recognition of this labor.

e. *Acceptable Conditions of Work.*—The Labor Code establishes a minimum wage for a salaried worker of each class and category within the formal sector. The lowest minimum wage is $42 (24,565 CFA) per month. Additional salary is granted for each family member and for such working conditions as night shifts and required travel. Minimum wages are not sufficient to provide a decent standard of living for workers and their families. Government salaries are substantially in arrears, which was a significant factor in stimulating strikes during the year. Most households have multiple earners (largely in informal commerce) and rely on the extended family for support.

The legal workweek is 40 hours with a minimum of one 24-hour rest period. However, for certain occupations the Ministry of Labor authorizes longer workweeks of up to 72 hours. There were no reports of violations.

The Labor Code also establishes occupational safety and health standards. However, due to staff shortages, inspectors focus on safety violations only in the most dangerous industries: Mining; building; and manufacturing. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers are in many cases not well informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

NIGERIA

The military regime of General Abdulsalami Abubakar implemented its program of transition to democratic civilian government begun in June 1998 with the election and subsequent inauguration of retired General Olusegun Obasanjo on May 29 as President. Formally, the Government remained a military dictatorship for the first 5 months of the year, with all decisionmaking authority vested in the Provisional Ruling Council (PRC), headed by the Commander-in-Chief of the armed forces, General Abubakar. The PRC ruled by decree, without a constitution or collaborative legislature. In accordance with Abubakar's transition program, members of the new civilian government were chosen in four elections held over a 3-month period. Elections for local government leaders were held in December 1998, those for state legis-

lators and governors in January, and those for national legislators and president in February. Three loosely structured parties emerged to contest these elections, with the People's Democratic Party (PDP) winning the presidency and most governorships and state assemblies in the southeastern and middle parts of the country, as well as several northern states. A largely Yoruba-based party, the Alliance for Democracy (AD), won the governorships and state assemblies in the southwestern states, and the All Peoples Party (APP) won several northern states and a few middle-belt states. The elections, most notably the presidential election, were marred by fraud and irregularities perpetrated by all contesting parties, but most observers agreed that the election of Obasanjo as President, despite the observed fraud, reflected the will of the majority of voters. Before transferring power to the civilian administration, the Abubakar Government signed into law on May 5 (effective May 29) a new Constitution based largely on the suspended 1979 Constitution; this new Constitution prescribes a democratic federal nation consisting of 36 states and a federal capital territory. The Constitution provides for an independent judiciary; however, in practice the judicial branch remains susceptible to executive and legislative branch pressure, influence by political leaders at both the state and federal levels, and suffers from corruption and inefficiency.

A federal national police force is tasked with law enforcement. Local and state police forces are prohibited by the Constitution. Internal security is the duty of the State Security Service (SSS). The SSS was scaled down drastically and reformed under Abubakar, and its profile continued to decline under Obasanjo. Until the advent of the civilian administration in May, special paramilitary anticrime squad "Rapid Response Teams" operated in every state. Under Obasanjo the military personnel dispatched to these units returned to their barracks, but the units remained intact in most states, staffed by regular policemen but with a reduced role and a less menacing presence. After the transfer to civilian rule on May 29, the Obasanjo Government abruptly retired all military officers who had held political posts and began to dismiss some categories of senior police commanders. It also began major reforms and restructuring of the security services. While under Abubakar the army occasionally was deployed to trouble spots, under Obasanjo the army was used less frequently to quell internal disorder, and the degree of civilian control over the Rapid Response Teams and the national police force improved. Members of the security forces, including the police, anticrime squads, and the armed forces committed numerous, serious human rights abuses, but did so less frequently under the Obasanjo Government.

Most of the population of approximately 120 million was rural and engaged in small-scale agriculture. Agriculture accounted for less than 40 percent of gross domestic product but employed more than 65 percent of the work force. Although the great bulk of economic activity is outside the formal sector, recorded gross domestic product per capita was $260. Much of the nation's wealth had been concentrated in the hands of a tiny military, political, or commercial elite through corruption and nontransparent government contracting practices. Crude oil exports provided the preponderance of both national foreign exchange earnings and government revenues. During the year the economy was static, with growth still impeded by grossly inadequate infrastructure, endemic corruption, and general economic mismanagement. Many direct controls on the private sector have been removed, but a huge and inefficient public sector continues to dominate and inhibit the formal sector. Government revenue rose following the doubling of world oil prices, but much of the gain was offset by production-site shut-downs due to ongoing community unrest in the oil-producing areas, which decreased oil production. The chronic fuel shortages that afflicted the country for several years largely ended by mid-year, mostly because the Government spent more than $400 million (approximately 40 billion naira) to subsidize fuel imports. The Government reintroduced fertilizer subsidies and announced a phased, potentially lengthy privatization process.

There continued to be serious problems in the Government's human rights record; however, there were marked improvements in several areas during the year. After 16 years of military rule, citizens had the opportunity to choose their government in elections. National police, army, and security forces committed numerous extrajudicial killings and used excessive force to quell civil unrest under both the Abubakar and Obasanjo governments, although they did so less frequently than under the Abacha regime. Disappearances remained a problem. Army, police, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners; however, there were no reports of torture of political dissidents. The Government took steps to curb torture and beating of detainees and prisoners, including the dismissal and arrest of senior officials well known for beating detainees. Prison conditions were harsh and life threatening, and along with the denial of food and medical treatment, contributed to the death of numerous inmates. The

Government released several thousand prisoners in an attempt to ease prison congestion. In May the Government repealed the State Security (Detention of Persons) Decree of 1984 (Decree 2), which had allowed prolonged arbitrary detention without charge; however, police and security forces continued to use arbitrary arrest and detention, and prolonged pretrial detention remains a problem. After Obasanjo's inauguration, the Government ceased to use military tribunals to try civilians and announced the release of all known political prisoners and most known political detainees. The judiciary is subject to political influence, and is hampered by corruption and inefficiency. The Government continued to prove incapable of providing citizens with the right to a speedy, fair trial. The Government continued to infringe on citizens' privacy rights. Under both Abubakar and Obasanjo the Government generally respected freedom of speech and of the press; however, there were a few exceptions. Security force beatings of journalists, government seizures of newspaper print runs, and harassment of newspaper printers, advertisers, and distributors declined significantly. The Government significantly relaxed its restrictions on the rights of freedom of association, assembly, and movement. The Government restricts freedom of religion in certain respects. The National Assembly convened in June and began deliberations on national policies and legislation. In June the Government established a governmental panel to review cases of human rights violations dating back to independence (1960). The panel received approximately 11,000 petitions for redress by alleged victims of human rights abuses.

Domestic violence against women remained widespread and permitted by traditional and customary law. Discrimination against women remained a problem. Female genital mutilation (FGM) remained widely practiced, and child abuse and child prostitution were common. Localized discrimination and violence against religious minorities persisted. Ethnic and regional discrimination remained widespread and interethnic and regional tensions often became violent. Numerous persons were killed in various local ethnic conflicts throughout the country. Some members of the Ijaw ethnic group in the oil-producing Niger Delta region who seek greater local autonomy continued to commit serious abuses, including killings and kidnapings. In March 130 persons were killed in Kafanchan in intercommunal rioting between Hausa and local minorities. In July ethnic clashes occurred in Kano and Sagamu, resulting in approximately 200 deaths. The Government took steps to improve worker rights; however, some persons, including children, were subjected to forced labor. Child labor is increasing. Trafficking in persons for purposes of forced prostitution and forced labor is a problem. There was an increase in vigilante violence throughout the country, particularly in Lagos, where suspected criminals were apprehended, beaten, and sometimes killed.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—National police, army, and security forces committed numerous extrajudicial killings and used excessive force to quell civil unrest under both the Abubakar and Obasanjo Governments, although they did so less frequently than under the Abacha regime. While under both Abubakar and Obasanjo the Government largely ceased using lethal force to repress nonviolent, purely political activities, when protests or demonstrations were perceived as becoming violent or disruptive, or in the apprehension and detention of suspected criminals, police and security forces committed numerous extrajudicial killings. The State anticrime task forces, as during the Abacha period, remained the most egregious human rights offenders. Neither the task forces, the police, nor the armed forces were held accountable for excessive, deadly use of force or the death of individuals in custody. They operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects. Since taking office, President Obasanjo largely resisted pressure to call in military troops to quell domestic unrest, which reduced the risk that the armed forces would overreact or harass civilians. Instead, Obasanjo preferred to let the police deal with clashes between rival ethnic groups. However, the police forces often have a difficult time restoring order; as a result, military troops sometimes are deployed to reinforce the police. Multinational oil companies and Nigerian oil producing companies subcontract police and soldiers from area units. Such deployment is done most frequently to protect the oil facilities in the volatile Niger Delta region.

Police and military personnel used excessive and sometimes deadly force in the suppression of civil unrest and interethnic violence, primarily in the oil and gas regions of the country, where there has been an upsurge in confrontations between increasingly militant youths, oil companies, and government authorities. For example, in December 1998, about 4,000 Ijaw activists met and issued the "Kaiama Dec-

laration," which demanded that all government armed forces withdraw from Ijaw areas, that oil companies stop all production by December 30, and emphasized that the Delta region belonged to the Ijaw. In response to a perceived threat, the Government deployed additional armed forces in Bayelsa State and declared a state of emergency there. The state of emergency was lifted on January 4. At least 20 Ijaw died in the clashes between Ijaw youth protesters and military troops in Yenagoa, Bayelsa State between December 30 and January 4. On January 4, soldiers killed at least four civilians in Delta State in the Niger Delta region after attacks on oil production facilities by members of the surrounding communities. On January 6, the military commandeered privately owned helicopters that normally are leased to foreign oil companies and used these helicopters to quell community protests in two Ijaw villages in Delta State by allegedly firing indiscriminately at villagers from the helicopters. Official figures indicate that security forces killed approximately 35 persons before the state of emergency protests in Bayelsa and Delta States ended on January 10; there were some reports of higher figures. No one has been held accountable. The soldiers allegedly also beat and raped Bayelsa State residents, detained Ijaw members, and aggressively manned military checkpoints (see Sections 1.c., 1.d., 1.f., and 2.d.). The soldiers involved in the December 1998 and January attacks in Bayelsa and Delta States were not held accountable, nor were there any official inquiries. During an attack that occurred on April 19 and 20, state security personnel attached to an oil flow station owned by the international company Agip in Bayelsa State killed 8 members of the Ijaw ethnic group after a boat carrying approximately 22 persons allegedly disobeyed their orders to stop. The boat allegedly was going to a destination other than the flow station. (In May Agip apparently broke precedent by agreeing out of court to pay compensation for policemen acting on its behalf who shot and killed several persons.)

The use of excessive force to suppress protests was not confined to conflicts pertaining to oil company activities. On April 14, police in Lagos reportedly shot and killed at least seven persons as a violent riot (resulting in some police injuries) broke out during the attempted demolition of a vegetable market in the Ketu area of northeast Lagos. One press report put the death toll as high as 22 persons. On August 20, police reportedly killed six students and injured others when they fired into a group of demonstrating college students in Osogbo, Osun State. The students allegedly were protesting the nonpayment of teachers' wages, which forced the closure of four universities in the state (see Section 2.a.). When their protest became disruptive and threatened the security of the state secretariat buildings, the police fired into the crowd.

Police, military, and anticrime taskforce personnel committed numerous extrajudicial killings in the apprehension and detention of suspected criminals. For example, on April 14, army personnel stationed in Ijebu Ode, Ogun State, killed approximately 20 motorcycle taxi (okada) drivers in a revenge rampage after 1 of their colleagues allegedly was murdered by a taxi driver. On June 29, police at the Sapele police station in Ughelli, Delta State executed approximately six men accused of armed robbery. The men were arrested and detained on June 25; all were executed extrajudicially. The family of one of the executed men, Adetaye Agbah, filed a petition against the offending divisional police officer at the station, but as of year's end no charges were filed. On August 30, four civilians reportedly were killed and six others injured in an incident in Warri, Delta State in which soldiers fired into a crowd of clashing youths. Two rival factions of Itsekiri youths were involved in a political dispute that became violent, prompting soldiers to fire into the crowd. The soldiers were part of an army contingent dispatched to Warri, Delta State to quell ethnic violence. On September 1, members of Yobe State's anti-crime task force ("Operation Flush-Out") killed four brothers suspected of armed robbery. The task force was unable to apprehend the criminals in the act, but while searching the vicinity of the robbery, they encountered the four persons. The task force suspected the four youths, briefly interrogated them, and then executed them extrajudicially. No legal action was taken against these security officials by year's end.

Under Obasanjo violence and lethal force at police roadblocks and checkpoints was reduced greatly, largely due to the reduction in roadblocks in most areas (with the notable exception of Lagos). Obasanjo's order to reduce checkpoints and roadblocks also affected the National Drug Law Enforcement Agency (NDLEA), and resulted in a decrease in the use of violence and lethal force at NDLEA checkpoints and roadblocks.

Criminal suspects died from unnatural causes while in official custody, usually as the result of neglect and harsh treatment. On January 2, a man died while in the custody of the Lagos police special antirobbery squad. Godfrey Opuoru died in his jail cell following days of intense interrogation and abuse by officers and police squad members, according to a report from a reputable civil liberties organization.

Members of the squad were attempting to obtain a confession from him concerning a stolen vehicle. The Civil Liberties Organization (a reputable human rights organization) filed a petition with the National Human Rights Commission and the Justice Oputa Panel concerning his case, but there has been no action yet against the officers of the Special Anti-Robbery Squad who allegedly killed him.

Harsh and life threatening prison conditions and denial of proper medical treatment contributed to the death of numerous inmates (see Section 1.c.).

In October the investigation into the murder of Newswatch editor Dele Giwa on October 19, 1986 reportedly was reopened (see Sections 1.c. and 2.a.). The Government offered no new developments in the death of journalist Bagauda Kaltho. Kaltho's family reportedly has filed a petition with the Justice Oputa panel.

In September Obasanjo gave his approval for the prosecution of Hamza Al-Mustapha and Sergeant Rogers Mshiella for the murder of Kudirat Abiola and other offenses (see Sections 1.e and 2.a.). The Federal Government continues to investigate and detain former Abacha government officials and family members, including former Minister of the Interior Capital Territory Jerry Useni, former National Security Advisor Ismaila Gwarzo, Abacha's wife Maryam, Abacha's son Mohammed, and Colonel Ibrahim Yakassai, for the killings of prominent prodemocracy activists in Lagos. In November the case of Hamza Al-Mustapha, Mohammed Abacha, Mohammed Rabo Lawal, Lateef Shofalan, and Mohammed Aminu for the murder of Kudirat Abiola, a prominent prodemocracy activist and the wife of Moshood Abiola, was moved to Lagos High Court. They were charged with murder, a capital crime. Sergeant Rogers, the alleged killer, is listed as a prosecution witness. At year's end, the Government had not discussed whether he would receive immunity for any of his alleged crimes.

Former Army Chief of Staff Ishaya Bamaiyi was detained on October 13 for questioning about his involvement in the attempted murder of Guardian newspaper publisher Alex Ibru on February 2, 1996. Bamaiyi challenged his detention without charge and won a reprieve in the Abuja court in early November. The Government arraigned Bamaiyi in the Lagos magistrate court on November 15, the same day that Bamaiyi's appeal for release was to be heard in Abuja. Mustapha, former Lagos police commissioner James Danbaba, and Colonel Yakubu, also were charged in the attempt on Ibru. At year's end, the defendents were being held at Kiri Kiri maximum security prison. The Government has detained other Abacha-era security officials, such as Brigade General Ibrahim Sabo, the former Director of Military Intelligence, who allegedly oversaw the torture of hundreds, perhaps thousands of persons.

Destructive societal violence claimed many lives. Vigilante groups in large cities, particularly Lagos and Kano, committed numerous extrajudicial killings of suspected criminals. These groups were particularly active from March to July after an upsurge in violent crime in the waning days of the Abubakar regime and in the first months of the Obasanjo Government. The vigilante groups were more than mobs intent on administering immediate street justice to criminals caught in the act. They were fairly well organized and engaged in lengthy attempts to apprehend criminals days after the alleged offenses were committed. There also were numerous reports of angry street mobs apprehending and killing suspected criminals. The practice of "necklacing" (death in which a gasoline-soaked tire is place around a victim's neck or torso and then ignited, burning the victim to death) criminals caught in the act continued in cities throughout the country.

During the year, there was an upsurge in lethal interethnic and intraethnic violence throughout the country. During May and June, the Ijaw, Itsekiri, and Urhobo ethnic groups clashed in the Delta State town of Warri, leaving approximately 200 persons dead. Disputes about the location of a local government headquarters, in addition to widespread disaffection and bitterness caused by perceived government neglect of the area, reportedly caused the violence. On July 17, violence erupted between the majority Yoruba population and the minority Hausa population in the southern city of Sagamu, Ogun State. The clash began after a Hausa woman reportedly failed to observe the customs of a traditional Yoruba festival by breaking a taboo against being outdoors when the festival parade begins (see Section 5.). Irate Yorubas apparently chased the offending woman and killed her, after which Hausas retaliated. The ensuing 3-day period of violence left approximately 100 persons, mostly Hausas, dead. This incident ignited reciprocal violence on July 21 in the northern, predominantly-Hausa city of Kano, with the Hausa majority attacking the Yoruba minority. Approximately 80 persons died over a 4-day period; the majority of the victims were Yorubas. On July 26, violence between two Igbo communities erupted in Otuacha, Anambra State resulting in 120 deaths. Although the cause for the clash was unclear, local newspapers blamed a longstanding land dispute. From June through August, violent confrontations between the Ilaje and Ijaw ethnic

groups occurred in Ondo State, resulting in approximately 30 deaths. Land disputes also appeared to be a reason for these clashes (see Section 5). Violence on November 1 and 2 between Ijaw and Ilaje youths in Lagos left at least 19 persons dead. The violence was due partly to territorial disputes in nearby Ondo State, as well as to confrontations between suspected Ijaw armed robbers and members of the Oodua Peoples Congress (OPC), a Pan-Yoruba group that sometimes engages in vigilante patrols in Lagos. Seven members of the Bayelsa police were killed in Odi the following week, apparently in response to the previous week's skirmishes. On November 20, government troops killed several Ijaw youths in the same area. According to police reports, soldiers killed 162 persons during the month's clashes in Odi; however, local communities insist that more than 500 persons were killed. The Inspector General of Police, Musiliu Smith, ordered an investigation of the number of civilians killed by soldiers in Odi to resolve conflicting reports, and on November 23, Senate President Chuba Okadigbo led a legislative fact-finding mission to Odi. By year's end, the investigation of the Odi incident had produced no results. Twelve police officers were among the persons killed during November's violence in Odi. On November 25, fighting between Yoruba and Hausa traders in Ketu, a Lagos suburb, resulted in over 100 deaths. Most of those killed died of machete wounds, but many of the deaths and injuries occurred as victims were doused with gasoline and set on fire. In an effort to quell the violence, President Obasanjo ordered police to "shoot-on-sight" members of the OPC. As of year's end, there were no reports of police killings as a result of this order.

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

Members of minority ethnic groups in the oil-producing areas kidnaped foreign and local oil company employees throughout the year to press their demands for more redistribution of wealth generated by joint ventures with the state-controlled petroleum corporation and for specific projects in their areas. The incidence of kidnaping increased during the year, with approximately 50 such incidents occurring. On June 6, Ijaw youths kidnaped 48 oil company employees, including many foreigners, reportedly as a response to an ongoing dispute over a Texaco oil spill in July 1998 in Bayelsa State. In exchange for agreements to discuss compensation, on June 13 they were all released unharmed and without ransom.

In addition to the political rationale for kidnaping, there were numerous instances of strictly criminal kidnaping, in which the perpetrators' sole objective was ransom for the release of the victims. During the year, kidnapings by criminals to extort money overtook in number those perpetrated for "political" reasons. In February Ijaw youths took several foreigners hostage in Warri. On March 3, armed men took a foreigner hostage from an offshore dredging vessel. In March a hostage was released after the payment of a $53,000 (5.25 million naira) ransom by an international oil company. On June 27, the group "Enough is Enough in the Delta" hijacked an oil company helicopter, kidnaping several foreigners on board. Ransom for the pilots and passengers was set at $150,000 (15 million naira) by one hostage-taking group, and $80,000 (8 million naira) by another—the disparity in ransom demands reportedly arose because the two groups holding hostages were not communicating with each other. In all instances, after negotiations between the captors and the oil firms during which the firms usually paid ransoms and promised improved conditions, the victims were released unharmed. The victims were detained normally for periods of 2 days to 2 weeks and generally were treated well during their detention. Another reportedly was beaten. With limited manpower and capabilities, the police and armed forces rarely are able to confront the perpetrators of these acts, especially in the volatile Delta region.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The 1979 Constitution (suspended), the 1989 Constitution (never implemented), and the new Constitution (effective May 29) prohibit torture and mistreatment of prisoners and provide criminal sanctions for such abuses; however, although there were no reports of torture of political dissidents during the year, army, police, and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners. Police regularly physically mistreated civilians in attempts to extort money from them. Detainees often were kept incommunicado for long periods of time. These practices continued, but at a decreased level, after Obasanjo took office on May 31. The Evidence Act of 1960 prohibits the introduction into trials of evidence obtained through torture. The Government took steps to curb torture and beating of detainees and prisoners and arrested persons, and plans to try senior security officials that engaged in such practices under the previous regime.

In January army personnel dispatched to Delta State to quell ethnic violence reportedly abused civilians and looted property. Also in January, military officers allegedly raped Ijaw and Ikwerre women in Bayelsa and Rivers States; however, the Government continues to deny these allegations. Army personnel, who reportedly

fired on the town of Kaiama, killed many persons, destroyed many buildings, looted property, and drove away the town's population of about 10,000 residents (see Sections 1.a. and 2.d.). In November army troops burned down the town of Odi in Bayelsa State, forcing residents to flee (see Sections 1.a. and 2.d.). According to the media and human rights organizations, in September and October military personnel allegedly raped Choba residents. According to the President and the army Chief of Staff, these rapes could not have occurred because the military reportedly was not in Choba at the time. However, local residents say that soldiers hired to protect oil company facilities were in the area. On April 6, members of Lagos State's anticrime task force severely beat members of the National Union of Petroleum and Natural Gas Workers (NUPENG) when they assembled at the Lagos headquarters of an oil company to protest the dismissal of several union workers (see Sections 2.b. and 6.b.). Police, using riot gear, attacked the reportedly peaceful protesters, injuring many persons seriously. There also were numerous reports of beatings of citizens by members of special task forces established to ensure the cleanliness of cities that hosted soccer matches during the World Youth Championship (Nigeria '99), held during the months of April and May.

On June 25, members of the Lagos State anticrime task force reportedly beat and detained 16 civilians and 1 journalist in an attempt to extort money from them for their release. In August police in Lagos arrested a reporter on theft charges and detained him for 6 days, during which time they physically abused him and paid other prisoners to do likewise.

In November former army Chief of Staff Lieutenant General Ishaya Bamaiyi was arraigned in Lagos Magistrate Court in Ikeja for the attempted murder of Guardian publisher Alex Ibru. Also charged in the February 1996 murder attempt were the former Military Administer of Zamfara State Colonel Jubril Yakubu, former Lagos State Police Commissioner James Danbaba, Hamza Al-Mustapha, and Mohammed Rabo Lawal (see Sections 1.a. and 2.a.).

Jerry Needam, Editor of the Ogoni Star Newspaper, was arrested on October 11 and detained by the State Intelligence Bureau (SIIB) in Port Harcourt (see Sections 1.d. and 2.a.). On October 22, police reportedly beat Needham in an effort to force a confession and letter of apology from him. While incarcerated Needham also was denied needed medical treatment for typhoid fever and malaria. Needam was released on bail on November 2. At year's end, no hearing had occurred.

In the numerous ethnic clashes that occurred throughout the year (see Sections 1.a. and 5), thousands of persons were beaten and injured severely. Police and security forces failed to respond to many criminal acts in a timely manner.

Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lack functioning basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in unhealthy and dangerous sanitary conditions. Disease was pervasive in the cramped, poorly ventilated facilities, and chronic shortages of medical supplies were reported. Prison inmates were allowed outside their cells for recreation or exercise only irregularly and many inmates had to provide their own food. Only those with money or whose relatives brought food regularly had sufficient food; petty corruption among prison officials made it difficult for money provided for food to reach prisoners. Poor inmates often relied on handouts from others to survive. Beds or mattresses were not provided to many inmates, forcing them to sleep on concrete floors, often without a blanket. Prison officials, police, and security forces often denied inmates food and medical treatment as a form of punishment or to extort money from them. Harsh conditions and denial of proper medical treatment contributed to the deaths in detention of numerous prisoners. During the year, a reputable human rights organization estimated that at least one inmate dies per day in the Kiri Kiri prison in Lagos alone. According to the nongovernmental organization (NGO), dead inmates promptly are buried in mass graves on the prison compound, usually without their families having been notified. A nationwide estimate of the number of inmates who die daily in the country's prisons is difficult to obtain because of poor (if not nonexistent) record keeping by prison officials.

Both the Abubakar and Obasanjo Governments acknowledged the problem of overcrowding in the prisons as the main cause of the harsh conditions common in the prison system. Approximately 41,000 inmates were held in a system of 147 prisons with a maximum designed capacity of 33,348 prisoners. The majority of prisoners are so-called awaiting trial persons (ATP's), who have not been charged (see Section 1.d.).

Both the Abubakar and the Obasanjo administrations focused on prison reform. In January the Ministry of the Interior claimed that the Presidential Committee on Prisons Decongestion released 2,433 prisoners after September 1998. In April the

Abubakar administration released 646 prisoners, and in August the Obasanjo Government released another 1,403 prisoners.

Throughout the year, the Government allowed both international and domestic NGO's occasional access to prisons. It did not allow them continuous access to all prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—The new Constitution prohibits arbitrary arrest and detention; however, the Government rarely observed these prohibitions. Under the Abubakar and Obasanjo administrations, police and security forces continued to use arbitrary arrest and detention; such practices decreased somewhat after Obasanjo's inauguration in May, but still continued.

On May 26, in anticipation of the implementation of the new Constitution, Head of State Abubakar announced (in Decree 63) that all prior military decrees that were inconsistent with the law of the new Constitution were repealed. This included the State Security (Detention of Persons) Decree (Decree 2 of 1984), which had allowed the Government to detain without charge persons suspected of acts prejudicial to state security or harmful to the economic well-being of the country. When invoked, Decree 2 suspended the detainee's civil liberties and precluded judicial review. It authorized the Chief of Staff or the Inspector General of Police to detain persons for up to 3 months without charge. This 3-month detention often was renewed indefinitely, and under this procedure, in the past many persons were detained for several years without trial.

The Abubakar Government claimed in March that no one was being detained under Decree 2, and that no one had been deprived of his liberty on account of Degree 2 under his administration. However, a civil rights group reported in May that 31 members of the Shi'a Muslim Brotherhood Group were being detained under Degree 2 and had been for over 2 years. Regardless of whether Degree 2 was cited as their reason, police and security forces arbitrarily detained numerous persons. For example, during the violence that affected Bayelsa and Delta States in January (see Sections 1.a., 1.c., and 5), military officials detained numerous ethnic Ijaw youths. Police arrested student protesters in January (see Section 2.a.). On April 18, Ibadan police arrested Lanre Arogundade, a senior member of the editorial board of the "Vanguard" newspaper and chairman of the Lagos Council of the Nigerian Union of Journalists (NUJ), and detained him illegally for 10 days before charging him with an offense (see Section 2.a). The journalist reportedly disagreed with a progovernment faction of journalists, and his arrest was encouraged by this opposing faction. After being detained for approximately 2 months on what widely were regarded as trumped-up murder charges, the reporter was released. A human rights group reported in August that 29 suspected members of the Oodua People's Congress (a pan-Yoruba group that repeatedly clashed with the Government) were detained illegally in Lagos State. In September soldiers deployed to Cross River State allegedly detained 10 village chiefs after the chiefs discontinued the practice of providing free crayfish to the soldiers for consumption.

Police and security forces were empowered to make arrests without warrants if they believed that there was reason to suspect that a person had committed an offense; they often abused this power. Under the Fundamental Rights Enforcement Procedures Rules of the 1999 Constitution (based on those of the 1979 constitution), police may arrest and detain persons for 24 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest and to take the accused persons to a station for processing within a reasonable amount of time. By law police must provide suspects with the opportunity to engage counsel and post bail. However, police generally did not adhere to legally mandated procedures under both the Abubakar and Obasanjo Governments. Suspects routinely were detained without being informed of the charges, denied access to counsel and family members, and denied the opportunity to post bail for bailable offenses. There was no functioning system of bail, so many suspects were held in investigative detention. In August police detained 25 citizens in Ondo State for their suspected involvement in ethnic hostilities between the Ijaw and Ilaje groups. All 25 were detained for a month while the police investigated the matter further. On October 11, Jerry Needham was arrested and detained by the SIIB in Port Harcourt without charge for over 15 days (see Sections 1.c. and 2.a.).

Lengthy pretrial detention remained a serious problem. According to the new Constitution, persons charged with offenses have the right to an expeditious trial. However, in practice this right was not honored (see Section 1.c.). The judicial system remained hampered by serious backlogs, endemic corruption, and undue political influence (see Section 1.e.). Estimates of the percentage of so-called ATP's (see Section 1.c.) in the prison population range from 60 to 74 percent of the estimated 41,000 detainees. For example, in Ikoyi prison, over 90 percent of inmates, or over 1,500 individuals, are ATP's. In the Kiri Kiri maximum-security prison in Lagos, approxi-

mately 1,000 of the 1,605 inmates were ATP's; approximately 2,100 of the 2,300 prisoners at the Kiri Kiri medium-security prison were ATP's. Many prisons held 200 to 300 percent more persons than they were designed to hold, and many of the ATP's had been detained for periods far longer than the maximum allowable sentence for the crimes for which they have yet to be tried. Police cited their inability to transport detainees to trial on their scheduled trial dates as one reason why so many of the detainees were denied a trial.

Persons who happen to be nearby when a crime is committed normally are held for interrogation for periods ranging from a few hours to several months. Even after their release, those detained are asked to return repeatedly for further questioning. Police and members of the NDLEA continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest, although this was done much less often than under the Abacha regime (see Section 1.f.).

On a number of occasions security forces beat and detained journalists (see Sections 1.c. and 2.a.).

Both the Governments of Abubakar and Obasanjo continued to release political detainees from previous regimes. Ibrahim El-Zakzaky, leader of the Muslim Brotherhood, who had been detained since 1996 on charges of seditious publishing, was released in January. On March 4 and March 23, the Government announced the release of most of its remaining political detainees. During the year, all political detainees are believed to have been released. On March 4, eight armed forces officers and six civilians detained since December 1997 for an alleged coup plot against the Government of General Sani Abacha were released (see Section 1.a.). Lieutenant General Oladipo Diya, Deputy Head of State to Abacha, was among those released. Also on March 4, 17 armed forces officers detained since 1995 for an alleged coup plot against Abacha were released. Colonel Lawan Gwadabe and Colonel Babatunde Bello-Fadile, both accused of fomenting the 1995 plot, were among that group. On March 24, the Government released eight more armed forces officers held since 1990 in connection with an alleged coup attempt during that year in which one person was killed. Turner Ogboru, a civilian relative of one of the alleged coup plotters, was released in 1998. Ogburu, a lawyer arrested in 1990 for allegedly participating with his brother, Great Ogboru, in the 1990 coup attempt, was convicted by a special military tribunal that year, granted a pardon in 1993, ordered released, and then rearrested in 1995. In addition in mid-June Obasanjo's Government released over 100 persons who had been suspected of improper acts that resulted in the failure of several banks during Abacha's regime. Many of these suspects had been detained for periods of 4 years without being charged.

Four political detainees remained in custody. Two retired armed forces officers alleged to have participated in the 1990 coup plot, Trooper Innocent Ofem Anang and Lance Corporal Lucky Iviero, still were being detained. There was no apparent reason why these two men remained in custody, since six of their alleged coconspirators, who had been sentenced to life imprisonment, were released in March. Also, the Government reportedly pardoned all alleged coup plotters in 1992.

In July Abacha's presidential security officer who is widely believed to have orchestrated killings, torture, and hundreds of extrajudicial detentions brought suit against the Federal Government because he was detained without being charged with a crime (see Section 1.a.). The suit later was dropped.

The 1999 Constitution prohibits the expulsion of citizens, and the Government does not use forced exile. Many citizens who had lived abroad due to fear of persecution under the Abacha regime returned to the country during the year, especially after the civilian government of Olusegun Obasanjo was inaugurated on May 29.

e. *Denial of Fair Public Trial.*—Both the suspended 1979 Constitution and the never implemented 1989 Constitutions, as well as the new Constitution promulgated on May 29, provide for an independent judiciary; however, in practice, the judiciary remained subject to executive and legislative branch pressure, influence by political leaders at both the state and federal levels, and suffers from corruption and inefficiency. During the first 5 months of the year, under the military regime, both the Head of State (Abubakar) and the Provisional Ruling Council exerted undue influence on the judiciary. In addition understaffing, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Citizens encountered long delays and frequent requests for small bribes primarily due to a lack of sufficient resources necessary for the court system.

Under the new Constitution, the regular court system is composed of federal and state trial courts, state appeals courts, the Federal Court of Appeal, and the Federal Supreme Court. There also are Shari'a (Islamic) and customary (traditional) courts of appeal for each state and for the federal capital territory (Abuja). Courts of the first instance include magistrate or district courts, customary or traditional courts,

Shari'a courts, and for some specified cases, the state high courts. The nature of the case usually determines which court has jurisdiction. In principle customary and Shari'a courts have jurisdiction only if both plaintiff and defendant agree. However, in practice fear of legal costs, delays, and distance to alternative venues encouraged many litigants to choose these courts.

Criminal justice procedures call for trial within 3 months of arraignment for most categories of crimes. Understaffing of the judiciary, inefficient administrative procedures, petty extortion, bureaucratic inertia, poor communication between police and prison officials, and inadequate transportation continued to result in considerable delays, often stretching to several years, in bringing suspects to trial (see Section 1.d.).

Trials in the regular court system are public and generally respect constitutionally protected individual rights, including a presumption of innocence, the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. However, there is a widespread perception that judges easily are bribed or "settled," and that litigants cannot rely on the courts to render impartial judgements. Most prisoners are poor and cannot afford to pay the very real costs associated with moving their trials forward. As a result they remain in prison.

Some courts are understaffed. Judges frequently fail to show up for trials, often because they are pursuing other means of income. In addition court officials often lack the proper equipment, training, and motivation for the performance of their duties, again due in no small part to their inadequate compensation.

There are no legal provisions barring women or other groups from testifying in civil court or giving their testimony less weight. However, the testimony of women is usually accorded less weight in Shari'a courts.

Under the Abubakar Government, military tribunals continued to operate outside the constitutional court system, but they were used less and less frequently as military rule waned; the tribunals officially were disbanded by the implementation of the new Constitution and the return to civilian rule. The tribunals had in the past been used to try both military personnel and civilians accused of various crimes. There was a report in March of a student accused of armed robbery who was tried and executed by a military tribunal in southeastern Nigeria. Human rights groups assert that these tribunals failed to meet internationally accepted standards for fair trial. In most cases before the tribunals, the accused had the right to legal counsel, bail, and appeal, although some tribunals substituted a presumption of guilt for the presumption of innocence, and conviction rates in the tribunals reportedly exceeded conviction rates in the regular courts. The decisions of the tribunals were exempt from judicial review. At year's end, none of the tribunals were operating.

There were no reports of political prisoners.

The Movement for the survival of the Ogoni People (MOSOP) and the Saro-Wiwa family continued to petition President Obasanjo, the Minister of Justice, and the Oputa Human Rights panel to reverse the verdict of the Autu Tribunal that convicted Saro-Wiwa and the Ogoni–9 in October 1995. At year's end, the Government had not responded to the appeal to clear the names of Saro-Wiwa and the Ogoni activists, who were executed by the regime of Sani Abacha in November 1995.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The new Constitution prohibits arbitrary interference with privacy, family, home, or correspondence; however, although government authorities generally respect these prohibitions, authorities continued at times to infringe on these rights.

Police and security forces continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest, although this was done much less frequently than under the Abacha regime. There were calls by human rights groups for the police to end the practice.

Members of the armed forces looted property, destroyed buildings, and drove away many persons from their homes (see Sections 1.a., 1.c., and 2.d.).

In October the governor of Zamfara signed into law two bills passed by the state legislature aimed at instituting Islamic (Shari'a) law in the state; at year's end, the bills had not been implemented. After the bills passed, the sale of alcohol was banned in Zamfara state, and the Government announced that only those persons with beards would win government contracts (see Section 2.c.); however, the Federal Government has disregarded the ban on alcohol sales on military installations.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The 1979 Constitution that provided for freedom of speech and of the press remained suspended during the first 5 months of the year, but under Abubakar the Government significantly relaxed the restrictions on freedom of speech and of the press that had been instituted during the regime

of Sani Abacha; the new Constitution promulgated in May restored these freedoms, and under both Abubakar and Obasanjo, the Government generally respected these rights; however, there were a few exceptions.

Although there is a large and vibrant private domestic press that is frequently critical of the Government, the Government also owns or controls many publications. Under Abubakar, all newspapers and magazines legally were required to register with the Government in accordance with the Newspaper Registration Board Decree 43 of 1993; however, most papers refused to register and were not punished for doing so. Shortly before Abubakar transferred the Government to the civilian administration in May, he abrogated Decree 43 and its registration requirements, based on his conviction that the press would fare better if it were monitored by its own control mechanism. This mechanism was the Nigerian Press Council, which was charged with the enforcement of professional ethics and the sanctioning of journalists who violated these ethics. However, the Press Council soon became a subject of controversy, with most journalists describing it as a subtle means of censorship.

The degree creating the Nigerian Press Council (Decree 60) was signed into law in the last days of the Abubakar regime and immediately was criticized by the media as "an undisguised instrument of censorship and an unacceptable interference with the freedom of the press." Decree 60 replaced the abrogated Decree 43 and attempted to put control of the practice of journalism into the hands of a body of journalists who received payment from the Government. The NUJ, the professional association of all Nigerian journalists, and the Newspaper Proprietors Association of Nigeria (NPAN), rejected the creation of the Press Council. Claiming that the Decree establishing the Press Council contained similar provisions to the abrogated Decree 43, the NPAN called the Decree unconstitutional and a violation of press freedom, as there already were enough laws concerning the operation of the press. The Decree, which virtually made members of the council employees of the Government, also contained a number of provisions inimical to the operation of a free press. It gave the Press Council the power to accredit and register journalists and the power to suspend journalists from practicing. Like the abrogated Decree 43, Decree 60 required that publications be registered by the council annually through a system entitled "Documentation of Newspapers." In applying for registration, publishers were expected to submit their mission statements and objectives and could be denied registration if their objectives failed to satisfy the council. The penalties for practicing without meeting the council's standard were a fine of $2,500 (250,000 naira) or imprisonment for a term not to exceed 3 years. The Decree also empowered the council to approve a code of professional and ethical conduct to guide the press and to ensure compliance by journalists. Under the Decree, publishers were expected to send a report of the performance of their publications to the council; failure to do so was an offense that carried a fine of $1,000 (100,000 naira). The Nigerian Press Council continued after Obasanjo's inauguration. In fact, Information Minister Dapo Sarumi expressed the view of the new civilian Government that the council would continue to operate, and said that "It is in line with journalists" demand." At year's end, the Council had not yet begun operating, but remained on the books in principle. The new Constitution also removed the Mass Media Commission (included in the 1995 draft Constitution), which aimed at regulating the conduct of journalists and restricting the circulation of newspapers and magazines to their states of operation.

On October 11, Jerry Needham, editor of the Ogoni Star newspaper, was arrested, detained without charges, and reportedly abused by the SIIB in Port Harcourt, before being released on November 2 (see Sections 1.c. and 1.d.). In November soldiers at a hospital in Port Harcourt prevented reporters from interviewing those persons injured in clashes in Bayelsa State. On a number of other occasions security forces also beat and detained journalists (see Sections 1.c. and 1.d.).

There were no reports of harassment of advertisers or printers. However, on February 6 the police and SSS agents raided a printing company in search of allegedly offensive pamphlets and calendars, and reportedly seized 80,000 copies of a magazine that they believed to be "inciting" and "capable of undermining the peace and security of the nation." The laws cited for the seizure dealt with national security issues. According to the Government, the "news" seizure was by mistake and was not directed at the media, and ultimately there did not appear to be any clear rationale for seizing that particular magazine. There were no other reports of press seizures. General Abubakar encouraged a free flow of information from his office by making himself available for "on the spot" interviews.

The press, which was at the forefront of the fight for democracy, cautiously welcomed the advent of the civilian Government of President Obasanjo, given Obasanjo's reputed dislike for the press and his choice of Media Adviser and Information Minister, both of whom were nonmedia practitioners. However, the initial

skepticism diminished and a cordial working relationship evolved as the administration maintained an open policy toward the press. Obasanjo granted several interviews to members of the press and participated in three press forums. The sense of freedom from retribution enjoyed by journalists encouraged them to expose corrupt government officials, including the former Speaker of the House of Representatives, who resigned after the press broke the story of his falsifying his age and qualifications (see Sections 1.e. and 3).

There were a few arrests made in the killing and attempted killing of journalists in previous years (see Sections 1.a. and 1.c.).

There are two national, daily, government-owned newspapers in English, the New Nigerian and the Daily Times. The New Nigerian has an additional Hausa edition. Some of the states of the federation have daily and/or weekly state-owned newspapers in English. There is a national radio broadcast station, the Federal Radio Corporation of Nigeria (FRCN), which broadcasts in English, Hausa, Yoruba, Igbo, and other languages. State radio stations broadcast in English and local languages. The National Television Station (NTA) is federally owned, and many states also operate television stations. The majority of the country's print publications and television and radio broadcasting outlets are privately owned.

President Obasanjo appointed several purportedly radical persons to prominent positions in government-owned newspapers, radio programs, and television programs in an attempt to reflect the democratic nature of the country. In addition several managers of certain media organizations, which generally were regarded as government mouthpieces and propaganda machines, were replaced with professionals whose abilities to deliver objective journalism had been demonstrated in the past.

Because newspapers and television are relatively expensive and literacy is not universal, radio remained the most important medium of mass communication and information. The Government continued to prohibit nationwide private radio broadcasting during the first 5 months of the year. However, before the transfer of power to Obasanjo, this prohibition was lifted and 10 applications for radio and television licenses were submitted to the National Broadcasting Commission for approval. There were indications that Obasanjo was not opposed to the issuance of these licenses. However, at year's end, no new licenses had been issued.

There are nine privately owned television stations in the southwest, most of which broadcast domestic news and political commentary. The Press Law of 1993 requires local television stations to limit programming from other countries to 40 percent. In March 1999 the Nigerian Broadcasting Commission (NBC) considered terminating licenses of several television operators that contravened this requirement by broadcasting more foreign programs than local. The Press Law of 1993 also restricts the foreign content of satellite broadcasting to 20 percent, but the Government did not restrict access to, or reception of, international cable or satellite television. The Government did not restrict Internet access, although unreliable and costly digital telephone service limited access and hindered service providers. All Internet service providers were privately owned.

The Government controls state-owned media to varying degrees. However, under Abubakar state-owned media outlets exercised a much greater measure of editorial freedom than under the Abacha regime, and this freedom continued under Obasanjo. Following the appointment of a new Director General for the Nigerian Television Authority (NTA), it began to broadcast several public-interest programs. For example, the NTA 2 and Channel 5 began broadcasting 24-hours a day to compete with other independent broadcasters.

While private television and radio broadcasters remained economically viable on advertising revenues alone, despite the restrictions that the Government imposed on them, government-sponsored broadcasters complained that government funding and advertising were inadequate for their needs.

Under both Abubakar and Obasanjo, journalists and editors of state media did not fear suspension for their editorial decisions, although some self-censorship lingered. During the election period all candidates and parties had opportunities to express their views via the media.

After the advent of the civilian regime, foreign journalists who sought to enter the country to cover political developments more easily obtained visas. Many of the obstacles that previously frustrated foreign journalists were removed. Officials in the Ministry of Information responsible for accrediting foreign journalists became more accommodating.

On January 13, police arrested 22 students for protesting against tuition increases at Obafemi Awalowo University and expressing displeasure with decaying conditions at the country's tertiary educational institutions. The students were released later in the month.

Throughout the Abacha regime, there was no academic freedom for students or academic staff, and under Abubakar, there were numerous student protests, strikes, and demonstrations. However, under Obasanjo, the new Federal Minister for Education, the President, and the National Assembly took some concrete steps to address the significant education problems that the Government inherited from the country's previous military regimes and sought to restore academic freedom. For example, setting precedent within the country, Obasanjo engaged in direct dialog with representatives of the Academic Staff Union of Universities and representatives of the Student Union to discuss educational reform. After Obasanjo became President, the level of unrest on university campuses apparently subsided. However, in August police reportedly killed student protesters and injured others (see Section 1.a.).

b. *Freedom of Peaceful Assembly and Association.*—The 1999 Constitution provides citizens with the right to assemble freely; and the Government, especially the civilian regime of Obasanjo, generally respected this right, although some limits remained, particularly under Abubakar.

Throughout the year, the Government nominally required organizers of outdoor public functions to apply for permits, although both government authorities and those assembling often ignored this requirement. The Government retained legal provisions banning gatherings whose political, ethnic, or religious content might lead to unrest. Open-air religious services away from places of worship remained prohibited in most states due to religious tensions in various parts of the country (see Sections 1.a., 2.c., and 5).

There were no reports that the Government or security forces denied permits for peaceful public meetings; nor were there reports that they prohibited or disrupted such meetings.

In early January, government authorities declared a state of emergency, and under it severely restricted freedom of assembly in Bayelsa State and in the Niger River Delta, in response to continued violence by members of the Ijaw ethnic minority who sought greater local autonomy. Freedom of assembly also was restricted during numerous curfews imposed in various cities during periods of ethnic unrest. Curfews were imposed in the cities of Sagamu, Kano, Warri, and Port Harcourt in response to interethnic and political violence (see Section 1.a.).

In January police arrested student protesters (see Section 2.a.). On April 6, police and security agents from the anti-robbery squad "Operation Sweep" dispersed members of the National Union of Petroleum and Natural Gas Workers using tear gas and firing weapons into the air. The union members were protesting outside of the Chevron-Nigeria oil headquarters outside Lagos (see Section 6.b.).

The 1999 Constitution provides for the right to associate freely with other persons in political parties, trade unions, or special interest associations, and the Government respected this right in practice.

c. *Freedom of Religion.*—The new Constitution provides for freedom of religion, including belief, practice, and religious education; however, the Government restricted this right in practice in certain respects. The Constitution prohibits state and local Governments from adopting an official religion; however, it also provides that states may elect to use Islamic (Shari'a) customary law and courts. The Constitution also provides that the Federal Government is to establish a Federal Shari'a Court of Appeal and Final Court of Appeal; however, the Government had not yet established such courts by year's end. In 1987 the Government instituted a ban (still in effect at year's end) on religious organizations on campuses of primary schools, although individual students retain the right to practice their religion in recognized places of worship.

About half the population is Muslim, about 40 percent Christian, and about 10 percent practice traditional indigenous religions or no religion. Religious tensions between Muslims and Christians and between Sunni and the small number of Shi 'ite Muslims occasionally erupted into violence (see Sections 1.a. and 5). Both the Federal Government and state governments continued to discourage and criticize public proselytizing of minority beliefs in areas of Muslim or Christian majorities, in the belief that it stimulates religious tensions, although they do not outlaw it. Although distribution of religious publications remained generally unrestricted, there is a lightly enforced ban on published religious advertisements. There were only minor restrictions on religious television and radio programming. Most religious programs appeared to be broadcast without controls.

In predominantly Muslim communities, local governments commonly used zoning regulations to stop or slow the creation of non-Muslim, usually Christian, churches. Typically, a small section of a city was designated for non-Muslims to build their places of worship. In several cases, citizens in these enclaves reported that they were discriminated against by not receiving police protection or waste removal serv-

ice. Missionaries reported that law enforcement officials harassed them when they proselytized outside of their designated zones.

On December 18 Muslim youths attacked and looted 14 Christian churches in Ilorin, Kwara State. At least two more churches were looted on December 19, seriously injuring a clergyman (see Section 5). The Government's response was limited to pleas for calm and understanding, and there was no attempt to prosecute the perpetrators.

Muslim Brotherhood leader Ibrahim El-Zakzaky was released by General Abubakar in January. The Federal Government continued to settle property claims by El-Zakzaky for compensation for his home and mosque, which were razed by law enforcement officers 2 years ago. In May the predominantly Shi'a Muslim Brotherhood published a list of 96 of its followers who still were in prison or awaiting trial on charges that vary from preaching without a license to homicide. According to police records, the majority of the 96 prisoners were charged with, or convicted of, unlawful assembly.

On October 8, the governor of Zamfara Ahmed Sani signed into law two bills passed by the state legislature aimed at instituting Islamic (Shari'a) law in the state; the bills were scheduled to take effect in January 2000. Other northern officials, including many from Kano, Niger, Sokoto, Jigawa, Borno, Yobe, Kaduna, and Katsina States, began to echo the call for Shari'a in their states; however, at year's end, only Kano and Niger had initiated action in their respective state assemblies on the issue. According to the Zamfara governor, Shari'a only is supposed to apply to Muslims; however, school children are now being segregated by sex in Zamfara schools and preparations were underway for separate transportation and health facilities for men and women. The Zamfara governor also disbursed public funds to refurbish mosques and pronounced that only those persons with beards would win government contracts. The implementation of Shari'a is expected to be challenged constitutionally, but constitutional challenges can only occur after Shari'a has been implemented.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The 1999 Constitution entitles citizens to move freely throughout the country and reside where they wish, and in general, the Government respected this right; however, police occasionally restricted this right by setting up roadblocks and checkpoints where security and law enforcement officials routinely engaged in extortion, violence, and excessive use of force (see Section 1.a. and 1.c.). For example, following the security crackdown in Bayelsa State from December 30, 1998 to January 3, military units continued to man checkpoints very aggressively, reportedly strip-searching some travelers in search of scars and tattoos that would identify them as members of the Egbesu cult (see Sections 1.a. and 1.c.).

The 1999 Constitution also prohibits the denial of exit or entry to any citizen; and the Government generally respected this law. However, the law provides that women are required to obtain permission from a male family member before having an application for a passport processed.

Both the Abubakar and the Obasanjo Governments welcomed the return of prominent human rights and prodemocracy activists who fled the country during the regime of General Sani Abacha. The impediments to travel under the Abacha regime for the most part were eliminated. Unlike the previous year, there were no reports that Government denied passports to political figures or journalists, detained such persons entering or leaving the country, or interrogated citizens who were issued visas to foreign countries.

During periods of civil unrest, numerous persons were displaced temporarily from their villages. For example, during the January 10 violence in Bayelsa State, approximately 10,000 persons fled their villages (see Sections 1.a. and 1.c.). The villagers returned once the violence ceased. According to local human rights NGO's, at least 10,000 Odi residents fled into neighboring states during the November military exercise (see Sections 1.a. and 1.c.).

The Government cooperated with the Lagos office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian agencies in assisting refugees through the National Commission for Refugees and its Federal Commissioner. Regulations governing the granting of refugee status, asylum, and resettlement are outlined in Decree 52 of 1989, which incorporates many aspects of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Eligibility Committee established under Decree 52 reviews refugee and resettlement applications. A representative from the UNHCR participates in this committee. The issue of the provision of first asylum has not arisen since the establishment of the National Commission for Refugees under Decree 52.

At year's end, there were 8,958 recognized refugees: 13 from Angola, 23 from Benin, 1,313 from Cameroon, 1,665 from Sierra Leone, 1,505 from Chad, 115 from

Sudan, 135 from Ghana, 3,954 from Liberia, and 453 from other countries. Of these, the UNHCR repatriated 50 Sierra Leonians and 89 Liberians. It resettled 3 Cameroonians, 3 Chadians, 5 Sudanese, 13 Liberians, and 17 from other countries.

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

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

For the first time since 1983, citizens had the opportunity to exercise their right to change their government. General Abdulsalami Abubakar oversaw a transition to civilian rule that included elections for local governments (in December 1998), state governors and assemblies (in January), and national legislators and the president (in February). Voter apathy and widespread fraud marred the legislative elections; however, the turnout increased for the presidential race a week later, which proceeded peacefully with reports of only a few violent incidents. The Independent National Electoral Commission (INEC) certified former president Olusegun Obasanjo's victory over Chief Olu Falae with a reported 62 percent of the votes.

Irregularities occurred at each stage of the electoral process, particularly the presidential nominating convention and election where, for example, large sums of money were offered by both political camps to delegates to vote against political opponents. During the presidential election, international observers and foreign diplomats witnessed serious irregularities in procedures. All three parties engaged in the local purchase of false ballots and fraudulent tally sheets so that there were vast discrepancies between what observers saw and inflated tallies in some areas. In addition there were administrative problems such as late delivery of voting materials at a large number of polling stations. Those areas with the worst problems were the southern tier of states in the Niger Delta region, several states in Igboland, and a handful of north central states. The production of "ghost votes" in these states amounted to as much as 70 or 80 percent of the total reported votes. Although all parties engaged in attempts to rig the vote, the PDP machine in the Delta and Igboland was responsible for the worst excesses. These votes may have added an estimated 15 percent to Obasanjo's total figure; however, observers believe that even if they were thrown out, he still would have maintained roughly a 15 percent lead over Falae's total. International observers confirmed the results and stated that, despite widespread fraud, Obasanjo's victory reflected the will of most voters. Although Falae initially protested the election results, eventually he dropped his legal challenge. Obasanjo, 109 senators, 366 members of the National Assembly, and 36 governors and state assemblies assumed office on May 29. The President, Vice President, and other national and state officials serve 4-year terms. The next elections are scheduled for 2003. INEC issued a report on the conduct of the election in July that documented the fraud. INEC is working with several international electoral assistance organizations to help improve the process in 2003; however, no INEC officials have faced disciplinary action as result of their involvement in corrupt activities.

Prior to leaving office in May, Abubakar promulgated a new Constitution that outlaws the seizure of the Government by force and contains provisions for the removal of the President, Vice President, ministers, legislators, and state government officials for gross misconduct or medical reasons. The Government's first test case occurred in July when the Speaker of the House, Sanusi Buhari, resigned after press reports revealed that he was under the legal age limit to hold office and that he falsified his academic credentials (see Section 2.a.). He resigned after a National Assembly investigation confirmed the reports. In addition he was convicted by the Abuja High Court in early August for lying under oath. Although the fine of $20 (about 2,000 naira) was criticized widely as too low, most citizens agreed that the system worked. Several other public officials were subjected to close scrutiny by the press, public, and legislative investigators.

The political system remains in transition. The three branches of the new Government acted independently during the President's first months in office. Despite his party's substantial majority in the legislature, the President was not able to exercise authority without legislative oversight and inclusiveness. The Senate and the House of Representatives took the screening of government ministers, ambassadorial appointments, budget review, and other executive initiatives seriously and amended the Government's budget request and various personnel procedures. They also rejected several ministerial and ambassadorial appointments. Obasanjo created several commissions to investigate past government contracts and human rights abuses, which were overwhelmed with applications to present evidence of wrongdoing (see Section 4). However, the judicial branch remained weakened by years of neglect and politicization.

Abubakar's military Government, which consulted with a selected group of constitutional and legal experts around the country to revise the 1979 and 1995 Constitutions, promulgated the 1999 Constitution on May 5. The constitution-writing process was criticized for not being open to enough participants and for not being subjected to wider debate on the country's federal structure, revenue allocation and power-sharing formulas, and minority ethnic groups' rights.

Although the Constitution allows the free formation of political parties, only three parties were registered with the INEC. The Constitution requires parties to have membership in two-thirds of the country's 36 states.

There were no legal impediments to political participation or voting by women; however, men continued to dominate the political arena. NGO's continued to protest the underrepresentation of women in the political process, and women were underrepresented in the new civilian Government. Only 6 women were appointed as ministers out of a total of 56 positions. Three women were among the Senate's 109 members (compared with 8 in the last government) and only 12 women were elected to the 366-member National Assembly. Women's rights groups pushed local, state, and the Federal Government (and state and local levels as well) to adopt a 30 percent affirmative action program; however, these efforts were to no avail.

There are no legal impediments to participation in government by members of any ethnic group. The Constitution requires that government appointments reflect the country's "federal character." However, with over 250 ethnic groups, not every group can be represented in the Government. The federal- and state-level ministers generally are selected to represent the country's regional, ethnic, and religious makeup. President Obasanjo attempted to create an ethnically inclusive Government. The 56-member Cabinet and 109 ambassadorial slots were allocated to an equal number of candidates from each state to achieve a regional balance. Despite this effort, northerners and southeasterners criticized the new Government for favoring westerners or ethnic Yorubas.

Middle-belt and Christian officers dominate the military hierarchy. In June Obasanjo retired all military officers that held political office, which meant that a disproportionate number of northern Hausa officers—who dominated the upper ranks under the previous military regimes—left the service.

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

The Government permitted local human rights groups to operate and did not interfere with their activities; nor did it detain, intimidate, or harass their members. Criticisms of the Government's past human rights record were abundant in various media. High-level government officials noted that the human rights community assisted in the advancement of democracy.

The International Committee of the Red Cross (ICRC) is active, with offices in Abuja and Lagos under the direction of a regional delegate. Its primary human rights activities during the year involved the training of prison officials on human rights, sanitation, and prisoner health.

During the year, the Government cooperated extensively with both national and international human rights groups. For example, between March 30 and April 1, General Abubakar's Government hosted the third West African Human Rights Forum in Abuja. The event was sponsored by and held at the Economic Community of West African States (ECOWAS) Secretariat. Representatives from other governments, all of the ECOWAS member states, and several NGO's attended. Participants reported that the panels and discussions were very frank, open, and productive. In addition the Government permitted the ICRC to visit prisons to provide training and to give advice on how to improve the human rights of prisoners.

The National Human Rights Commission (NHRC), established by the Abacha regime in 1996, enjoyed greater recognition by and coordination with NGO's, but still lacks credibility as an independent monitoring body.

The National Human Rights Commission was established by decree in 1996. It is tasked with monitoring and protecting human rights in Nigeria. The commission is chaired by a retired Chief Justice of the Nigerian Supreme Court, Paul Nwokedi, and includes eight other members. The NHRC also is represented in some states by state-level affiliates. The NHRC is supposed to work hand-in-hand with NGO's that are devoted to human rights issues. While during the year the commission achieved such things as a syllabus for human rights education for primary and secondary schools and universities (yet to be instituted), since its inception, the NHRC has been denied adequate funding to do its job properly. President Obasanjo reportedly promised to increase its funding but had not done so by year's end. The NHRC is a permanent commission of the Government.

The Justice Oputa panel is a one-time panel that was established in June by President Obasanjo to investigate human rights abuses dating to 1960. The Oputa panel can recommend courses of action to the justice system for perpetrators of past abuses, something the NHRC does not do.

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

The 1999 Constitution provides citizens with the right to freedom from discrimination based on "community, place of origin, ethnic group, sex, religion, or political opinion." However, customary and religious discrimination against women persisted, occasional religious violence persisted, social discrimination on the basis of both religion and ethnicity remained widespread, and ethnic and regional tensions continued to contribute to serious violence both between groups of citizens and between citizens and the security forces.

Women.—Reports of spousal abuse are common, especially those of wife beating in polygynous families. Police normally do not intervene in domestic disputes, which seldom are discussed publicly. The Penal Code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, power of speech, facial disfigurement, or other life threatening injuries. A women's rights group has estimated that spousal abuse occurs in 20 percent of adult relationships. In more traditional areas of the country, courts and police are reluctant to intervene to protect women who accuse their husbands formally if the level of alleged abuse does not exceed customary norms in the areas. Rape, prostitution, and sexual harassment continue to be problems. Prostitution is not illegal; pandering is. In some parts of the country, women continue to be harassed for social and religious reasons. Purdah, the Islamic practice of keeping girls and women in seclusion from men outside the family, continued in parts of the far north.

There is an active market for trafficking in women to Europe, and elsewhere, for illicit purposes (see Section 6.f.).

Women experience considerable discrimination as well as physical abuse. There are no laws barring women from particular fields of employment, but women often experience discrimination because the Government tolerates customary and religious practices that adversely affect them. The Nigerian NGO's Coalition (NNC) expressed concern about continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and in salary inequality. There are credible reports that several businesses operate with a "get pregnant, get fired" policy. Women remain underrepresented in the formal sector but play an active and vital role in the country's important informal economy. While the number of women employed in the business sector increases every year, women do not receive equal pay for equal work and often find it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endure many forms of discrimination.

While some women have made considerable individual progress, both in the academic and business world, women remain underprivileged. Although women are not barred legally from owning land, under some customary land tenure systems only men can own land, and women can gain access to land only through marriage or family. In addition many customary practices do not recognize a woman's right to inherit her husband's property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband's property. Widows are subjected to unfavorable conditions as a result of discriminatory traditional customs and economic deprivation.

"Confinement" is the most common rite of deprivation to which widows are subjected, and it occurs predominately in eastern Nigeria. Confined widows are under restrictions for as long as 1 year and usually are required to shave their heads and dress in black garments. In other areas, a widow is considered a part of her husband's property, to be "inherited" by his family. Polygyny continues to be practiced widely among all ethnic groups and among Christians as well as Muslims and practitioners of traditional persuasions. Women are required by law to obtain permission from a male family member to get a passport (see Section 2.d.). The testimony of women is not equal to that of men in Shari'a courts (see Section 1.e.).

Women are discriminated against in access to education for social and economic reasons. The literacy rate for males is 58 percent but only 41 percent for females. Rural women are even more disadvantaged than their urban counterparts. Only 42 percent of rural girls are enrolled in school compared with 72 percent of urban girls. In the north, Muslim communities favor boys over girls in deciding which children to enroll in secondary and elementary schools. In the south, economic hardship also

restricts many families' ability to send girls to school and, instead, they are directed into commercial activities such as trading and street merchandizing.

A visiting Hausa woman in the southwest part of the country who violated a religious taboo against women's viewing a Yoruba festival was killed by a mob (see Sections 1.a., and 5-Religious Minorities).

In October the governor of Zamfara signed into law two bills passed by the state legislature aimed at instituting Islamic (Shari'a) law in the state. As a result, in Zamfara State plans for separate transportation and health facilities for men and women already had begun to be implemented by year's end (see Section 2.c.).

A national network of women's rights NGO's described the Government's 1998 report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for the period 1986–94 as "inaccurate" in its positive portrayal of the status of women. The NGO coalition for a shadow report on the implementation of CEDAW (NGO CEDAW Coalition) issued an alternative report in March critical of the Government's failure to remove legal impediments and social discrimination faced by women.

Children.—Public schools continued to be inadequate, and limited facilities precluded access to education for many children. The Constitution's general provisions call for the Government, "when practical," to provide free, compulsory, and universal primary education; however, despite the President's commitment to compulsory education, compulsory primary education rarely was provided, particularly in the north (see Section 6.d.). While the Government increased spending on children's health in recent years, it seldom enforced even the inadequate laws designed to protect the rights of children. The Abubakar Government promised to improve children's welfare, but there was no action on the commitment during the first half of the year.

Cases of child abuse, abandoned infants, child prostitution, and physically harmful child labor practices (see Section 6.d.) remained common throughout the country. Although the law stipulates that "no child shall be ordered to be imprisoned," juvenile offenders are incarcerated routinely along with hardened adult criminals. The Government only occasionally criticized child abuse and neglect, and it made little effort to stop customary practices harmful to children, such as the sale of young girls into marriage. There were credible reports that poor families sell their daughters into marriage as a means of supplementing their income. Young girls often are forced into marriage as soon as they reach puberty, regardless of age, in order to prevent the "indecency" associated with premarital sex.

In October the governor of Zamfara signed into law two bills passed by the state legislature aimed at instituting Islamic (Shari'a) law in the state. As a result, school children are now being segregated by sex in Zamfara schools (see Section 2.c.).

There was evidence of trafficking in children (see Section 6.f.).

The Government publicly opposes FGM, which is widely condemned by international health experts as damaging to both physical and psychological health. The Government took no legal action against the practice; in the past, government officials (notably in the Ministry of Health) supported the campaign against FGM, which was spearheaded by private groups. FGM still was practiced extensively in all parts of the country but was more predominant in the southern and eastern zones; it was practiced among all ethnic and religious groups. According to an NNC study, an estimated 33 percent of all households practice the procedure. Current estimates place the prevalence of FGM at between 40 and 50 percent of all females, although estimates vary. Studies conducted by the U.N. Development Systems and the World Health Organization estimated the FGM rate at approximately 60 percent among the nation's female population. However, according to local experts, the actual prevalence may be as high as 90 percent. Nevertheless, most agree that the number of females now subjected to FGM is declining.

Indigenous forms of FGM vary from the simple removal of the clitoral hood or labia minora to excision of the clitoris and the most dangerous form, infibulation. The age at which females are subjected to the practice varies from the first week of life until after a woman delivers her first child. The Ministry of Health, women's groups, and many NGO's sponsored public awareness projects to educate communities about the health hazards of FGM. The press repeatedly criticized the practice.

People with Disabilities.—While the Government called for private business to institute policies that ensured fair treatment for the disabled, it did not enact any laws requiring greater accessibility to buildings or public transportation, nor did it formulate any policy specifically ensuring the right of the disabled to work. Novelist Chinua Achebe, who is confined to a wheelchair after an automobile accident, returned to the country in early September and vowed to push the Government on accessibility issues for the disabled.

Religious Minorities.—The law prohibits religious discrimination. Nonetheless, reports were common that government officials discriminated against persons prac-

ticing a religion different from their own, notably in hiring or awarding contracts. Private businesses frequently are guilty of informal religious discrimination in their hiring practices.

Religious differences often correspond to regional and ethnic differences. For example, the northern region is overwhelmingly Muslim, as are the large Hausa and Fulani ethnic groups of that region. Many southern ethnic groups are predominantly Christian. Consequently, at times it is difficult to distinguish religious discrimination and tension from ethnic and regional discrimination and tension, which is pervasive.

Religious tensions underscored what were predominantly ethnic confrontations throughout the year. The Hausa-Yoruba clashes in the cities of Sagamu and Kano represented conflicts between the Muslim Hausa and the religiously diverse Christian Yorubas. There were regular clashes in northern Nigeria between Shi'a Muslim groups and Sunni Muslims. Sporadic incidents of attacks on individual religious leaders were reported, but the nature and perpetrators of the attacks varied, and there was not a pattern of one religious group attacking another (see Section 1.a.).

A Hausa woman who violated a religious taboo against women's viewing a Yoruba festival was killed by a mob (see Sections 1.a. and 5-Women).

Churches were burned and Christian homes and businesses were vandalized in the north, and in other areas of the country. On December 18 and 19, Muslim youths attacked and looted 16 Christian churches in Ilorin, Kwara state. The attacks were perpetrated by a mob of approximately 1,000 Muslim youths that inflicted serious property damage and severely injured at least one Christian cleric. Police eventually restored order, and Kwara State officials pleaded for calm and tolerance among religious groups, but there was no attempt to prosecute the perpetrators.

National/Racial/Ethnic Minorities.—The country's population of about 120 million is ethnically diverse, and consists of more than 250 groups, many of which speak distinct primary languages and are concentrated geographically. There is no majority ethnic group. The three largest ethnic groups, the Hausa-Fulani of the north, the Yoruba of the southwest, and the Igbos of the southeast, together make up about two-thirds of the population. The fourth largest group, the Ijaw, claims a population of 12 million.

The 1999 Constitution prohibits ethnic discrimination by the Government. In addition the Constitution mandates that the composition of the federal, state, and local Governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country in order to promote national unity and loyalty. This provision was designed as a safeguard against domination of the Government by persons from a few states or ethnic and sectional groups. These provisions were included in response to previous domination of the Government and the armed forces by northerners and Muslims. The Government of Olusegun Obasanjo was an example of this diversity. Obasanjo is a Yoruba from the southwest, the Vice President is a northerner, and the Senate President is an Igbo. The Obasanjo Government's ministerial and ambassadorial appointments were made by selecting an equal number of nominees from each state and then balancing key positions and deputy slots among the different regions and ethnic groups. For example, the Minister of Defense is from one of the middle-belt states, while his deputy is a southwestern Yoruba. The Senate used its oversight role to reject many of Obasanjo's ambassadorial appointments and insisted on three nominees from each state for each appointment. The political parties also engaged in "zoning," the practice of rotating positions within the party among the different regions and ethnicities to ensure that each region and ethnicity is given adequate representation. Nonetheless, claims of marginalization by members of southern minority groups and Igbos continued. The ethnic groups of the Niger Delta, in particular, continued their calls for high-level representation on petroleum issues and within the security forces. Northern Muslims, who lost previously held positions within the military hierarchy, accused the Obasanjo Government of favoring southerners. Traditional linkages continued to impose considerable pressure on individual Government officials to favor their own ethnic groups for important positions and patronage.

Societal discrimination on the basis of ethnicity is widely practiced by members of all ethnic groups and is evident in private sector hiring patterns, de facto ethnic segregation of urban neighborhoods, and a continuing paucity of marriages across major ethnic and regional lines. There is a long history of tension among the diverse ethnic groups. In July at least 100 persons were killed during intercommunal fighting in the southern city of Sagamu between Hausas and Yorubas after a Hausa failed to observe the customs of a traditional Yoruba festival (see Section 1.a.). When the bodies of the Hausa victims were returned to the northern, predominantly Hausa, city of Kano a week later, another round of ethnic clashes broke out, result-

ing in another 80 deaths and extensive property damage. Many Yorubas and other non-Hausa residents of Kano attempted to escape the rioting and sought refuge in police stations and army barracks. No Hausa-Yoruba violence related to that reciprocal bloodletting was reported in Lagos, the country's largest and most cosmopolitan city with a large Hausa minority. However, there were repeated clashes between predominantly Hausa truck drivers transporting herds of cattle, Fulani herders, and Lagosian tanker-truck drivers, all vying for access to the same roads. In late November, fighting between Yoruba and Hausa traders in the market area of Ketu, a Lagos suburb, resulted in over 50 deaths, apparently over the issue of the collection of fees and the allocation of stalls (see Section 1.a.).

The competing aspirations and tensions among the smaller ethnic groups related to the control and powers of subnational governments occasionally erupted into violence. Clashes occurred between rival ethnic groups in Delta, Rivers, Benue, Cross River, Bayelsa, Osun, Kaduna, Plateau, and Taraba States, often resulting in fatalities. For example, in May approximately 130 persons died in Kafanchan, Kaduna State during a sharp disagreement over a chiefdom dispute. Clashes between the Jokun and the Tiv in Benue and Taraba States occurred sporadically throughout the year and resulted in several hundred deaths. The dispute between the two groups has existed for years and stems mainly from contested land claims. The ongoing Government review of boundaries for state and local government areas sparked several communal clashes, most notably in Ife-Modakeke, Osun State and in Warri, Delta State.

The Ijaw ethnic group continued to be involved in disputes with the Ilaje group of Ondo and northern delta states, with the neighboring Itsekiri and Urhobo groups in the Warri area of Delta State, and with tribal elders and government forces. The conflict between the Ilaje and Ijaw resulted in the most deaths, with hundreds killed. The clashes resulted from a dispute over the moving of a local government headquarters to Ilaje territory and the construction of what the Ilaje believed to be an Ijaw traditional religious shrine on Ilaje territory. Skirmishes between the Ilaje and Ijaw residents in Lagos resulted in five deaths in July. The trouble around Warri, a regional headquarters town for many international oil companies, began with another relocation (in 1997) of a local government headquarters from Ijaw to Isekiri territory. Protests over this relocation escalated into periodic violence in which at least 200 persons died. The violence spread to include fatal clashes between rival youth groups, including those of Urhobo ethnicity. In May at least 1,300 Itsekiri were displaced and at least 50 persons died during an Ijaw raid on the village of Ugborodo in Escravos. In September the Delta State assembly passed a bill relocating four local government area headquarters (three to Ijaw territory and one to Itsekiri). Military and police units were deployed to prevent disturbances. Meanwhile, dissatisfaction with tribal elders who accepted "settlement" money from the Government to quiet community protests over oil spills or perceived problems with the local oil companies led to increased expulsions of tribal elders from villages in Bayelsa State by youth groups.

There were unconfirmed reports that members of the armed forces beat and raped members of ethnic minorities (see Section 1.c.).

According to MOSOP, after General Abubakar came to power in June 1998, the repression of the Ogonis came to an abrupt end. The Ogoni, an ethnic group indigenous to Rivers State (one of the oil-producing areas), maintains that the Government sought to deprive the group of its land and wealth, and seized Ogoni property without fair compensation, ignored the environmental impact of oil production on Ogoni land, and failed to provide adequate public services, such as water and electricity. The conflict between the Ogoni and the Government had resulted in a significant amount of repression; however, the previous repression of the Ogoni eased significantly under the Governments of Abubakar and Obasanjo. During the year, all Ogoni political detainees were released from detention and allowed access to the remains of executed leaders (see Section 1.d.). The curfew in Ogoniland was removed, and the military task force dispatched to Ogoniland was disbanded, although a police presence remained. Ogoni leaders met with General Abubakar throughout the beginning of the year; President Obasanjo met less frequently with them. In December the Rivers State government issued a white paper that favored the Eleme—an Ogoni clan. The Orikras were ordered to pay compensation to the Eleme for the villages that they had destroyed.

Other ethnic minorities, particularly in Delta, Rivers, Bayelsa, and Akwa Ibom States, have echoed Ogoni claims of environmental degradation and government indifference to their development. Groups such as the Ijaw, Itsekiri, Urhobo, and Isoko grew increasingly vocal in expressing their unhappiness about their perceived economic exploitation and the environmental destruction of their homelands, and incidents of ethnic conflict and confrontation with government forces increased in the

delta area, particularly after the Ijaw Youth Council issued the Kaiama Declaration in December 1998 (see Section 1.a.). Other ethnic groups saw the Kaiama Declaration, which terms the entire delta the property of the Ijaw, as threatening their rights. Disparate organizations of youths from a variety of ethnic groups continued to take oil company personnel hostage in the delta region (see Section 1.b.). In August a foreign company evacuated its foreign employees from Bayelsa State after youths seized several oil platforms, helicopters, and foreign hostages.

The same company evacuated its staff from the town of Warri after protesters demanding employment for more local persons overran its offices. As a result of this violence, many oil companies employed local police, and in some cases military troops, to protect their facilities and personnel. Local youths claimed that these "militias" engaged in extrajudicial killings and other human rights abuses, in some cases with the support of foreign oil companies (see Section 1.a.).

The Government introduced the Niger Delta Development Commission bill to the legislature in August. The bill and the proposed commission were criticized heavily by a wide range of Niger Delta groups, which subsequently demanded amendments to the bill to increase the government resources committed to the area and grant more local autonomy over the expenditure of these resources. The amendments also sought to change the composition of the commission by including NGO's and removing officials from states that these groups perceived to be outside the Niger Delta region. The Senate and House passed two different versions of the bill in December. The main differences included the proposed location of the commission headquarters (the Senate favored Yenagoa, Bayelsa State, and the House favored Port Harcourt, Rivers State), as well as differing formulas for funding the commission. At year's end, the Senate differences had not been resolved. However, the bill had been amended from its original version to incorporate some local demands.

In September the Government began an investigation into all contracts previously awarded under the auspices of the Oil and Minerals Producing Areas Development Commission. This commission, established in 1992 during the regime of General Ibrahim Babangida, widely was regarded as corrupt and ineffective in improving the conditions of Niger Delta residents.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution promulgated in May gives all citizens the right freely to assemble and associate and to belong to any political party, trade union, or any other association for the protection of their interests. Prior to the new Constitution taking effect, Abubakar's Government had enacted Decrees 1 and 2 in February; these Decrees repealed several Abacha-era Decrees that limited freedom of association and were not subject to legal challenge. These included: Decree 4 of 1996, which required unions to pay 10 percent of members' dues to the Nigerian Labor Congress (NLC), forced the merger of 41 unions into 29, and proscribed professional union organizers from holding NLC positions (effectively eliminating most general secretaries from contention); Decree 26 of 1996, which provided the labor minister with broad authority to dissolve unions, required the inclusion of "no strike" clauses in collective bargaining agreements, and prohibited professional labor leaders from holding senior positions in unions or the NLC; and Decree 29 of 1996, which prohibited NLC and union affiliation with international labor bodies (except the Organization of African Trade Union Unity and the Organization of Trade Unions of West Africa) without the express permission of the Labor Minister.

Workers, except members of the armed forces and employees designated as essential by the Government, may join trade unions. Essential employees include police, firefighters, central bank employees, security printers (printers of currency, passports, and government forms), and customs and excise staff. The Teaching Essential Services Decree issued in 1993 included education in the essential service list, but it did not proscribe education sector unions.

According to the President of the Nigerian Labor Congress, total union membership is approximately 4 million. Approximately 10 percent of the total work force belong to unions. With the exception of a small number of workers in food processing enterprises, the agricultural sector, which employs the bulk of the work force, is not unionized. Most of the informal sector and practically all small businesses remain nonunionized.

Since 1978 the Government has mandated a single trade union structure with service and industrial unions grouped under the NLC. The trade union movement is composed of two groups consisting of junior and senior staff workers. The junior staff workers—primarily blue collar workers—are organized into 29 industrial unions with a membership of over 4.5 million persons and are affiliated with the NLC. Twenty-one unions make up the Senior Staff Consultative Association of Nigeria (SESCAN), which has a membership of over 600,000. SESCAN—which is com-

posed primarily of white-collar workers—has never been officially sanctioned by the Government and is prohibited from affiliating with the NLC. SESCAN began the legal process to achieve government recognition. In accordance with Abubakar's liberalization scheme, the NLC held free elections for its executive council in January. Under Abacha Executive Council members were government appointees and most prominent labor leaders were prohibited from holding executive positions within the NLC.

After the repeal in February of the Abacha-era decrees, the right to strike was restored to workers. There were several strikes throughout the year, and labor seminars and labor-related activities proceeded without undue interference from police or security authorities, although an occasional march or rally resulted in police stepping in to disperse marching workers perceived to be a threat to government facilities. In March the NLC ordered a nationwide work stoppage for all of its public sector employees until respective state governments paid—or agreed to pay—a new national minimum wage approved by Abubakar. For 9 weeks, beginning April 13, all primary and postprimary schools nationwide were shut down following a prolonged strike action ordered by the Nigeria Union of Teachers, again in protest over nonpayment of wages. Another weeklong strike by teachers ended on June 22 after President Obasanjo released approximately $45 million (4.5 billion naira) for the payment of a newly established minimum wage. On August 10, members of the NLC marched on the National Assembly to protest demands by legislators for what the NLC perceived to be exorbitant furniture allowances.

On April 6, members of Lagos State's anticrime task force severely beat members of the National Union of Petroleum and Natural Gas Workers (NUPENG) when they assembled at the Lagos headquarters of an oil company to protest the dismissal of several union workers (see Section 1.c.).

There are no laws prohibiting retribution against strikers and strike leaders, but strikers who believe that they are victims of unfair retribution may submit their cases to the Industrial Arbitration Panel (IAP) with prior approval of the Labor Ministry. The IAP's decisions are binding on all parties but may be appealed to the Nigerian Industrial Court (NIC). Union representatives have described the arbitration process as cumbersome and time consuming and not an effective deterrent to retribution against strikers.

With the repeal of Decree 29 of 1996, the NLC and labor unions are now free to affiliate with international bodies.

b. *The Right to Organize and Bargain Collectively.*—The labor laws provide for both the right to organize and the right to bargain collectively between management and trade unions. Collective bargaining continues in many sectors of the economy. Complaints of antiunion discrimination may be brought to the Ministry of Labor for mediation and conciliation. The Labor Minister may refer unresolved disputes to the IAP and the NIC (see Section 6.a.). Union officials have questioned the independence of the NIC in view of its refusal in previous years to resolve various disputes stemming from the Government's failure to fulfill contract provisions for public sector employees. Union leaders also have criticized the arbitration system's dependence on the Labor Minister's referrals. The Labor Minister made no referrals to the IAP since assuming office, and the NIC is moribund due to the Government's failure to appoint members to the body.

The Government of President Obasanjo has directed each state administration to establish its own salary structure on the basis of its ability to pay and with reference to the national minimum wage (see Section 6.e.). The Government's decision was taken without consultation with the civil service unions. Several state governments complained that they could not afford to pay the $40 (3,800 naira) monthly minimum wage to their employees and individually were attempting to agree to a state-specific minimum wage.

An export-processing zone remains under development in Calabar, Cross River State, while a second is planned for Port Harcourt, Rivers State. Workers and employers in such zones are to be subject to national labor laws.

c. *Prohibition of Forced or Compulsory Labor.*—The 1974 Labor Decree and the 1999 Constitution prohibit forced or compulsory labor, and it generally is not known to occur; however, trafficking in women and children for purposes of forced prostitution and forced labor is a problem (see Section 6.f.). In addition, forced labor has been used in "Environmental Saturday" community clean-up projects that continued until Obasanjo abolished them in July. "Environmental Saturday" was observed the last Saturday of every month in Lagos and was purportedly a community-based clean-up effort. However, uniformed "sanitation police" had the power (and regularly exercised it) to invade citizens' homes and force them to clean the areas surrounding their homes until the police deemed them clean. Widespread harassment of citizens by police was reported on "Environmental Saturdays."

Although employment of persons under 18 years of age generally is prohibited, except for agriculture and domestic work, the Government does not specifically prohibit forced and bonded labor by children.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The 1974 Labor Decree prohibits employment of children less than 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law further stipulates that children may not be employed in agricultural or domestic work for more than 8 hours per day. The Decree allows the apprenticeship of youths at the age of 13 under specific conditions.

Primary education is compulsory, although this requirement rarely is enforced. Studies indicate declining school enrollment due to continuing deterioration of public schools and to increased economic pressures on families. The lack of sufficient primary school infrastructure has ended some families' access to education, forcing them to place children in the labor market. Growing economic difficulties have led to a substantial increase in the use of children in commercial activities aimed at enhancing meager family income. The use of children as beggars, hawkers, and bus conductors is widespread in urban areas. The use of children as domestic servants is common. According to an ILO statement in 1998, the incidence of child prostitution also is growing (see Section 5).

The 1974 Labor Decree and the 1999 Constitution prohibit forced or compulsory labor, a prohibition that extends to children, although they are not mentioned specifically in the laws; however, there continue to be cases of trafficking in children as indentured servants or for criminal activities such as prostitution (see Section 6.f.).

Private and government initiatives to stem the growing incidence of child employment continue but have not been effective. During the year, the Government formulated a national program of action in support of child rights, survival, protection, development and participation; however, the program had accomplished nothing by year's end. The Labor Ministry has an inspections department whose major responsibilities include enforcement of legal provisions relating to conditions of work and protection of workers, but the Ministry only conducts inspections in the formal business sector in which the incidence of child labor is not significant.

e. *Acceptable Conditions of Work.*—The 1974 Labor Decree set a minimum wage, which is reviewed on an ad hoc basis. The last review of the private sector minimum wage, held in 1991, raised the lowest monthly salary to about $5.30 (530 naira)—a level since rendered meaningless by inflation and depreciation of the naira—which does not provide a decent standard of living for a worker and family. Effective in September 1998, the Abubakar Government raised the benchmark minimum wage in the federal civil service to $62 (6,200 naira) per month, an increase from the previous level $9.40 (940 naira). However, in December 1998, the Government announced that, given its poor oil revenue forecast, it could no longer afford to pay the new federal wages. The minimum wage consequently was reduced early in the year to $30 (3,000 naira) per month. The Government took the decisions to increase federal salaries in August 1998 and to reduce them in December 1998 without prior consultations with labor (see Section 6.a.). Many state government employees, after the establishment of the federal minimum wage, lobbied for the same wage. However, several state governments maintained that they could not afford to pay this wage. The issue of the minimum wage caused several labor disruptions throughout the year.

The 1974 Labor Decree called for a 40-hour workweek, prescribed 2 to 4 weeks annual leave, and stipulated that workers must be paid extra for hours worked over the legal limit. The Decree also stated that employees who work on Sundays and statutory public holidays must be paid a full day's pay in addition to their normal wages. There is no law prohibiting excessive compulsory overtime.

The 1974 Labor Decree contains general health and safety provisions, some of which are aimed specifically at young or female workers. While it requires that the factory inspectorate of the Ministry of Labor and Employment inspect factories for compliance with health and safety standards, this agency often neglects safety oversight of construction sites and other nonfactory work. The Decree also requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents. The Labor Ministry, which is charged with enforcement of these laws, has been largely ineffective in identifying violations. The Government has failed to act on various ILO recommendations since 1991 to update its moribund program on inspection and accident reporting. The Labor Decree does not provide workers with the right to remove themselves from dangerous work situations without loss of employment.

f. *Trafficking in Persons.*—There is an active and growing market for trafficking in women and children to Europe for illicit purposes. The nature and scope of the

trade remained unknown, but immigration and police officials throughout Europe reported a steady flow of Nigerian women entrapped and sold into prostitution in Europe, particularly the Netherlands, Italy, and the Czech Republic. Italian authorities deported several hundred sex workers to Nigeria during the year; Spanish authorities deported 16. Other European countries deported similar numbers. Nigerian Interpol claimed that women usually entered the sex trade independently, were not controlled by syndicates, and were economically motivated. However, there is evidence that Nigerian crime syndicates may use indebtedness, threats of beatings and/or rape, physical injury to the victim's family, arrest, and deportation to persuade those forced into sex work from attempting to escape. The police reported that the women's families often condoned their entry into the trade. The Dutch intercepted what they suspect may have been the organized smuggling of up to 12 children during a 5-month period from November 1998 to March. There was at least one documented case of the trafficking in children to work as indentured servants in the United States. There also is evidence of trafficking of children to the United States and Europe, mostly for the reunification of children with their undocumented parents abroad.

According to a press report from the Niger Delta region, there is an active trade in child laborers, some of whom are exported to Cameroon, Gabon, Benin, and Equatorial Guinea to work in agricultural enterprises, others of whom are coerced into prostitution. In January Cote D'Ivoire authorities repatriated 11 10- and 11-year-old girls from Abidjan to Lagos. Authorities also have identified a trade route for traffickers of children for labor through Katsina and Sokoto to the Middle East and East Africa. The eastern part of the country and some southern states such as Cross River and Akwa Ibom have been the focus of trafficking of children for labor and, in some cases, human sacrifice.

Nigeria remains a destination for the trafficking of Togolese children.

The Assistant Inspector of General of Police is investigating allegations of the collusion of customs officials in trafficking. Some of the returnees have alleged that immigration officials actively connive with syndicates.

There is no law that makes trafficking in persons a crime. There is government and societal acknowledgement that trafficking in women is a continuing problem, particularly to Western European cities. Police attempts to stem the trafficking of persons include extended jail sentences and public humiliation, primarily of victims. In April the Federal Criminal Investigation Department paraded a group of 47 females and 17 male victims before the press in Lagos. When a group of 62 undocumented women were deported in October from Italy, they were met by police, local media, their parents and village chiefs, and promptly arrested. There is an absence of punishment for traffickers. Only a few awareness campaigns have been mounted.

RWANDA

The largely Tutsi Rwandan Patriotic Front (RPF), which took power following the civil war and genocide of 1994, is the principal political force and controls the Government of National Unity headed by President Pasteur Bizimungu and Vice President and Minister of Defense General Paul Kagame. Prime Minister Pierre Rwigema runs the Government on a daily basis and is responsible for relations with the National Assembly. Political party activity was suspended by agreement among the parties for the duration of the transition period, originally scheduled to end in July. However, in June the Government announced the extension of the transition period for another 4 years. In March local elections occurred for the first time in 10 years. The judiciary is subject to executive influence and suffers from a lack of resources, inefficiency, and some corruption.

The Minister of Defense is responsible for external security and military defense; the Minister of Internal Affairs is responsible for civilian security matters as well as supervision of the prisons and the soon-to-be-created national police. The security apparatus consists of the Rwandan Patriotic Army (RPA) and the Gendarmerie, which is made up largely of RPA soldiers. Civilian police and armed civilian local defense units with limited arrest powers work throughout the country. The formerly problematic security situation in the northwest, which had improved significantly in late 1998, remained generally calm. Members of the security forces committed serious human rights abuses, although the total declined from the previous year.

Rwanda is a very poor country, and 70 percent of the population live in poverty. The 1994 genocide destroyed the country's social fabric, human resource base, institutional capacity, and economic and social infrastructure. Per capita annual income is $240, with an estimated 88.5 percent of citizens living on less than $2 per day

and 45 percent on less than $1 per day. Subsistence agriculture occupies more than 90 percent of the labor force. The principal exports are coffee and tea. Small-scale commercial activities are increasing, but the industrial and tourism base remains limited.

The Government's human rights record remained poor, and the Government continued to be responsible for numerous, serious abuses. Citizens do not have the right to change their government. The security forces committed many fewer extrajudicial killings within the country than in 1998; however, there were many reports, some of which were credible, that Rwandan army units operating in the Democratic Republic of the Congo (DROC) committed deliberate extrajudicial killings and other serious abuses. There were allegations of a small number of disappearances. Security forces beat suspects. Prison conditions remained harsh and life threatening and, according to the International Committee of the Red Cross (ICRC), 1,148 prisoners died in custody from curable illnesses (malaria, dysentery, etc.). Most of the 130,000 prisoners housed in jails and local prisons are accused of participating in the 1994 genocide. Security forces used arbitrary arrest and detention, and prolonged pretrial detention was a problem. The judiciary is subject to executive influence on occasion and does not always ensure due process and expeditious trials. Genocide trials continued at a slow pace, but the Government's emphasis on group trials resulted in more suspects being tried than in the previous two years. The Government released 6,748 detainees whose files were incomplete, who were acquitted, or who were ill or elderly. The Government restricted freedom of speech, press, assembly, association, and movement. An average of 500 refugees per week returned to Rwanda from the DROC. Government security forces generally did not harass them. The Government was hostile toward some nongovernmental human rights organizations (NGO's). In January a law established the National Human Rights Commission. Violence and discrimination against women are problems. Discrimination based on ethnic status persists, as does child labor.

Insurgents committed several killings.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The RPA committed significantly fewer extrajudicial killings inside the country than in 1998, due to its success in largely suppressing the insurgency in the northwest, as it pushed Hutu rebels including the former Rwandan armed forces (ex-FAR) and the Interahamwe militia inside the territory of the DROC.

In Mushubati commune, Gitarama prefecture on January 21, the RPA flushed five infiltrators with three firearms out of the woods. Two of the infiltrators were shot and killed, two were captured, and one escaped. On February 17, the RPA killed four insurgents in Ruhengeri. The body of one was put on display at the Nyarutovu internally displaced persons (IDP) camp for several hours, and the camp population was lined up to view the body. In Gisenyi prefecture on August 28, members of a local defense unit (LDU) shot and killed a woman inside the Nkamira transit camp at night. Apparently the woman was mentally unbalanced and was acting strangely when LDU members challenged her.

The improvement in the security situation in the northwest led to a corresponding decline in alleged reprisals by the RPA. However, a human rights group reported that 49 persons, mostly women and children, were killed by the army on May 4 and 5, after fleeing into Volcanoes National Park.

Harsh prison conditions contributed to the deaths of 1,148 inmates during the year. Some deaths in custody were due to mistreatment or abuse by corrupt prison officials (see Section l.c.).

Since the start of the current war in the DROC in August 1998, RPA troops have participated on the side of the Congolese rebel movement Rassemblement Congolais pour la Democratie (RCD) against the DROC Government. There have been many reports, some of which were credible, that RPA soldiers massacred civilians in the DROC. The Government denied these claims. It declared a unilateral cease-fire in the DROC in May. However, RPA soldiers repeatedly participated in battles after the declaration. It is unknown who initiated the hostilities.

There was widespread reporting throughout the year of killings and other human rights abuses by both pro- and anti-government forces, including the RPA, in the conflict in the DROC. Verification of these reports was extremely difficult, particularly those emanating from remote areas and those affected by active combat, primarily in eastern Congo. Independent observers often found access difficult due to hazardous security conditions as well as frequent impediments imposed by authorities. Both pro- and anti-government forces extensively used propaganda dissemi-

nated via local media, including charges leveled against imposing forces, further complicating efforts to obtain accurate information regarding such events.

In early January, there were detailed credible reports that RCD and Rwandan forces massacred a large number of civilians in Makabola in the eastern DROC between December 31, 1998, and January 1. The RCD stated that it had ordered an investigation into these allegations. No results of the RCD's investigation were made public during the year, except for RCD claims that some of the supposed victims had fled into the bush and later returned to Makabola. A Catholic missionary news agency reported that on November 22, Rwandan and RCD troops shot and killed an abbot and other persons attending a Catholic mass. There were other reports of extrajudicial killings committed either by elements of the RCD, which the RPA materially supported and in some respects often directed, or in which direct involvement by RPA soldiers was not clear to persons who found it difficult to distinguish between RCD and RPA forces. Some of these reports of RPA killings surfaced in Kinshasa media directly or indirectly controlled by the DROC Government; however, other such reports emerged through international religious or humanitarian organizations and were based on the accounts of multiple witnesses or photographic or other evidence. The reported extrajudicial killings of civilians by RCD and Rwandan forces in the DROC often reportedly were committed in reprisal for guerrilla attacks on RCD or Rwandan forces.

Lightly armed civilian local defense units were formed, but these units are not a professional security force. An NGO attributed 10 to 12 deaths to members of LDU's. Most appear to have been the result of personal quarrels.

During the year, there were no substantive new developments regarding reports of mass killings of Hutus inside the DROC in 1997 by forces allegedly including both RPA and elements of the Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL).

In April in Ruhengeri prefecture men wielding traditional weapons killed at least five persons, including a newly elected sector official and three officials elected to the development committees in their townships.

In February in Ndusu commune, Ruhengeri, insurgents killed four villagers. In late July, suspected Interahamwe killed a family of four with machetes in their home (between Ruhengeri and Gisenyi). It is believed that the family was killed because they could implicate Interahamwe members in involvement in the 1994 genocide.

In March DROC-based Rwandan Hutu Interahamwe rebels killed 12 tourists and rangers in an Ugandan park. Ethnic Hutu rebels were said to be responsible for the killings of 30 ethnic Tutsis in a December 23 attack on Tamira village, Gisenyi prefecture.

The National Demining Office (NDO), an independent unit of the RPA, reported that between April and September, two persons were injured seriously in Mutura commune from land mine explosions and another seriously injured in Gaseke commune also in Gisenyi prefecture. One young child was killed by a land mine in Cyangugu on September 21. These mines were believed to be left over from the 1990–94 conflict between the former government and the RPA.

On April 14, Roman Catholic Bishop Augustin Misago was arrested on charges of genocide, a week after President Bizimungu, with Misago in the audience, accused Misago publicly at a memorial service marking the fifth anniversary of the genocide. Misago was the Bishop of Gikongoro. He is charged with planning the genocide, failure to provide assistance to persons in danger, and incitement to murder. Specific charges include turning over three priests to those who were committing genocide and ignoring the pleas for help of 30 young schoolgirls seeking refuge in the church. The girls later were killed. Misago is the highest-ranking Catholic clergyman and the first bishop to be charged with genocide. After a number of delays, his trial finally began in Kigali on September 14. More than 20 other Catholic priests and nuns face similar accusations and awaited trial at year's end.

Courts continued adjudicating cases arising from the 1994 genocide (see Section l.c.). In April a court cleared former local official Ignace Banyaga of taking part in the genocide. On April 29, a Swiss military tribunal sentenced Fulgence Niyonteze, a former bourgmestre in Gitarama prefecture, to life imprisonment for murder, incitement to murder, and war crimes committed during the 1994 genocide. The five judges of the tribunal found him guilty of inciting citizens at a meeting to kill Tutsis, ordering the murder of two others in a nearby bishop's residence, and kidnapping Tutsi refugees to have them killed.

In June Major Anne Marie Nyirahakizimana became the first female former FAR officer to receive the death penalty. In a military court in Gitarama presided over by Lt. Col. Jackson Rwahama, Nyirahakizimana and civilian Pastor Athanase Ngirinshuti were found guilty of genocide and other crimes against humanity com-

mitted in Kigali urban prefecture and Gitarama prefecture in 1994. The defendants, along with the Government and the Free Methodist Church, were ordered to pay compensation of more than $31.4 million (11 billion Rwandan francs).

In June former Radio Milles Collines broadcaster Valerie Bemeriki was arrested on charges of genocide and crimes against humanity. She allegedly incited persons to kill with her inflammatory radio broadcasts. In July a court in Kibuye sentenced 9 persons to death and 16 to life imprisonment on genocide-related charges.

The International Criminal Tribunal for Rwanda (ICTR), established in Arusha, Tanzania, to try organizers of the 1994 genocide, increased the pace of its work during the year. Six new judges were sworn in and construction of the third trial chamber was completed in February. Mali and Benin signed agreements with the ICTR to accept in their countries prisoners convicted by the ICTR. Former Information Minister Eliezer Niyitegeka and former Health Minister Casimir Bizimungu were arrested in Nairobi and sent to Arusha in February on ICTR warrants; their trials were pending at year's end. In April three other former ministers were arrested in Cameroon on ICTR warrants. Following a guilty plea, Omar Serushago was sentenced to 15 years' imprisonment on February 5 for genocide and crimes against humanity in the killing of 37 persons. Former Mayor Ignace Bagilishema surrendered in South Africa in February and was sent to Arusha, where his trial began in September on seven counts of genocide. The ICTR found former prefect of Kibuye Clement Kayishema guilty on four counts of genocide and sentenced him to life imprisonment in May. Also in May, businessman Obed Ruzindana was found guilty on one count of genocide and sentenced to 25 years in prison. Some citizens were displeased by the "lenient" sentences. In August the prosecution added rape charges to the indictment of Former Minister of Family and Women's Affairs, Pauline Nyiramasuhuko, for crimes committed by her subordinates. Nyiramasuhuko in 1997 became the first woman to be indicted by an international court for genocide. Hutu militia leader Georges Rutaganda was convicted of genocide in December and sentenced to life in prison. The trial of Alfred Musema was completed, but no judgment was issued by year's end. Elizaphan Ntakirutimana, a preacher indicted by the ICTR for allegedly inciting the massacre of hundreds of Tutsi seeking refuge in his church, fled the country, and the ICTR is pursuing efforts to bring him to trial.

Tribunal officers arrested a number of former ministers wanted for their role in the genocide, all of whom have been transferred to the detention center in Arusha to await trials.

Former chairman of the Mouvement Democratique Republican (MDR) political party Bonaventure Ubalijoro was arrested in March for presumed involvement in massacres of Tutsis in the 1960's.

b. *Disappearance.*—Returning refugees from northeast DROC were taken in government buses to a transit center in the disused Technical and Agricultural School (ETAG), after it reopened as a school, to the Nkamira transit center, both in Gisenyi. Based on interviews with returnees, one domestic human rights group reported that between January and June several returnees who went to the ETAG center failed to arrive at their communes. It is unclear why they failed to arrive, or if they settled elsewhere in the country.

There were reports that persons arrested and detained in areas of the DROC controlled by antigovernment forces were transferred to Rwanda and remained unaccounted for at year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The fundamental law prohibits torture; however, an NGO credibly reports that beatings at the time of arrest are common, and some released detainees reported that they had been tortured. An August 18 report from local and international media claimed that the police beat and arrested six university students who, along with other students, were marching to the Prime Minister's office. The students were Anglophone Tutsis protesting French-language instruction in schools and universities.

One domestic human rights group made credible claims that "scores" of detainees interviewed for one of its reports showed wounds of mistreatment.

In May 178 RPA soldiers, including 12 officers, were dismissed from the RPA for chronic indiscipline and criminal offenses.

Former government Minister Pauline Nyiramesuhuko, who already was charged with genocide in 1997, was charged in August with rape for crimes committed by her subordinates (see Section 1.a.).

Prison conditions are harsh and life threatening. The ICRC has registered about 124,000 prisoners. However, the Ministry of Justice, routinely refers to the prison population as 130,000. The prison population has remained stable since early 1998. The ICRC registered 4,888 new detainees and stated that 6,748 were released. The ICRC feeds inmates in the 19 main prisons and also provides additional expertise

and logistical and material support to improve conditions for inmates. Overcrowding is a chronic problem, and sanitary conditions are extremely poor. There were some reports that prison conditions were beginning to improve with the transfer of prison administration to the Ministry of Internal Affairs. The Government does not provide adequate food or medical treatment. Harsh prison conditions and malnutrition contributed to the deaths of numerous inmates. Some deaths in custody were due to mistreatment or abuse by corrupt officials. Most of the 1,148 deaths were the result of curable diseases, suspected AIDS, or the cumulative effects of severe overcrowding. The Ministry of Internal Affairs launched a vigorous anticorruption campaign. The Ministry dismissed no fewer than 9 of the country's 19 prison directors, who subsequently were jailed on corruption charges. Hundreds of children are incarcerated with adults throughout the prison system (see Section 5).

The ICRC, human rights organizations, diplomats, and journalists have regular access to the prisons. The ICRC extended its visits to communal jails in areas of the country that previously had been insecure and to some gendarmerie-supervised jails that its delegates had not been permitted to enter for several months.

d. *Arbitrary Arrest, Detention, or Exile.*—The Fundamental Law provides legal safeguards against arbitrary arrest and detention; however, authorities rarely observed them in practice. The justice system collapsed during the war and genocide of 1994. With help from the international community it is being rebuilt slowly and is beginning to function more normally. The Government does not have the capacity to ensure that provisions in the Constitution are enforced or that due process protections are observed.

In general the law requires that authorities investigate, then obtain a judicial warrant before arresting a suspect. The police may detain persons for up to 48 hours without a warrant; formal charges must be brought within 5 days of arrest. These provisions are widely disregarded. The law permits preventive detention if authorities believe that public safety is threatened or that the accused might flee. There is no bail, but the authorities may release a suspect pending trial if they are satisfied that there is no risk that the person may flee.

Over 90 percent of the 130,000 individuals presently incarcerated are awaiting trial on genocide charges. Some have been in jail since 1994. The Government does not have the capacity to process cases within a reasonable time frame. In March 1997, the Government, with extensive assistance from donors, established mobile groups whose mandate is to establish or complete files, which indicate the basis for charges, for all prisoners. While these groups have handled over 60,000 cases, approximately 40,000 prisoners remain without files. In December the National Assembly amended the law to permit the continued detention of genocide suspects through mid-2001.

In April in Kibuye prefecture, judicial officials delayed the release of 1,000 genocide suspects who have no case files due to fear that the community had not been sensitized sufficiently to receive the suspects peacefully. However, the Government continued to release prisoners who were elderly, ill, or had no file. Many of the 6,748 detainees released were those without case files. Rearrests because of community criticism were rare. This change was attributed to improved enforcement by the Ministry of Justice of the laws governing arrest and to recognition of the fact that the existing prison caseload is already more than the system can handle.

An international human rights organization reported in detail an alleged incident in September in which some RPA members in the northwest of the country detained several civilians suspected of theft, and beat them so severely over a period of several days that one later died. International human rights organizations have received credible reports of military detention facilities to which they have no access and in which civilians are sometimes detained.

Exile is not practiced.

e. *Denial of fair public trial.*—The Fundamental Law provides for an independent judiciary; however, the Government did not respect this provision fully. The judiciary is subject on occasion to executive influence and suffers from inefficiency, a lack of resources, and some corruption. There were occasional reports of corruption, mostly of bribery of officials, ranging from clerks to judges. In October a 12-member commission charged with fighting corruption in the judiciary held its first meeting. It is chaired by the Minister of Justice and charged with investigating all activities involving corruption and educating citizens on methods that can be used to fight corruption.

The Fundamental Law provides for a system of communal courts, appeals courts, and a Supreme Court of six justices. The President nominates two candidates for each Supreme Court seat, and the National Assembly may choose one or reject both (the latter is not known to have ever happened). In June, after a third Supreme

Court justice left his post, the President requested and received the resignations of the remaining three justices. A new Supreme Court was sworn in in July.

The law provides for public trials with the right to a defense, but not at public expense. The shortage of lawyers and the abject poverty of most defendants make it difficult for many defendants to obtain representation. International NGO's such as Avocats Sans Frontiers (ASF or Lawyers Without Borders) provide defense and counsel to many of those in need, but it is estimated that less than 50 percent of prisoners have defense counsel. The Government does not have sufficient prosecutors, judges, or courtrooms to hold trials within a reasonable time.

The judiciary is focused on resolving the enormous genocide caseload of some 130,000 prisoners. The Government increased its use of group trials as one method of reducing the caseload. It also embarked on a nationwide campaign to explain "gacaca" (a form of traditional participatory justice modernized to try genocide suspects) ahead of its expected implementation. According to a draft bill, lawyers are not to be permitted to participate officially, and gacaca "judges" are to be elected by their communities.

Verified figures for the number of genocide suspects tried were not available, though a Ministry of Justice official noted that the number was greater than the total tried during the previous two years. A U.N. Children's Fund/Ministry of Justice report states that between January and June, 86 genocide trials were held and 634 prisoners were judged. Of these, 64 received the death penalty; 191 were sentenced to life in prison; 225 received various prison terms; 24 received other penalties; and 130 were acquitted. The vast majority of trials met international standards. The human rights organization Liprodhor also actively monitors trials and interviews released prisoners. No public executions occurred.

In 1996 the National Assembly passed the Organic Genocide Law, a portion of which is designed to encourage confessions in exchange for reduced sentences for the vast majority of those involved in the genocide. With assistance from donors and NGO's advertising widely the confession provisions, to date, over 15,000 prisoners have confessed. However, only a small number of confessions have been processed due to the lengthy administrative review and hearing and the lack of officials to process the confessions through the system.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and authorities generally respected these prohibitions. Forced conscription has been practiced by the RPA, particularly after the RPA entered the conflict in the DROC. Citizens who served in the military may be recalled to compulsory duty at any time.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Fundamental Law provides for freedom of the press; however, the Government restricted this right in practice. The Government intimidated journalists whose reporting was contrary to official views. Most journalists practice self-censorship due to fear of government reprisals. On February 26, John Mugabi, editor of the monthly newspaper Newsline, was jailed on a complaint of libel filed by Lt. Col. Frank Rusagara, Secretary General of the Ministry of Defense, after Mugabi refused to reveal the source(s) for an article that alleged that Rusagara took a bribe on a helicopter deal. Mugabi was released provisionally on May 21 with several conditions placed on his freedom of movement and travel. A second journalist, Amiel Nkulizi, was released in August after more than 2 years in prison without a hearing.

On September 8, Helena Nyirabikali, a female journalist who worked for the state-owned weekly newspaper Imvaho for over 15 years, was arrested on genocide charges. The Government accused her of writing articles that incited ethnic hatred. The human rights organization African Rights mentioned her in a report as being one of the Rwandan women who played a big role in the genocide. Nyirabikali joined several other journalists in prison on genocide charges.

The Government continued to fail to act on the Rwandan Journalist Association's request for a license. Without a license, the Association legally may not act on behalf of its members or apply for assistance from NGO's or other donors.

Media sources are limited. There are several privately owned newspapers, which publish weekly in English, French, or Kinyarwanda. There is no daily newspaper. The Government owns the only national radio station and the only television station, which has 5 hours of programming per day. The British Broadcasting Corporation broadcasts on FM from Kigali in several languages. In November the German broadcasting service Deutsche Welle signed an agreement with the Government to open an FM station in Kigali.

The Government is the sole Internet service provider.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The fundamental law provides for freedom of peaceful assembly; however, the authorities restrict this right in practice. They legally may require advance notice for outdoor rallies, demonstrations, and meetings.

The Constitution provides for freedom of association; however, the Government restricts this right in practice. Private organizations are required to register but, with few exceptions (see Section 2.a.), the Government generally grants licenses without undue delay.

The National Revolutionary Movement for Democracy and Development (MRND), and the Coalition for Defense of the Republic (CDR), both implicated in planning and executing the 1994 genocide, were banned by law.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. There is no state religion. On February 12, the Security Council of Kigali city, in cooperation with representatives of churches and religious groups currently operating, decided that no religious group would be allowed to function unless it was registered with the Government. The sub-prefect and the chief of urban and security services decided to meet three times a year to evaluate and combat those who involve themselves in religious groups with intentions other than prayer. In March communities elected several members of the religious group "temperance" to local committees. When some persons refused to take the oath of office because their religion forbids swearing, government officials barred them from office, and the communities elected replacements. In Kibuye prefecture in October, 40 persons were briefly arrested for refusing to serve on night patrols on religious grounds.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted them in practice. Citizens must show identification when requested. In mid-June security forces rounded up some 400 to 500 "suspicious persons" in a Kigali neighborhood. Those with proper identification and foreigners in legal status were released. The police sent some 110 persons from other parts of the country back to their home communes.

Over 600,000 persons were displaced in the northwest in late 1998 and moved into camps as a result of insurgent activities and government military operations to halt them. During late 1998 and the first half of 1999, the displaced persons were moved into 183 villages under the Government's policy of villagization. Although the Government claimed that the move to villages was voluntary, observers believe that many persons were compelled to move.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and provided first asylum to a number of refugees. The vast majority were Congolese refugees who fled their country during unrest in 1996. Several hundred Burundians still are awaiting compensation for their property seized in 1997 when the Government revoked their refugee status, granted in the 1970's.

There were reports in March that the RCD would expel Rwandans from the Masisi and Rutshuru regions in the DROC, on accusation that they were causing insecurity there. No mass expulsion occurred. After a rate of return of over 3,000 per month through May, the weekly rate of return of Rwandan refugees from northeast DROC fluctuated between 200 and 760. It is likely that the RPA and RCD put pressure on some of the refugees to return to Rwanda; however, returnees interviewed by the UNHCR said that their return was voluntary.

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

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

Citizens do not have the right to change their government by democratic means. The Rwandan Patriotic Front (RPF) is the dominant political force in the country. Following the genocide of 1994, political parties agreed to form a government of national unity based on the 1992–93 Arusha Accords. This agreement laid the basis for the apportionment of ministries and other offices. The RPF brought representatives of four other opposition parties into the Government after its military victory in 1994, but none of the officials was elected. Political parties also agreed to suspend political activities for a period of 5 years, by which time the transition to elected government was to have been complete. This 5-year period was to end in July; however, the Government announced in June the extension of the transition period by 4 years. The announcement did not mention political party activities; the parties continue to observe the suspension. A National Assembly is functioning, with nine political entities represented, including the RPA. Assembly members, known as dep-

uties, were chosen by the political bureaus or executive committees of their respective parties. Between March and May, the "political forum", composed of party officials (many of them members of the Government) expelled and replaced 21 of the 70 deputies from several parties, the first time the political forum took such action.

The central Government appoints officials at the commune and prefecture levels. From March 29 to 31, the Government held elections for local development committees at the cell level (the smallest geographic jurisdiction) and sectors (the next-largest jurisdiction). The committees are to propose, select, and implement development projects financed by the limited resources available to them. Prior campaigning was prohibited. On election day, residents of each of the nearly 9,000 cells met and nominated fellow cell residents as candidates. Voters (residents age 18 and over) voted by lining up behind the candidate of their choice for 8 of the 10 seats on the committee. Elections at the sector level were indirect; the persons elected at the cell level became the voting pool and elected 8 of the 10 members of their sector committee from among their own number. The other two seats on each cell and sector committee went automatically to the cell or sector presidents of the separately elected women's and youths' committees. Political parties did not participate in this election.

No legal restrictions hinder the participation of women in political life; however, women remain underrepresented in politics and in the Government, including the Cabinet, the National Assembly, and the local committees elected in March. There are 15 female assembly members and 2 female cabinet members. The Batwa ethnic group also is largely underrepresented.

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

A variety of domestic human rights groups operate without government restriction, investigating and publishing their findings on human rights violations. However, none has the resources to conduct extensive human rights monitoring. Local NGO activities often are limited to receiving and compiling reports from citizens about human rights abuses and conducting selective investigations. Reports are published occasionally; statements criticizing specific incidents are more common. Only one or two local human rights NGO's are viewed as strictly impartial.

The Government was cooperative and responsive to the reports of some international human rights NGO's. It was hostile towards others whose reporting was perceived as biased and inaccurate.

The ICRC operates normally and is active in visiting prisons.

In January the National Assembly passed a law establishing the National Human Rights Commission and selected the members in May. The Commission obtained training for its members and hosted several human rights seminars.

Cooperation between the government and the International Criminal Tribunal for Rwanda generally improved. In October the Government named Martin Ngoga, chief prosecutor in Butare prefecture, as the Government's representative to the ICTR. The Government chided the Tribunal for its slow pace but welcomed the completion of the third trial chambers and expressed interest in holding one of the genocide trials in Rwanda. Protection mechanisms for witnesses in Rwanda continued to be the subject of discussion between the ICTR and the Government. After years of operating without a framework agreement, an agreement was signed on June 3, spelling out some aspects of protection measures, but concentrating largely on the ICTR staff's privileges and immunities.

However, the Government expressed disappointment with some of the ICTR'S decisions (see Section l.a.). It strongly criticized the ICTR when it dropped charges and, in March, released Bernard Ntuyahaga, who was accused of murdering the former Prime Minister and 10 Belgian peacekeepers assigned to protect her in 1994. After Ntuyahaga subsequently was arrested again by Tanzanian authorities in March, Rwanda and Belgium both submitted extradition requests. He remained in jail in Tanzania at year's end. In November the Government temporarily suspended cooperation with the ICTR and briefly denied a visa to its chief prosecutor following the appeals judges' ruling that due to lengthy delays and other procedural errors, ICTR detainee Jean-Bosco Barayagwiza must be freed. Barayagwiza is a former leader of the most extreme Hutu party who was charged with multiple counts of genocide and other crimes against humanity in 1996. In December the judges agreed to reconsider their decision on the basis of the chief prosecutor's promise to introduce additional evidence.

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

The Constitution provides that all citizens are equal before the law, without discrimination on the basis of race, color, origin, ethnicity, clan, sex, opinion, religion, or social standing. However, the Government provides only limited enforcement of these provisions.

Women.—Violence against women is common. Wife beating and domestic violence occur frequently. Cases normally are handled within the context of the extended family and rarely come before the courts.

Despite constitutional provisions, women continue to face discrimination. Women traditionally perform most of the subsistence farming and play a limited role in the modern sector. They have limited opportunities for education, employment, and promotion. The 1992 Family Code generally improved the legal position of women in matters relating to marriage, divorce, and child custody but does not meet the constitutional commitment to gender equality. For example, it formally designates men as heads of households. In October the National Assembly passed a law on matrimonial regimes and inheritance that allows women to inherit property from their husbands and fathers and allows couples to choose the type of property rights they wish to adopt (i.e., joint ownership, community property, etc.).

The Ministry of Gender and Women in Development is charged with handling issues of particular concern to women. The Minister is an active advocate for women's rights. Since the 1994 genocide a large number of women's groups has emerged. These organizations are extremely active in promoting women's issues, particularly problems faced by widows, orphaned girls, and households headed by children. Addressing social and cultural barriers to the equality of women is a major focus.

Children.—The Government is committed to children's rights and welfare. It attempts to provide education and health care to every child. Over 85 percent of the children who were separated from or lost their parents during the 1994 genocide and the massive repatriation in 1996 have been reunited with family members or placed in foster homes. According to the U.N. Children's Fund (UNICEF), of the 28,946 unaccompanied children once housed in its centers, 24,907 have been reunited with their families or placed in foster homes.

All families must pay school fees to enroll a child. The Government routinely waived fees for orphans. UNICEF estimates that over 60,000 children age 18 or younger head households in the country. The Government worked closely with local and international NGO's to secure assistance for children in such situations. The Government regularly held sessions with local officials to sensitize them to the needs of households headed by children and emphasize the additional responsibility officials bear in connection with this group.

The public schools cannot accommodate all children of primary school age. Private schools are too distant or too expensive to serve as an alternative for many children. Entry to secondary school is by examination. A 1996 sociodemographic survey released in July 1998, conducted by the Government and the U.N. Population Fund, found that 59.6 percent of the population age 6 and over had primary education. Only 3.9 percent had completed secondary school and 0.2 percent had university education. UNICEF estimates that these figures are still accurate. The highest percentage of those with no education is in the 30-and-over age group, indicating a trend toward increased educational levels in recent years.

Although the Penal Code prohibits the imprisonment of children with adults, the ICRC reported that 298 children, most of whom are age 2 or younger, are incarcerated with their mothers. The UNICEF/Ministry of Justice report claims that as of year's end, 3,030 minors were incarcerated on genocide-related charges, but few had been tried for their offenses. The ICRC reported that approximately 570 children who were under age 14 at the time of their arrest are incarcerated on genocide-related charges. Some 25 children under the age of 14 currently are incarcerated. In August 60 children accused of participating in the genocide were released from a child detention center.

In May communal police rounded up street children in Kigali. There were rumors that the children were to be forced to join the RPA and sent to the DROC for battle; however, the children actually were taken to a shelter in Gikongoro.

By mid-April reports estimated that a total of 2,200 street children had been taken to a solidarity camp in Gikongoro where they learned hygiene, civic education, the dangers of narcotics, and methods of protection against sexually transmitted diseases. In April 270 street children of school age were returned to their families after the camp. The families were required to take their children directly to a school. Some 300 others are to receive vocational training. The Kimisagara street children's center in Kigali retains 130 orphans who are to attend primary school while awaiting adoption.

People with Disabilities.—Although there are no laws restricting persons with disabilities from employment, education, or other state services, in practice few disabled persons have access to education or employment. No laws or provisions mandate access to public facilities.

Indigenous People.—Less than 1 percent of the population belongs to the Batwa ethnic group. The Batwa, survivors of the Twa (Pygmy) tribes of the mountainous forest areas bordering the Democratic Republic of Congo, exist on the margins of society and continue to be treated as inferior citizens by both the Hutu and Tutsi groups. The Batwa have been unable to protect their interests, which center on access to land and housing. Few Batwa have gained access to the educational system, resulting in their minimal representation in government institutions. There is no reliable information on specific human rights abuses perpetrated against the Batwa population since the 1994 upheaval.

National/Racial/Ethnic Minorities.—Before April 1994, an estimated 85 percent of citizens were Hutu, 14 percent were Tutsi, and 1 percent were Batwa (Twa). However, Hutus and Tutsis are not clearly distinct groups, since the two have intermarried for generations. The subsequent mass killings and migrations probably affected the ethnic composition of the population, but the extent of the changes is unknown.

Large-scale interethnic violence in the country between Hutus and Tutsis has erupted on three occasions since independence in 1962, resulting on each occasion in tens or hundreds of thousands of deaths. The most recent and severe outbreak of such violence, in 1994, involved genocidal killing of much of the Tutsi population under the direction a Hutu-dominated government and implemented in large part by Hutu-dominated armed forces (now the ex-FAR) and Interahamwe militia; that genocide ended later the same year when a Tutsi militia operating out of Uganda overthrew that government and established the current Government. The Government has called for national reconciliation and committed itself to abolishing policies of the former government that had created and deepened ethnic cleavages. It eliminated references to ethnic origin from the national identity card. The Government has not addressed statutorily the problem of ethnic quotas in education, training, and government employment, but discrimination against the Tutsi minority effectively ceased with the change of government in 1994. Some Hutus accuse the Government of favoring Tutsis in government employment, admission to professional schooling, recruitment into the army, and other matters. Some organizations also complain that in hiring, the government favors English-speaking Tutsis over French-speaking Tutsis.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right to create professional associations and labor unions, and the Government usually respects this right in practice. In practice the labor movement has been hampered due to the massive disruptions caused by the 1994 genocide. Although preconflict labor law technically remains in effect, the Government is unable to implement its provisions. Unions are only slowly regrouping and asserting themselves.

Union membership is voluntary and open to all salaried workers, including public sector employees. There are no restrictions on the right of association, but all unions must register with the Ministry of Justice for official recognition. There are no known cases in which the Government denied recognition. Unions are prohibited by law from having political affiliations, but in practice this is not always respected. Union activists complain that employers threaten to fire employees who attempt to organize or join unions.

Organized labor represents only a small part of the work force. More than 90 percent of workers are engaged in small-scale subsistence farming. About 7 percent work in the modern (wage) sector, including both public and private industrial production, and about 75 percent of those active in the modern sector are members of labor unions.

Until 1991 the central union of Rwandan workers (CESTRAR) was the only authorized trade union organization. With the political reforms introduced in the Constitution, the CESTRAR officially became independent of the Government and the later-outlawed MRND political party. Unions outside the CESTRAR have been registered.

The Constitution provides for the right to strike, except for public service workers. Procedures to conduct a legal strike as stipulated in the Labor Code are cumbersome and, according to a CESTRAR officer, never followed. A union's executive committee must approve a strike, and a union must try to resolve its differences first with management according to steps prescribed by the Ministry of Public Service and Labor.

Labor organizations may affiliate with international labor bodies. The CESTRAR is affiliated with the Organization of African Trade Union Unity and the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for collective bargaining, although only the CESTRAR had an established collective bargaining agreement with the Government. In practice since most union members are in the public sector, the Government is involved intimately in the process (see Section 6.e.).

The law prohibits antiunion discrimination, and there were no reports of such discrimination. No formal mechanisms exist to resolve complaints involving discrimination against unions.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, and there were no reports that it occurred in practice, apart from work details composed of prisoners, which are common and generally involved rebuilding houses, clearing land, or other public maintenance duties. Although the law does not specifically prohibit forced and bonded labor by children, such practices are not known to occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Except in subsistence agriculture, the law prohibits children under age 18 from working without their parents' or guardians' authorization, and they generally may not work at night. The minimum age for full employment is 18 years, and 14 years for apprenticeships, providing that the child has completed primary school. The Ministry of Public Service and Labor has not enforced child labor laws effectively. The law does not specifically prohibit forced or bonded labor by children; however, such practices are not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Ministry of Public Service and Labor sets minimum wages in the small modern sector. The Government, the main employer, effectively sets most other wage rates as well. There is no single minimum wage; minimum wages vary according to the position. The minimum wages paid are insufficient to provide a decent standard of living for a worker and family. Often families supplement their incomes by work in small business or subsistence agriculture. However, in practice, workers accept less than the minimum wage.

Officially, government offices have a 40-hour workweek. In 1993 negotiations were held between the unions, the government, and management to reduce the workweek from 45 to 40 hours in the private sector as well. The law controls hours of work and occupational health and safety standards in the modern wage sector, but labor inspectors from the Ministry of Public Service and Labor enforce them only loosely. Workers do not have the right to remove themselves from dangerous work situations without jeopardizing their jobs.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty democracy. The Government is composed of an executive branch and a unicameral legislature (the National Assembly). The President appoints the Prime Minister, who in turn appoints the ministers of the Government. Miguel Trovoada, leader of the Independent Democratic Alliance (ADI), was reelected President in 1996 for a second 5-year term in an election deemed generally free and fair by international observers, despite allegations of an unconstitutional modification of the voter lists between the first and second rounds. In the November 1998 legislative elections, the Movement for the Liberation of Sao Tome and Principe (MLSTP) won an outright majority with 31 of 55 seats, and holds all 10 seats in the Cabinet. The judiciary is independent.

The Minister of National Defense, Security, and Internal Order supervises the military services and the police. Many members of the military are part-time farmers or fishermen. Since a military mutiny in 1995, the Government and international donors have dedicated resources to improving soldiers' living conditions. No defense expenditures have been used for lethal weapons since the advent of multiparty democracy in 1990.

The economy is based on the export of a single product, cocoa, produced in an archaic, state-run system of plantations called "rocas." The Government has privatized some of the state-held land but had limited success in privatizing state-owned enterprises. The Government faltered in its efforts at structural adjustment, and the economy continues to face serious difficulties. While the inflation rate has fallen to

10 percent per year and the currency has stabilized, the country remains highly dependent on foreign aid, and external debt is six times gross domestic product. Per capita income is less than $350 per year, and the economy is stagnant. Unemployment, although difficult to quantify, remained very high.

The Government continued to respect the rights of its citizens. The principal human rights problems continued to be an inefficient judicial system, harsh prison conditions, violence and discrimination against women, and outdated plantation labor practices that limit worker rights.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture or cruel and inhuman punishment. There were no reports of violations during arrests or interrogations.

Prison conditions are harsh but not life threatening. Human rights monitors are not known to have requested permission to make prison visits; it is believed that the Government would permit such visits if requested.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

Exile is not used as a punishment. All those exiled under the one-party regime of 1975–1990 are free to return, and several prominent politicians have done so.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the judiciary has returned verdicts against both the President and the Government. The legal system is based on Portuguese and customary law, with the Supreme Court at the apex. The Government has important powers relating to the judiciary, including setting salaries for judges and all ministerial employees in accordance with standard government salary guidelines. Government salaries are extremely low, and the authorities are concerned that judges may be tempted to accept bribes. The authorities maintain that they continue to respect the independence of the judiciary.

The Constitution provides for the right to fair public trial, the right of appeal, and the right to legal representation. In practice, however, the judicial infrastructure suffers from severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers, causing long delays in bringing cases to court and greatly hindering investigations in criminal cases.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the integrity of the person and the right to privacy of home, correspondence, and private communication. The Government does not engage in intrusive practices, such as surveillance of persons or the monitoring of communications. The judicial police are responsible for criminal investigations and must obtain authorization from the Ministry of Justice to conduct searches.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and freedom of the press, and the Government generally respects these rights in practice. One government-run and three independent newspapers and newsletters are published sporadically, usually on a monthly or bimonthly basis.

Television and radio are state operated. While there are no independent local stations, there are no laws forbidding them. The Voice of America, Radio International Portugal, and Radio France International rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of 3 minutes per month on television. In September President Trovoada criticized cronyism in the state media and encouraged potential operators to enter the private broadcasting sector.

All parties freely distribute newsletters and press releases giving their views and criticizing the Government, the President, and one another. There were no reports of government censorship or threats of censorship from any group, nor any reports of efforts by national security forces to suppress criticism.

The Government does not restrict access to or use of e-mail, the Internet, or satellite phones. However, the only domestic Internet server is a joint venture in which the Government's Post and Telecommunications Office is a partner, and the cost of Internet access remains high, so access remains limited in practice.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice. The Government requires that requests for authorization for large-scale events be filed 48 hours in advance and usually grants the appropriate permits.

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

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

Domestic law contains no specific provisions for granting refugee status in accordance with the 1951 U.N Convention Regarding the Status of Refugees and its 1967 Protocol. However, the authorities traditionally have welcomed those seeking refuge or asylum. No requests for first asylum were reported during the year, but in theory the Government would be prepared to grant such requests. There were no reports that persons were forced to return to a country where they feared persecution.

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

Citizens exercised this right for the first time in 1991 in free and fair presidential and legislative elections, and subsequently in the 1994 and 1998 legislative elections, and the 1996 presidential elections. These elections resulted in the peaceful transfer of power between political party coalitions. Voter participation has exceeded 80 percent in recent elections. International observers noted that the 1998 legislative elections were free and transparent. Each of the three principal political parties has significant representation in the unicameral National Assembly. Elections are by secret ballot on the basis of universal suffrage for citizens 18 years of age or older. In the 1998 legislative elections, the MLSTP won an outright majority with 31 out of 55 seats and filled all 10 Cabinet positions.

The Constitution provides for the election of the President, who as Head of State names the Prime Minister. The Prime Minister appoints members of the Government.

There are no restrictions in law or in practice on the participation of women in politics. However, women are underrepresented in politics and government. Women currently hold 3 of 55 seats in the National Assembly, 1 of 12 seats in the Cabinet, and 1 of 4 seats on the Supreme Court. One woman was a presidential candidate in the 1996 elections and received 16 percent of the first-round vote.

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

A small number of local human rights groups have formed since 1991 and operate without restriction or governmental interference. There were no known requests by international human rights groups to visit the country.

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

The Constitution provides for the equality of all citizens regardless of sex, race, racial origin, political tendency, creed, or philosophic conviction. However, the Government has not sought actively to enforce these provisions.

Women.—While the extent of the problem is unknown, violence against women occurs, and medical professionals and officials report firsthand experience in dealing with violence, including rape. They also report that although women have the right to legal recourse—including against spouses—many are reluctant to bring legal action or are ignorant of their rights under the law. Traditional beliefs and practices also inhibit women from taking domestic disputes outside the family.

While the Constitution stipulates that women and men have equal political, economic, and social rights, and while many women have access to opportunities in education, business, and government, in practice women still encounter significant societal discrimination. Traditional beliefs concerning the division of labor between men and women leave women with much of the hard work in agriculture, with most child-rearing responsibilities, and with less access to education and to professions. Female literacy is approximately 62 percent; male literacy is approximately 85 percent.

Children.—A number of government and donor-funded programs have been established to improve conditions for children. There has been improvement in maternity and infant care, in nutrition, and in access to basic health services, especially in urban areas. Mistreatment of children is not widespread. There are few social protections for orphans and abandoned children.

People With Disabilities.—The law does not mandate access to buildings, transportation, or services for persons with disabilities. There are no reports of discrimination against the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association and the right to strike. Few unions exist in the very small modern wage sector. Independent cooperatives, on the other hand, have taken advantage of the government land distribution program to attract workers and in many cases to improve production and incomes significantly. Public sector employees still make up the great majority of wage earners. Strikes are legal, including those by government employees and other essential workers. There are no laws or regulations that prohibit employers from retaliating against strikers.

There are no restrictions barring trade unions from joining federations or affiliating with international bodies.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides that workers may organize and bargain collectively. However, due to its role as the principal employer in the wage sector, the Government remains the key interlocutor for labor on all matters, including wages. There are no laws prohibiting antiunion discrimination.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and bonded labor, and it is not known to exist. The Government prohibits forced and bonded labor by children, and such practices are not known to occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Employers in the modern wage sector generally respect the legally mandated minimum employment age of 18 years. The Ministry of Justice and Labor is responsible for enforcing this law. In subsistence agriculture, on plantations, and in informal commerce, children do work, sometimes from an early age. The Government prohibits forced and bonded labor by children, and the prohibition is respected (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Working conditions on many of the state-owned plantations—the largest wage employment sector—verge on the medieval. There is no legally mandated minimum wage. The average salary for plantation workers does not provide a decent standard of living for a worker and family, and the real value of their pay is constantly eroded by high rates of inflation. In principle, workers and their families are provided free (but inadequate) housing, rudimentary education for their children, and health care, as well as the privilege of reduced prices and credit at the "company store." These arrangements are intended to subsidize food and clothing. However, corruption is widespread, and international lending institutions have criticized the Government for ineffective administration of these subsidies. Workers often are forced to pay higher prices on the parallel market to obtain the goods theoretically provided at a discount as part of their compensation.

The legal workweek is 40 hours with 48 consecutive hours mandated for a rest period, a norm respected in the modern wage sector. The 1979 Social Security Law prescribes basic occupational health and safety standards. Inspectors from the Ministry of Justice and Labor are responsible for enforcement of these standards, but their efforts are ineffective. Employees have the right under the law to leave unsafe working conditions.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

SENEGAL

Senegal is a moderately decentralized republic dominated by a strong presidency. President Abdou Diouf, who has been in office since 1981, was reelected to a 7-year term in 1993. Credible international observers reported favorably on the registration, campaigning, and polling phases of that election, and stated that observed irregularities in those phases did not materially affect the outcome; however, in the vote tabulation phase, the National Tabulation Commission could not reach consensus and its head resigned, indicating pressure from the Government. Members of the President's Socialist Party (PS) have occupied the presidency and dominated the unicameral legislature since independence from France in 1960, although opposition parties have been legal. In 1998 the Government amended the Constitution to create a second legislative chamber, a Senate, in which the President appoints

one-fifth of the members, and an electoral college consisting largely of elected local and regional government officials choosing most of the others. In protest of this electoral system, most of the opposition parties boycotted the first senatorial elections held by the Government in January. The ruling Socialist Party won all seats in this election and the Government formally inaugurated the Senate in February. In May 1998, the PS won 50 percent of votes cast and 93 of 140 seats in elections for an expanded National Assembly. Unlike previous elections, these were supervised by a National Election Observatory (ONEL), independent of the Government. Although the elections were marred by violence and by persistent flaws in the electoral system, and although most international observers were not permitted to monitor them, they apparently were generally freer and significantly more transparent than previous elections. This included both the 1993 national elections and the country's first regional and local elections held in 1996, which were characterized by irregularities and fraud. Prior to the elections in March 1998, the Senegalese Democratic Party quit the Cabinet. In July 1998, President Diouf appointed a 32-member cabinet that included only 1 minister from an opposition party. The Government continued to implement decentralized regional and local administrations. Sporadic fighting continued in the Casamance area in the southern part of the country between the Government and the secessionist Movement of Democratic Forces in the Casamance (MFDC). In January the Government and the leadership of the MFDC began a new peace initiative with a meeting between President Diouf and MFDC head Abbe Augustine Diamacoune Senghor. The MFDC leadership then held a conference—the "days of reflection"—in Banjul, the Gambia, in June to develop a unified position for advancing the peace process. On December 26, the Government and MFDC leaders met in the Gambia to begin negotiations on the future of the Casamance. During these talks, the two parties agreed to an immediate ceasefire in the Casamance. The parties also agreed to meet face to face at least once a month to negotiate a peaceful future for the region. At year's end, neither side had a concrete proposal to bring to the negotiating table; however, the parties developed a framework for discussion. The judiciary is independent, but subject in practice to government influence and pressure.

The armed forces are professional and generally disciplined. They traditionally remain aloof from politics and are firmly under civilian control. The paramilitary gendarmerie and the police are less professional and less disciplined. Some members of the security forces, the gendarmerie, and the police continued to commit serious human rights abuses.

The country is predominantly agricultural with about 70 percent of the labor force engaged in farming. Recorded gross domestic product (GDP) per capita is estimated at about $600 a year, but this excludes a large informal economy. Since the devaluation of the CFA franc in 1994, the Government has implemented a series of economic policy reforms to enhance competitiveness by dismantling monopolies, liberalizing markets, and privatizing several state-owned industries. Recorded GDP per capita has grown at an average rate of between 2 and 3 percent a year since 1995. Exports account for about one-third of recorded GDP, and are led by fish and fish products, phosphates and fertilizers, tourism, and peanuts. The Government continued to receive external assistance from international financial institutions and other sources, and such assistance represents an important part of the national budget.

The Government respected the rights of its citizens in some areas, but its human rights record was marked by serious problems in other areas. The Socialist Party's continued domination of political life calls into question the extent to which citizens can meaningfully exercise their right to change the Government. The ONEL improved transparency in the May 1998 legislative elections; however, persistent flaws in the electoral system remain. The Government's creation of a second legislative chamber, no members of which are to be elected directly by the citizenry and one-fifth of the members of which are to be appointed by the President, also reduced the ability of citizens to change their Government and increased the presidency's domination of the State. There were reports that security forces committed extrajudicial killings and were responsible for disappearances. Police tortured and beat suspects during questioning, and arbitrarily arrested and detained persons.

Prison conditions are poor, and lengthy pretrial detention is a problem. The Government rarely tries or punishes members of the military, gendarmerie, or police for human rights abuses. The judiciary is subject to government influence and pressure and suffers from low salaries and insufficient resources. In the past, the police sometimes infringed on citizens' privacy rights. There were several instances in which the Government limited freedom of assembly. Domestic violence and discrimination against women, female genital mutilation, and child labor remained problems, although during the year the Government enacted important legal reforms to provide greater protection for women and children. Mob violence also is a problem.

Rebel MFDC forces reportedly were responsible for killings and torture.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of political killings by government officials; however, government forces reportedly were responsible for extrajudicial killings, including some civilian deaths. The incidence of violence in the southern Casamance region declined in the first half of the year after President Diouf and Abbe Diamacoune, leader of the MFDC rebel group, held a meeting in January in the regional capital of Ziguinchor to open dialog on a peaceful solution to the conflict. This calm continued to be marred by occasional acts of violence allegedly carried out by government forces. According to local press reports, on April 1, acting on a lead, government security forces stormed a house in the town of Thionck Essyl in the department of Bigona in search of suspected MFDC members. They shot and killed a young man who was fleeing from the house. This same report claimed that the deceased and his family had no connection with the separatist rebels.

In its annual report issued in July, the African Assembly for the Defense of Human Rights (RADDHO–a local human rights organization) claimed that on June 3, in response to a rocket launch attack by MFDC rebels on civilian targets in Ziguinchor, including the airport, government security forces took action to locate rebels in the surrounding area. During this clean-up operation, the security forces killed several persons suspected of rebel activity and also arrested several others whose whereabouts are now unknown. The RADDHO report further claimed that in a follow-up operation, government security forces used artillery fire to dislodge MFDC rebels in the areas of Nyassia, Niaguiss, and Mandina Mancagne. In the process, the security forces hit civilian targets and killed several civilians (see Section 1.g.).

While there were no new reported cases of death caused by civilian authorities this year, cases from previous years remained unsolved. In December 1997, a child was shot and killed in the Hann area of Dakar when police opened fire on a group that was demonstrating against an eviction order. In February 1998, police officers from the Thiaroye station in Dakar arrested and beat a young man after he tried to flee during an identity verification check. The young man died before receiving medical care, and the authorities listed the cause of death as natural. With the help of RADDHO, families of both of the deceased individuals filed legal complaints. According to RADDHO, the investigations in both cases still are pending, and in the latter case, did not begin until a full year after the death.

Forces belonging to the MFDC separatist group also were suspected of causing civilian deaths during the year. In a report on the Casamance published in June, Amnesty International (AI) charged that the MFDC rebels committed killings and torture of dozens of civilians. According to AI, MFDC guerillas, who belong mainly to the Diola ethnic group, occasionally targeted members of other ethnic groups, such as the Mandingo, Balante, Manjak, and Mancagne, whom they viewed as unsympathetic to their cause. AI also charged that MFDC shelling killed civilians (see Section 1.g.). According to AI, the MFDC also executed government security forces it had taken prisoner.

In January three members of the MFDC allegedly attacked several persons in Gambissara, killing a Mauritanian merchant and his son.

In its annual report, AI reported that in February MFDC rebels killed seven fishermen in the village of Saloulou and, in a separate incident, killed six persons in the village of Singuere. In both cases the rebels allegedly killed the villagers because of their support for government authorities.

MFDC rebels allegedly shelled civilian targets between April and June, injuring 11 persons and killing 6 (see Section 1.g.).

In a February 1998 report, AI alleged that several mass graves for victims of extrajudicial killings exist in Niaguis and at Niamalang bridge. According to AI, an unknown number of civilians have been killed by civilian authorities or soldiers and have been buried secretly in these mass graves since the early 1990's. There has been no independent confirmation of these allegations.

On many occasions vigilante groups and mobs lynched suspected thieves. According to press reports quoting a government official, vigilante violence increased during the year. In July alone, the Government recorded 30 cases of mob violence against suspected thieves in Dakar. During the year there was also at least 1 credible report of the use of "necklace punishment," whereby a gasoline filled tire was put over the head of the mob's victim and set on fire. This and other types of mob violence generally remain unpunished.

b. *Disappearance.*—There were no reports of politically motivated disappearances during the year. However, there were several credible reports of disappearances in connection with the conflict in the Casamance. In its 1999 annual report, RADDHO accused security forces of responsibility for the disappearance of seven civilians in June after a military clean-up operation following a rebel mortar attack in Ziguinchor (see Section 1.a.).

RADDHO also alleged that following fighting in the Casamance in April, the military rounded up 15 suspected MFDC rebels and detained them for several days. Most of the suspected rebels were released after 4 days; however, three persons remained unaccounted for at year's end (see Sections 1.c. and 1.d.).

In September a group of Casamance professionals helped family members of two missing individuals file legal complaints against security forces for abduction. According to the complaint, on July 18, security forces took a young man, Alexis Etienne Diatta, from his house in the Tile central area of Ziguinchor. The abduction was witnessed by his father, who was beaten when he tried to stop it. The father claims that a military authority told him that Alexis was taken for having treated rebels in his job with the Red Cross. On August 4, a group of soldiers allegedly abducted Jean Diandy and Gaston Sagna. According to Sagna, who was released shortly thereafter, the soldiers took Diandy to the military camp in Ziguinchor. The families of both Diatta and Diandy reported the disappearances to civilian authorities, who were unsuccessful in finding any trace of either person. Government investigations into both disappearances reportedly are underway.

RADDHO also alleged that government security forces abducted two civilians in September and December 1998 respectively. Their whereabouts remain unresolved.

Disappearances reported in previous years by RADDHO and AI remain unresolved.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There are credible reports that police and gendarmes often beat suspects during questioning and pretrial detention, in spite of constitutional prohibitions against such treatment. The press repeatedly reported instances of torture perpetrated by police, usually beatings, and the problem remained a serious public concern. The 1999 AI report charged that security forces committed torture in the Casamance in 1998 (see Section 1.a).

On March 7 and 15, police officials forcibly dispersed unauthorized student demonstrators who were calling for more government scholarships from the campus of Dakar University. According to press reports and student witnesses, after breaking up the demonstrations police stormed student dormitories, beat up the occupants, and smashed windows and other property (see Sections 2.a. and 2.b.).

In June police forcibly dispersed a demonstration by opposition political parties and slightly injured an opposition leader (see Section 2.b.).

According to RADDHO, prison officials beat at least some of the 15 suspected MFDC rebels who were detained by police after fighting broke out in the Casamance in April (see Sections 1.b. and 1.d.).

Government action to resolve the October 1998 case of alleged rough, abusive, and inhuman treatment of RADDHO's Casamance regional office head, Ankilling Diabone, by security forces remained pending during the year. According to RADDHO, the Government opened an investigation that it could not complete without interviewing Diabone, who went to France and has declined to return.

Despite stronger legal provisions against torture put in place in 1997, the Government rarely undertakes investigations or prosecutes officials allegedly responsible for such acts. Those cases that are pursued often take years before final judgment is reached. There has been no progress in the case of the two police officers arrested in 1996 for torturing a suspect by spraying paint thinner on his buttocks and setting him on fire.

The special AI report on the Casamance issued in June charged the MFDC with beatings and other acts of violence against civilians. According to AI, dozens of civilians, including women and children were killed, tortured, and subjected to inhuman treatment by the MFDC.

Prison conditions are poor. Prisons remain overcrowded, and food and health care are inadequate. However, there have been no reports of deaths in prison as a result of these conditions.

The Government permits prison visits by independent human rights monitors. Local human rights groups such as RADDHO, the National Organization for Human Rights (ONDH), and the International Prison Observatory sometimes visit prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the authorities at times violate these constitutional prohibitions.

The law specifies that warrants, issued by judges, are required for arrests. However, laws also grant the police broad powers to detain prisoners for lengthy periods. Police officers may hold without charge a person suspected of a crime for 48 hours after arrest and for up to 96 hours if ordered by a public prosecutor. This period may be doubled in the case of crimes against the security of the State. The prosecutor decides whether to forward the case to an investigating judge who may open an investigation. At this point, the suspects are charged preliminarily and may be held or released on their own recognizance. There is a system of bail, but it rarely is used. During the initial 48 hours of detention the accused has no access to family or an attorney, but has the right to demand a medical exam. Government-sponsored legislation passed in January enhanced the rights of the accused by according the right to an attorney after this initial period of detention. Previously this right was accorded only after formal charges were filed. The accused may be held in custody for 6 months, and the investigating magistrate can certify that an additional 6-month extension is required. Such extensions may be reviewed by a court on appeal. The new legislation also gave judges the right to order release pending trial without the prosecutor's consent.

Police rarely are prosecuted for violations of arrest and detention procedures, and the authorities may detain a prisoner for long periods of time while they investigate and build a case against a suspect. The authorities routinely hold prisoners in custody unless and until a court demands their release. Despite the 6-month limitation on detention, the time between the charging phase and trial averages 2 years. In a 1998 effort to improve the administration of justice the Government recruited 48 law school graduates to be trained as magistrates over a 2-year period.

On April 8, military personnel arrested three soldiers who participated in a demonstration several days earlier protesting the Government's failure to pay them for their recent military service in the Central African Republic (see Section 2.b.).

Following fighting in the Casamance in late April, the military rounded up 15 persons with Diola names on suspicion of involvement with the MFDC. All but three of these prisoners were released within 4 days; however, three remained unaccounted for at year's end (see Sections 1.b. and 1.c.).

A July 1998 work-to-rule strike by electrical union workers that caused severe power outages resulted in charges of sabotage against the union and the arrests of union leader Mademba Sock and 26 other persons. They were held incommunicado for 3 days and detained for 5 days without charges. A subsequent trial resulted in a judge sentencing Sock and one of his aides to 6 months' imprisonment for conspiracy to disrupt law and order, but dismissing charges against 25 others after they had been detained for 5 months. Sock and the aide appealed their convictions after the sentence handed down by the lower court had been served almost fully. The Court of Appeals upheld the conviction. Sock and the aide were released in January after serving their 6-month sentences.

On February 12, the Government released 123 suspected MFDC members who had been detained in Dakar, Ziguinchor, and Kolda without trial, some for several years, on grounds of compromising or plotting against the security of the State. The courts ordered their release following the January meeting between President Diouf and MFDC leader Abbe Diamacoune, which was the beginning of an effort to establish a peace process in the Casamance. The MFDC had demanded the release of all political detainees in connection with the Casamance conflict as a condition for dialog. According to an AI report issued in June, 110 suspected MFDC rebels remained without trial in prisons throughout the country; however, on December 30 the Government released 44 persons who had been detained in connection with the Casamance conflict.

In January the National Assembly passed legislation to eliminate the law that held "acts or maneuvers aimed at casting discredit on government institutions" as criminal offenses punishable by imprisonment of 3 to 5 years and a fine of up to $2,500 (1.5 million CFA francs). Legal experts considered this provision to be a legal instrument that the Government could use to jail political dissenters. On a few occasions in the past the Government had jailed opposition leaders under this provision, apparently on the basis of their political activities.

The Constitution prohibits exile, and it is not used.

e. *Denial of Fair Public Trial.*—The Constitution provides for a judiciary independent of the executive, the legislature, and the armed forces; however, magistrates are vulnerable to outside pressures due to low pay, poor working conditions, and family and political ties. Also, the Minister of Justice and subordinate authorities have extensive authority to influence judicial procedures by keeping the accused in pretrial detention.

The legal system is based on French civil law and is composed of ordinary courts and a number of higher and special courts, including the three created in May 1992

to replace the Supreme Court: The Council of State for Administrative Questions; the Constitutional Council; and the Court of Final Appeal. These courts remain understaffed, and many of the special courts, including one to deal with unlawful enrichment and others to try government officials for treason and malfeasance, are dormant. Muslims have the right to choose customary law or civil law for certain civil cases, such as those concerning inheritance and divorce. However, customary law decisions are rendered by civil court judges. There is a separate system of military courts for members of the armed forces and the gendarmerie. The right of appeal exists in all courts except military courts and the special Unlawful Enrichment Court. Military courts may try civilians only if they are involved in violations of military law committed by military personnel.

In principle the accused is innocent until proven guilty, and when brought to trial it is the State's burden to prove that the accused is guilty of the charges. Trials are public, and defendants have the right to be present in court, to confront witnesses, to present evidence, and to have an attorney. However, some defendants are denied legal assistance at public expense due to a lack of funding. Evidentiary hearings may be closed to the public and the press, but the defendant and his lawyer have access to all evidence presented and may introduce their own evidence before the investigating judge decides to refer the case to the prosecutor for trial. A panel of judges presides over ordinary courts for both civil and criminal cases; in criminal cases citizens also serve on the panel.

There were no reports of political prisoners at year's end. In March a court in Dakar sentenced Talla Sylla, leader of the Jeff Jel opposition party, to 6 months in jail for having insulted the Head of State. Two other charges, inciting insurgency and spreading false news, were dropped. Sylla had been arrested and jailed in 1998 after telling a political rally that "the Socialist Party is led by Abdou Diouf whose policies are criminal and detrimental to the survival of our people." Sylla was released shortly after sentencing due to the length of his pretrial detention.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary invasion of the home, and there was little government interference in the private lives of citizens. The law requires search warrants, and only judges may issue them. However, in past years, during high-profile or politically charged investigations, police often proceeded without the required search warrants. There were no reports of this during the year.

There were no reports that government officials monitored mail or telephone communications without judicial authorization.

MFDC rebels sought to collect supplies and money from civilians.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—RADDHO reported in July that government security forces hit civilian targets with artillery fire and killed several civilians (see Section 1.a.).

According to RADDHO, MFDC rebels fired rockets at civilian targets in Ziguinchor in June (see Section 1.a.).

MFDC rebels allegedly shelled civilian targets between April and June, killing 6 and injuring 11 civilians (see Section 1.a.).

In its annual report published in July, RADDHO alleged that MFDC rebels were responsible for the widespread and indiscriminate use of land mines in the Casamance. According to RADDHO the rebels planted the mines in an effort to terrorize both the government security forces and the civilian population. Although it was difficult to determine the extent of their use in the Casamance, RADDHO claimed that up to 80 percent of the arable land in the areas of Ziguinchor, Sedhiou, Oussouy, and Bignona were unusable due to the land mines. RADDHO also estimated that between 1997 and 1998 land mines killed and injured some 500 civilians in the Casamance.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Laws prohibit the press from the expression of views that "discredit" the State, incite the population to disorder, or disseminate "false news." In 1997 the Dakar Prosecutor General charged the publisher and three journalists of Sud Quotidien, a privately owned daily newspaper, with "disseminating false news" and "insulting the Head of State." The paper had criticized President Diouf for attempting to influence the judiciary by holding a nationally televised awards ceremony to honor two businessmen 5 days before the Court of Appeals was due to return its decision on a defamation case those businessmen had brought against the newspaper's parent company, Sud Communication. This defamation suit resulted in a fine of $800,000 (500,000,000 CFA francs), which was upheld in June by the final Court of Appeals. However, neither the plaintiff nor the Government made any effort to enforce this

decision. The separate but related criminal case against the three Sud Communication journalists still was pending trial, and the three accused remained free on bail.

A broad spectrum of thought and opinion is available to the public through regularly published magazines and newspapers, including foreign publications. Political and economic views expressed in the independent press often are critical of the Government and its programs. While publishers are required to register prior to starting publication, the Government routinely approves such registrations.

Radio, being relatively inexpensive, remained the most important medium of mass information and the main source of news for citizens outside urban areas. Five privately owned radio stations broadcast within the country; of these, four are owned by citizens of the country. There are also three international stations that rebroadcast within the country. In January a new independent station in Dakar, 7 FM, began broadcasting nationwide. Another independent and locally owned station, Diamono, began broadcasting in the Dakar region only, along with two community-owned radio stations in Pikine and Keur Momar Sarr. All of the locally owned stations broadcast national news and political commentary. Some of them often were critical of the Government, and no harassment was reported. Prior to December, the state radio and television company retained a monopoly in the allocation of frequencies and licensing of private radio stations, and independent stations had to pay fees to the state company, which infringed on the principle of free competition. However, in December the Government transferred this authority from the state company to an independent agency.

A government monopoly controls local television, an important source of news. While there are no privately owned domestic television stations, French-owned pay television is available but offers no local news.

On August 1, in the city of Thies, some followers of a local Islamic leader belonging to the Mouride Brotherhood set fire to the bedroom of the local correspondent of a Dakar-based daily newspaper. They allegedly were angry over an article that the journalist had written that was published on July 30. The article reported that the religious leaders had initiated a failed mediation between two rival local leaders of the ruling Socialist Party. While the Government opened an investigation, there were no arrests or criminal charges brought against those responsible. The journalist initially pressed civil charges but later withdrew them after reportedly reaching an out-of-court settlement.

At year's end, at least seven Internet service providers operated in the country. The Government did not restrict access to the Internet. A personal account with unlimited access time cost about $18 (10,000 CFA francs) per month. Several cybercafes in the capital city, Dakar, provided short-term access to the Internet that was used by many persons unable to afford personal accounts.

Academic freedom is generally respected. However, student meetings on part of the campus of the University of Dakar are banned informally (see Section 2.b.), ostensibly to prevent militant student groups from disrupting classes and studies. In March on two occasions, police forcibly dispersed, and destroyed the property of, students demonstrating on the campus of Dakar University in favor of increased scholarships (see Sections 1.c. and 2.b.). In December police personnel also forcibly dispersed similar protests by students demanding immediate payment of scholarships (see Section 2.b.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and while the Government generally respected this provision in practice, there were several instances in which the Government limited this right. The Government requires prior authorization for public demonstrations, which it usually grants. Meetings by students on the academic campus of the University of Dakar are banned informally, but this prohibition does not extend to the dormitory areas of the campus.

In March and December police officials forcibly dispersed two unauthorized student demonstrations (see Sections 1.c. and 2.a).

In April between 40 and 50 recently returned from duty with MINURCA, the U.N. multinational peacekeeping force in the Central African Republic, barricaded one of Dakar's main thoroughfares, bringing traffic to a halt for 3 hours; the soldiers demanded payment of the allowances to which they were entitled for their military service in MINURCA. Several days later, military police agents arrested three soldiers who participated in this protest (see Section 1.d.).

During the year, the Government frequently denied authorization for public demonstrations by unions or political parties. On February 3, police dispersed a sit-in at the Ministry of Communication organized by the National Journalists' Union (SYNPICS). The leadership of SYNPICS claimed that it had complied with all legal procedures for holding the demonstration. On June 30, police forcibly dispersed a demonstration organized by opposition political parties to demand the resignation

of the newly appointed president of the National Observatory of Elections. Police detained and subsequently released four opposition leaders, including members of the National Assembly, slightly injuring one of them.

The Constitution provides for the right of association, and the Government generally respects this provision in practice. Citizens who wish to form associations must register with the Ministry of Interior. Business-related associations register with the Ministry of Commerce. By law and in practice, the Ministry of Interior must register such groups as long as the objectives of the association are stated clearly and they do not violate the law.

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

d. *Freedom of Movement Within the Country, Foreign Travel Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice. Some public employees, including teachers, are required by law to obtain government approval before departing the country, although this is not regularly enforced in practice.

At times, usually during sweeps for MFDC rebels, the security forces temporarily restricted access to the Casamance region or areas within it. The security forces also regularly maintained checkpoints in the Ziguinchor region to screen for MFDC rebels and arms transports. Security forces generally allowed travelers to proceed after checking documents and searching vehicles.

In January after President Diouf's meeting in Ziguinchor with the MFDC leader Abbe Diamacoune, the Government announced that it had lifted controls on his movement, although it continued to provide him with a close security escort, stating that it was for his own protection. In June the Government allowed Abbe Diamacoune and other members of the MFDC rebels to travel unhindered to Banjul in the Gambia for a conference-the "days of reflection"-on the peace process in the Casamance. At that conference, the MFDC set out as one of its preconditions for a continued dialog with the Government the unrestricted movement of its leader. In July the Minister of Interior met with Abbe Diamacoune in Ziguinchor and presented him with a valid Senegalese identity card and passport. In late July, Abbe Diamacoune again traveled to Banjul to meet with MFDC military leaders.

The law includes provisions for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Since 1989 as a country of first asylum, Senegal has hosted Mauritanian refugees. The Government cooperates with the UNHCR and other humanitarian organizations in providing assistance for refugees. The UNHCR reported no significant protection problems for these refugees. While no formal repatriation agreement exists with the UNHCR, the two governments have cooperated to permit repatriation for several years. As a result, the UNHCR terminated its assistance programs for Mauritanian refugees at the end of 1998, although it continued to provide protection services. The Mauritanian refugees generally live in dispersed locations along the length of the Sengalese-Mauritanian border and are allowed free movement within Senegal. However, most of these refugees are unable to obtain current refugee documents from the authorities and sometimes encounter administrative difficulties when using their expired refugee application receipts issued in 1989. Due to the lack of a formal and supervised repatriation, and in the absence of an up-to-date registration program, the exact number of remaining Mauritanian refugees is difficult to establish. The UNHCR estimates that under 30,000 remain in the country.

In June 1998, following the military rebellion in Guinea-Bissau, the country accepted up to 2,000 refugees, approximately 700 of whom the Government housed in a camp in Thies with the support of the UNHCR. After a coup d'etat brought an end to a standoff in that conflict in May, the UNHCR closed the camp and organized a repatriation, which returned over 800 refugees from Guinea-Bissau to their country. Others returned on their own, while several hundred chose to remain in Senegal, living with relatives or on their own.

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

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

Citizens have the constitutional right to change their Government through periodic multiparty elections; however, the Socialist Party's domination of political life—it has held power since independence—and irregularities and fraud in elections have called into question the extent to which citizens can meaningfully exercise this right. The Government's creation of a second legislative chamber, no members of which are to be directly elected by the people and one-fifth of the members of which

are to be appointed by the President, further reduced the ability of citizens to change their Government and increased the presidency's domination of the State.

In 1998 the National Assembly passed legislation proposed by the Government to increase its membership from 120 to 140 in order to equalize the number of deputies elected by simple majority vote in the districts and by proportional representation nationwide. In the May 1998 parliamentary elections, the ruling PS received 50.1 percent of the votes cast and secured 93 of the 140 seats. There are 35 legally registered parties. The 32-member Cabinet that President Diouf appointed in July 1998 included only 1 minor opposition leader.

Also in 1998, the National Assembly passed a bill that created a second legislative chamber, a 60-member Senate. Forty-five of its members are elected by an electoral college on the basis of dual proportional and majority systems and regional slates. The electoral college has 13,920 members consisting of elected local government officials and members of the National Assembly. The President appoints 12 members of the Senate and the remaining 3 are elected from slates representing several associations of expatriate Senegalese. Most major opposition parties decided to boycott the first Senate election held in January under this electoral system because the ruling party's domination of elected local and regional offices gave opposition parties little chance of winning Senate seats. With the exception of two minor party members who filled an appointed seat, the new Senate, inaugurated in February, is entirely made up of PS members.

In 1997 the Government created the National Observatory of Elections to supervise and oversee elections. The ONEL was established as a temporary, independent oversight body empowered to order bureaucrats to obey the law and to take legal action against individuals and parties who violated it. The Interior Ministry remains responsible for the actual organization and implementation of the elections, which is done through a directorate of elections. The ONEL significantly improved the level of transparency of the May 1998 National Assembly elections, despite persistent flaws in the system. The Government disbanded the ONEL after its mandate expired with the submission of its final postelection report to President Diouf. This comprehensive report identified areas for improvement to make the process more transparent, including an overhaul of the elections rolls and better control over the activities of the commissions responsible for voter registration and distribution of voter cards. The Government and opposition parties agreed to revise the election rolls but continued to disagree on proper procedures. Constitution of the election rolls in preparation for the presidential elections in February 2000 continued to generate political controversy during the year.

In April President Diouf established a new ONEL as required by the election law and appointed a retired army general as its president. The major opposition parties opposed this appointment, alleging in a legal complaint brought before the Council of State that President Diouf had violated the election law, which excludes from membership in the ONEL members of groups supporting, or direct relatives of, at least one candidate in the election. The opposition claimed that the general headed a group organized to support the reelection of President Diouf. After several months of legal proceedings and contentious public debate, the general, who denied membership in the group, resigned before the Council of State issued its legal ruling in the case. President Diouf subsequently appointed another ONEL president, Louis Pereira De Carvahlo, who was sworn in on July 30.

During the year, the ONEL investigated and took legal action in several highly publicized cases of document fraud related to the voter registration process. Due to the existence of the ONEL, the Government more stringently enforced the section of the electoral code governing the distribution of voter cards. The electoral code requires each person to pick up a voter card. However, this section of the code was not always enforced; in practice third parties were allowed to pick up voter cards, and they sometimes did not distribute them to the proper voter. At year's end, voters are required to pick up their own voter cards at sites that are monitored by members of ONEL and the political parties.

In December the ruling PS Government proposed introducing legislation that would amend the electoral code. The proposed changes would halt distribution of voter cards 48 hours prior to election day and would decrease the number of monitors present at each polling station. Due to strong opposition to these proposals, the Government had not yet introduced this legislation at year's end.

In 1996 the PS won control of all 10 regional governments and many local governments in the country's first subnational level elections, which were marked by credible allegations of widespread fraud and procedural irregularities, gerrymandering, illegal fundraising, and voter list manipulations. Due in part to the flaws in these elections, the Government's decentralization program has had limited success in defusing the secessionist rebellion in the Casamance region (see Section 5), which

continued to give rise to many abuses (see Sections 1.a. and 1.c.). Officials chosen in these widely flawed elections also made up the bulk of the 13,920-member Electoral College that chose most members of the newly created Senate in January.

Elections are held by balloting that is described officially as secret but may permit voters to leave the polling place with evidence of how they voted. At polling places on election day, registered citizens receive a package of ballot papers, one for each candidate. Each citizen votes by depositing into a sealed ballot box, alone inside a closed booth, an envelope containing one of these ballots. In the same booth, a trash receptacle is provided in which the voter may privately dispose of the unused ballots; however, polling officials cannot readily ensure that this is done. Nevertheless, despite apparent potential for abuse, this balloting system has not been the subject of complaints or reports of abuse in recent elections.

Women are underrepresented in the political process. While there are no legal impediments to their participation in government and politics, cultural and educational factors hamper them. In addition political parties often rank women low on party lists, making it difficult for them to be elected to the National Assembly or to be appointed ministers. Only 5 of the 32 ministers in the President's Cabinet are women, and there are only 2 women in the 19-member Economic and Social Council, the Government's policymaking body. During the year, a woman, Marieme Wane Ly, formed and headed a political party. In the past, no women headed political parties. Only 18 female deputies hold seats in the 140-member National Assembly. There are only 10 women in the newly elected 60-seat Senate. Women's lower representation reflects not only a disparity in education (see Section 5) but also cultural factors.

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

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and receptive to their views.

In the most recent national elections in May 1998, the Government declined offers of organizational and monitoring assistance from international organizations.

In 1997 the Government enacted a law to strengthen the National Committee on Human Rights. The Committee includes members from the Government and civic organizations, including private human rights groups. It may on its own initiative investigate human rights abuses, including torture, but it did not investigate any cases of abuse during the year.

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

The Constitution states that "men and women shall be equal in law" and prohibits discrimination based on race, religion, sex, class, or language. However, discrimination against women is pervasive, and the Government frequently does not enforce antidiscrimination laws.

Women.—There are credible reports that violence against women, usually wife beating, is common. Several women's groups have formed to address this problem. Police usually do not intervene in domestic disputes, and most people are reluctant to go outside the family for redress. In contrast, the law and society view rape as a very serious crime, and the law stipulates that persons convicted of rape may be imprisoned for up to 10 years. If the victim is a minor, her age is considered an aggravating circumstance. Rape trials often result in convictions. In January the Government passed legislation amending the criminal law to make sexual harassment a crime punishable by imprisonment of up to 3 years and a fine of $88 (500,000 CFA francs). The legislation also increased the potential fine to $833 (500,000 CFA francs) and the length of imprisonment for domestic violence to 5 years.

Despite constitutional protections, women face extensive societal discrimination, especially in rural areas where Islamic and traditional customs, including polygyny and Islamic rules of inheritance, are strongest, and women generally are confined to traditional roles. By law, women have the right to choose when and whom they marry; however, in some areas, traditional practice can restrict a woman's choice. There is no minimum age of consent to marry, marriages are sometimes arranged in some communities, and in polygynous unions women do not have the right of notification or approval prior to a subsequent marriage. In the countryside, women perform much of the subsistence farming and child rearing and have limited educational opportunities. Although the Government has committed itself to equalizing male and female primary school enrollment, there is still much social and official discrimination against women in educational opportunities. Only 23 percent of fe-

males over 15 years of age are literate, while the rate for males over age 15 is 43 percent.

It is estimated that only 20 percent of women are engaged in paid employment. Moreover, traditional practices make it difficult for women to obtain bank credit. Due to the fact that legally men are considered heads of household, women pay higher taxes than men for equal wages and employers pay child allowances to men and not women. Women usually marry young (the majority by age 16 in rural areas) and average 5.7 live births (down from 7 in 1995). About half of all women live in polygynous unions.

In urban areas, women encounter somewhat less discrimination and are active in government, political life, the legal profession, and business. About 14 percent of lawyers are women. Urban women are more likely to take advantage of the Government's efforts to increase respect for women's legal rights to divorce, alimony, and child support, and to seek education and employment. In general urban women receive equal pay for equal work.

In September 1998 the Ministry of Family, Social Action, and National Solidarity announced plans to create a national center for women's rights. The decision arose from a ministry-sponsored workshop on the promotion of the legal status of women and elimination of all forms of discrimination. The Observatoire National des Droits de la Femme (ONDF), as the center is to be called, has as its mandate the "control, protection, and promotion of the status of women and girls; information, education, and awareness." It is to have members from both the Government and civil society.

Children.—The Ministry of Family, Social Action, and National Solidarity, established in 1990 (formerly the Ministry of Women, Children, and the Family, and renamed in 1998), is responsible for promoting children's welfare. Numerous organizations assist the Ministry in support of children's rights, including the Ministry of Health, which maintained a nationwide effort focusing on child survival. The Government continues to increase the number of classrooms and encourage more children, particularly females, to enter and stay in school. The law requires that children attend school until age 12, but this is not enforced due to a shortage of schools. Organized street begging by children who are Koranic students results in a significant interruption of their education, and many children work in their family's fields (see Section 6.d.).

In January the Government passed legislation banning the practice of female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health. The law made FGM a criminal offense carrying a jail term ranging from 6 months to 5 years for persons directly practicing FGM or ordering it to be caried out on a third person. Most human rights organizations considered the law to be a decisive step towards greater protection of women. However, a few women's rights activists criticized the new legislation because they perceived it as being dictated by Western donors. A few Muslim religious leaders also criticized the law because they consider FGM to be a religious practice. While the Government sponsors programs to educate women regarding the dangers of FGM, other critics of the new law contended that these programs should have been more widespread prior to implementation of the ban. On July 27, the public prosecutor in Tambacounda ordered the arrest of the grandmother and mother of a 5-year-old girl following a complaint filed by the girl's father alleging that the two women had ordered FGM performed on his daughter. The FGM practitioner also was charged.

FGM is not practiced by the country's largest ethnic group, the Wolofs (representing 43 percent of the population), but it is performed on girls belonging to some other ethnic groups. Infibulation, the most extreme and dangerous form of FGM, is practiced by members of Toucouleur and Peulh ethnic groups, particularly those in rural areas. Unsubstantiated recent studies estimate that between 5 and 20 percent of girls undergo the procedure.

In January the Government passed a law mandating longer jail terms of up to 10 years for convicted pedophiles.

People With Disabilities.—There are no laws that mandate accessibility for the disabled, and in practice most persons with disabilities are generally unable to participate in many occupations due to physical barriers and a lack of equipment and training opportunities that would make such participation possible.

National/Racial/Ethnic Minorities.—The country is ethnically diverse. The largest ethnic groups are the Wolof (more than 40 percent of the country's population), the Pular (also called Peuhl or Fulani, nearly 25 percent), and the Serer (more than 15 percent). Other smaller groups include the Diola, Mandink, and Soninke. Each group has its own primary language although French and Wolof are widely used as secondary languages. While general regions of origin can be identified for most ethnic groups, these regional separations are no longer distinct.

In most of the country, ethnic and regional tensions have not contributed significantly to recent human rights abuses, and opposition to the Government has generally taken the form of nonviolent political parties that have not had readily identifiable ethnic or regional bases. This has not been true in the Casamance region, the part of the country to the south of The Gambia. Casamance is substantially less arid, less Islamic, and less Wolof than the rest of the country to the north of The Gambia. Resentment on the part of Casamance groups including the Diola of domination by northerners including the Wolof reportedly has contributed significantly to the secessionist MFDC rebellion in the Casamance region, which began in 1982 and has continued to give rise to many human rights abuses (see Sections 1.a. and 1.c.). Flaws in the country's first local and regional elections, held in 1996, have reduced the effectiveness of the Government's ongoing decentralization program in accommodating aspirations for greater regional and ethnic autonomy.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the Labor Code provide all workers with the right of association, and they are free to form or join unions.

Any group of workers in the same occupation, similar trades, or the same professions may form a union. While the Ministry does not always grant initial recognition to a union, once it gives recognition, the Ministry virtually never withdraws it. However, the Government may disband a union if its activities deviate from its charter. The Labor Code does not apply to the informal and agricultural sectors where most persons work.

Although they represent a small percentage of the working population, unions wield significant political influence because of their ability to disrupt vital sectors of the economy. The small industrial component of the total work force of 4 million is almost totally unionized. The only union in the agrarian sector is one representing workers at a privately owned sugar company. Some farmers are organized into the National Farming Association, an advocacy organization.

The National Confederation of Senegalese Workers (CNTS), the largest union organization, has close ties to the ruling Socialist Party, and union members hold a considerable number of government positions. One is a PS minister, and several others hold PS seats in the Assembly. While ostensibly an independent organization, the umbrella CNTS consistently supports government policies.

The rival to the CNTS is the National Union of Autonomous Labor Unions of Senegal (UNSAS). The UNSAS is a federation of strategically important unions such as those formed by electrical workers, telecommunication workers, teachers, water technicians, and hospital, railroad, and sugar workers.

The Constitution and the Labor Code provide for the right to strike, but with restrictions. Unions representing members of the civil service must notify the Government of their intent to strike no less than 1 month in advance, and private sector unions must make a similar notification 3 days in advance. The Government or the employer can use the time to seek a settlement to the dispute but cannot stop the strike. There were numerous legal strikes during the year. In late June, a loose confederation of nine trade unions called the country's first nationwide strike since 1993. Workers demanded a salary increase, lower taxes, and the creation of a national health fund. The 2-day strike was peaceful and the Government acceded to most of the workers' demands. Regulations prohibit employers from retaliating against legal strikes, and these regulations are enforced through the labor court.

The Labor Code permits unions to affiliate with international bodies. The CNTS is active in regional and international labor organizations and is the dominant Senegalese member of the Organization of African Trade Union Unity.

b. *The Right to Organize and Bargain Collectively.*—The law provides unions with the right to organize and to bargain collectively, and these rights are protected in practice. There are also legal prohibitions governing discrimination by employers against union members and organizers. Employers found guilty of antiunion discrimination are required to reinstate workers. There were no known instances in which workers were prevented from exercising the right to organize and bargain collectively. The Ministry of Labor can intervene in disputes between labor and management if requested, and it plays a mediation role in the private and state enterprise sectors.

Labor laws apply to all industrial firms including those in the Dakar industrial free trade zone.

c. *Prohibition of Forced or Compulsory Labor.*—There were no reports of forced labor, which is prohibited by law. The Constitution prohibits child labor of all kinds, and the Government enforces this ban in the formal sector. There is no evidence that forced or bonded child labor takes place in the informal or agricultural sectors.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bans child labor of all kinds, and the Government enforces this ban in the formal sector, which is under the purview of the labor law. There is no evidence that forced or bonded child labor takes place in the informal or agricultural sectors (see Section 6.c.). However, instead of attending school, many children work in their family's fields.

The minimum age for employment is 16 years for apprenticeships and 18 for all other types of work. Inspectors from the Ministry of Labor closely monitor and enforce these restrictions within the small formal wage sector, which includes state-owned corporations, large private enterprises, and cooperatives. However, children under the age of 16 frequently work in the much larger traditional or informal sectors, such as family farms in rural areas or in small businesses, where the Government does not enforce minimum age and other workplace regulations.

e. *Acceptable Conditions of Work.*—Legislation mandating a monthly minimum wage has been in force since the country's independence in 1960. The Ministries of Labor and Finance determine wage rates after negotiating with the unions and management councils. As a result of negotiations held in September, the minimum wage increased by 7 percent. At $0.37 (223.7 CFA francs) per hour it is still not adequate to provide a decent standard of living for a worker and family.

Within the formal sector, the law mandates a standard workweek of 40 to 48 hours for most occupations, with at least one 24-hour rest period and 1 month per year of annual leave; enrollment in government systems for social security and retirement; safety standards; and a variety of other measures. These regulations are incorporated into the Labor Code and are supervised by inspectors from the Ministry of Labor. However, enforcement is uneven, especially outside the formal sector.

There is no explicit legal protection for workers who file complaints about unsafe conditions. While there are legal regulations concerning workplace safety, government officials often do not enforce them. In theory workers have the right to remove themselves from unsafe working conditions, but in practice the right seldom is exercised in circumstances of high unemployment and a slow legal system.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

SEYCHELLES

President France Albert Rene and the Seychelles People's Progressive Front (SPPF) have governed since a 1977 military coup. In the 1990's, the SPPF guided the country's return to a multiparty political system, which culminated in 1993 in the country's first free and fair presidential and parliamentary elections since 1977. President Rene and the SPPF won in 1993 and again in 1998 elections. In 1998 Rene was reelected president with 67 percent of the ballots cast. The SPPF won 30 of the 34 National Assembly seats, 24 by direct election and 6 by proportional representation. The President and the SPPF dominate the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. The judiciary is subject to executive interference.

The President has complete control over the security apparatus, which includes a national guard force, the army, the Presidential Protection Unit, the coast guard, the marines, and the police. There is also an armed paramilitary Police Mobile Unit. Security forces on occasion were responsible for some human rights abuses.

The economy provides the country's 80,410 residents with an average per capita income of more than $6,800 per year and generally adequate social services. The Government in recent years has diversified the economy by increasing the revenues received from fishing rights and investing in the fish processing sector with foreign joint partners in order to move the economy away from its heavy reliance on tourism. Manufacturing now has surpassed tourism as the most important economic activity. However, no significant investments were made during the year. Overall growth remained sluggish largely due to shortages of foreign exchange and the pervasive presence of inefficient state enterprises. There was no progress toward privatization during the year. The country's application to join the World Trade Organization has forced it to consider reforming its trade and foreign exchange regimes; however, it has made few substantive changes to date.

The human rights situation improved somewhat; however, problems remained in several areas. President Rene, whose party dominates the legislature, continued to wield power virtually unchecked. Security forces arbitrarily arrested and detained citizens; however, such actions were limited to detention during the weekend in order to avoid compliance with the Constitution's 24-hour "charge or release" provi-

sion. The Government failed to investigate or punish those involved in the violations of citizens' human rights during a law enforcement crackdown in 1998. The judiciary is inefficient, lacks resources, and is subject to executive influence. Violence against women and child abuse remained problems. Discrimination against foreign workers also was a problem.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly forbids torture, and there were no reported instances of the use of torture by the police or the army. However, the Government has failed to investigate or punish those members of the security forces who allegedly tortured suspects in custody in 1998. Several cases have been brought against the Government and the army by individuals who claimed to have been detained illegally and tortured. The Supreme Court has postponed hearing these cases until 2000. In November a citizen fled to another country and sought refugee status, claiming that members of the security forces harassed him because they believed that he maintained documentation of human rights abuses by the security forces.

One high-ranking officer and a constable were found guilty of assault after an incident on March 4, 1998, at the interisland quay in Victoria. Both are serving their sentences at the Long Island prison. As a result, the Special Supporting Unit of the police is now on duty at Long Island prison to maintain order with two convicted police officers among the prison population. Conditions at the Long Island prison are Spartan. Family members are allowed monthly visits, and prisoners have access to reading but not writing materials.

There is no regular system of independent monitoring of prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that persons arrested must be brought before a magistrate within 24 hours with allowances made for boat travel from distant islands. The law provides for detention without charge for up to 7 days if authorized by court order. Defense attorneys assert that extended periods of detention under harsh conditions are used to extort confessions from suspects. While there have been fewer cases of arbitrary arrest or detention during the year, the police continued in some instances to detain individuals on a Friday or Saturday in order to allow for a longer period of detention without charge, thereby avoiding compliance with the Constitution's 24-hour "charge or release" provision. The police released such persons on a Monday before the court could rule on a writ of habeas corpus.

Detainees have the right to access to legal counsel, but security forces, in hopes of eliciting a confession or other information, sometimes withhold this right. Free counsel is provided to the indigent. Bail is available for most offenses.

Several persons have brought civil cases against the police for unlawful arrest or entry, with limited success. The military's Chief of Staff was subpoenaed in November 1998 to appear in court to answer charges of contempt of the Supreme Court concerning the continued illegal detention of a man who had been ordered released by the court. This case and several others, involving claims for damages related to illegal detention and torture, are expected to be heard by the court in 2000.

There were no cases of forced exile. Following the 1977 coup, a number of persons went into voluntary exile, and others were released from prison with the condition that they leave the country immediately. A number of these former exiles who returned to the country were able to reacquire their property; however, several claims remain in the court system.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it is inefficient, lacks resources, and is subject to executive interference.

The judicial system includes magistrates' courts, the Supreme Court, the Constitutional Court, and the Court of Appeal.

Criminal cases are heard by magistrates' court or the Supreme Court, depending on the gravity of the offense. A jury is used in cases involving murder or treason. Trials are public, and the accused is considered innocent until proven guilty. Defendants have the right to counsel, to be present at their trial, to confront witnesses, and to appeal. The Constitutional Court convenes weekly or as necessary to consider constitutional issues only. The Court of Appeal convenes three times per year for 2 weeks in April, August, and October to consider appeals from the Supreme Court and Constitutional Court only.

Defendants generally have the right to a fair trial. All judges are appointed for 7 years and can be reappointed by the President on the recommendation of the Constitutional Appointment Committee. All sitting judges were hired from other Commonwealth countries, and none are citizens, with the exception of the Chief Justice, who is a naturalized citizen. The Seychelles Bar Association has criticized the Government for not advertising domestically that judicial positions are available, since 30 citizens practice law either domestically or abroad. Some observers criticized expatriate judges for a perceived lack of sensitivity on issues such as human rights. Legal organs of the Government, such as the Attorney General's Office and the Ombudsman, are reluctant to pursue charges of wrongdoing or abuse of power against senior officials.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy and freedom from arbitrary searches. The law requires a warrant for police searches, and the authorities generally respected this requirement in practice. While in 1998 soldiers reportedly forcibly entered homes, and seized and detained citizens, no such incidents were reported during the year. The law requires that all electronic surveillance be justified on the grounds of preventing a serious crime and be approved by a judge. The Government maintains telephone surveillance of some political figures.

Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and are at a disadvantage when applying for government licenses and loans.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, but it also provides for restrictions on speech "for protecting the reputation, rights, and freedoms of private lives of persons" and "in the interest of defense, public safety, public order, public morality, or public health." Both freedom of speech and of the press thus are constrained by the ease with which civil lawsuits can be filed to penalize journalists for alleged libel. In most instances, citizens speak freely, including in Parliament.

The Government has a near monopoly in the media, owning the only television and radio stations, the most important means for reaching the public, and The Nation, the only daily newspaper. The official media adhere closely to the Government's position on policy issues and give the opposition and news adverse to the Government only limited attention. While both opposition parties publish an assortment of newsletters and magazines, only one significant opposition newspaper, the weekly Regar, is in circulation. Government officials have sued Regar for libel eight times in the last 4 years. The most recent suit, filed in March by the Minister of Land Use and Habitat for $190,000 (SRS 1 million) in damages, is scheduled to be heard in February 2000. Sixty percent of the requested damages are for trespassing by Regar photographers and 40 percent are for moral harm. The Minister obtained a court order forbidding Regar to publish photographs of his house, which was under construction at the time.

In February the National Assembly again rejected a motion presented by the leader of the opposition to reduce the license fee for a private radio or television station from $151,200 (SRS 800,000) per year to that of a newspaper publishing license, $760 (SRS 4,000) plus a bank guarantee of $19,000 (SRS 100,000). The motion was refused allegedly because the majority members feared the threat of defamation to the Government, not because of the political competition that an opposition radio station would generate.

Academic freedom is limited due to the fact that one cannot reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There are no universities; secondary school teachers largely are apolitical.

The Government controls access to the Polytechnic, the most advanced learning institution.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association, and the Government respected these rights in practice.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement, and there was no known abridgment of domestic or international travel. However, although it was not used to refuse a passport application, the 1991 Passport Act allows the Government to deny passports to any citizen if the Minister of Defense finds that such denial is "in the national interest." While the resident departure tax of $95 (SRS 500) is

payable in local currency, government foreign exchange regulations and the foreign exchange shortage hinder many citizens from being able to afford foreign travel, although they might have sufficient means in local currency. According to a new law in effect since May, citizens cannot possess any foreign exchange unless in possession of a receipt from a licensed foreign exchange vendor. Additionally, banks are providing only $95 (SRS 500) to a maximum $400 (SRS 2100) to those departing the country because of the extreme foreign exchange shortage.

There were no known requests for asylum, and there are no refugees in the country. The Immigration Act does not discuss asylum. There are no known instances of persons being forcibly deported to a country where they feared persecution.

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

Citizens exercised the right to change their government in the 1993 and 1998 National Assembly and presidential elections, which were judged by international and national observers to have been free and fair, despite the fact that President Rene and the SPPF dominated the elections.

A joint Commonwealth and Francophone observer group for the 1998 elections noted that the elections took place on a more level playing field than in 1993. The group's principal criticism was that the Government adopted a program of accelerated means-testing for social benefits during the final week of the campaign and approved a number of new applications in an attempt to increase political support. The group urged an improvement in the effective separation of state and party political functions.

The President's SPPF party continues to utilize its political resources and those of the Government to develop a nationwide organization that extends to the village level. The opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations. The Government substantially reduced funding for political parties in the budget, from $1.8 million (SRS 9.5 million) per year to $95,000 (SRS 500,000). Under the allocation system, the SPPF would receive $4,940 (SRS 25,690) per month, the Seychelles National Party (SNP) $1,900 (SRS 9,880), and the Democratic Party $950 (SRS 4,940). It is expected that funding is to be reduced further in the 2000 budget.

In the March 1998 parliamentary elections, the SNP—then known as the United Opposition—won one directly elected seat and two proportionally elected seats, thereby becoming the leading opposition party. Former Prime Minister James Mancham's Democratic Party won only one proportional seat, and Mancham lost the role of leader of the opposition to the SNP's Wavel Ramkalawan. While critics often had alleged that Mancham's ties to the SPPF were too close and prevented him from openly criticizing the Government, Ramkalawan has played effectively the role of chief government critic as leader of the opposition.

There are no legal restrictions on the participation of women in politics; however, women are underrepresented in government and politics. Women hold 3 of the 12 ministerial positions and 8 of the 34 seats in the National Assembly, 6 by direct election and 2 by proportional election. There are no legal restrictions on the participation of minority groups in politics. All members of the Cabinet are members of the SPPF.

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

Two private human rights related organizations, the first of their kind in the country, were launched in December 1998. The Friends for a Democratic Society pledged to focus on raising awareness of individual rights in a democracy, but has thus far proved to be an inactive organization. The Center for Rights and Development (CEFRAD) has published a 5-year action plan that stresses respect for human rights, participation in a civil society, and sensible approaches to development. CEFRAD also established ties with other national and international nongovernmental organizations (NGO's). Historically, both the churches and some NGO's have been strong voices for human rights and democratization, and the Government has not interfered with their activities. There were no known requests by international human rights groups to visit the country.

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

The Constitution affirms the right to be free from all types of discrimination, but it does not prohibit discrimination based on these factors specifically. Nevertheless, in practice there is no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or religious identification.

Women.—Violence against women, particularly wife beating, remains a problem. Police seldom intervene in domestic disputes, unless the dispute involves a weapon or major assault. The few cases that reach a prosecutor often are dismissed, or, if a case reaches court, the perpetrator is usually given only a light sentence. There is growing societal concern about domestic violence and increased recognition of the need to address it. Probation services again recorded fewer domestic violence cases against women. However, a survey of six church parishes conducted by the Association for the Promotion of Solid Humane Families, an NGO, revealed that 25 percent of those surveyed stated that they have been victims of domestic violence, confirming the general belief that the problem is more widespread than official statistics indicate. Participants in the NGO survey stated that alcohol was one of the main causes of domestic violence.

The society is largely matriarchal, with 75 percent of births out-of-wedlock in 1998. There were no reports of societal discrimination against unwed mothers, and fathers are required by law to support their children. The age of consent was lowered from 16 to 14 in 1993, and 13 percent of all births in 1998 occurred to women under 20 years of age. Girls are not allowed to attend school when they are pregnant, and many do not return to school after the birth of a child. There is no officially sanctioned discrimination in employment, and women are well-represented in business. Inheritance laws do not discriminate against women.

Children.—Children have legal protection from labor and physical abuse and are required to attend school. Free public education is available through the secondary level. Since January parents contributed up to two-thirds of the cost of post-secondary education and training based on their income for both in country and overseas schools. Children are encouraged to attend school to the tenth grade. According to government figures, all children between the ages of 6 and 16 attend school, and the enrollment of boys and girls is roughly equal. In 1995 the Government created an institutional framework for aiding children, and, in June 1998, the National Assembly established an 18-member family tribunal to hear and determine all matters relating to the care, custody, access, and maintenance of children; only paternity cases remain under the courts. The tribunal became operational in November 1998 after the Minister of Employment and Social Affairs appointed the members. Between November 1998 and June, more than 2,000 cases were presented to the tribunal.

Sexual abuse of young girls, usually in low-income families, is a serious problem. Although only 50 cases of sexual abuse were reported as of July 31, Ministry of Health data and press reports indicate that there are a significant number of rapes committed against girls under the age of 15. Very few child abuse cases actually are prosecuted in court. The strongest public advocate for young victims is not the Government but a semiautonomous agency, the National Council for Children. There is criticism that the police fail to investigate vigorously charges of child abuse.

People with Disabilities.—The Government does not discriminate against persons with disabilities in housing, jobs, or education. However, there is no legislation providing for access to public buildings, transportation, or government services.

National/Racial/Ethnic Minorities.—The education gap between Creoles and citizens of white or Asian origin is narrowing. The Government is attempting to reduce this gap through universal access to public education.

Section 6. Worker Rights

a. *The Right of Association.*—Under the 1993 Industrial Relations Act (IRA), workers have the right to form and join unions of their choosing. Police, military, prison, and fire-fighting personnel may not unionize. Under the act, the former government-controlled union, the National Workers Union, lost its monopoly position. Between 15 and 20 percent of the workforce is unionized.

There are two unions: One dominated by the SPPF, the Seychelles Federation of Workers Union (SFWU), and one independent, the Seychelles Workers Union (SWU). Another independent union, the Public Service Union, was disbanded in 1997 after repeated discrimination against the union's office holders, according to one independent unionist. An attempt to organize an independent union incorporating employees from both governmental ministries and government-owned entities was thwarted by government legal action.

Unions can affiliate freely with international bodies. However, the independent SWU was not invited by the Government to join the tripartite delegation to the annual meeting in June of the International Labor Organization (ILO).

b. *The Right to Organize and Bargain Collectively.*—The IRA provides workers with the right to engage in collective bargaining. However, in practice free collective bargaining normally does not take place. The Government has the right to review

and approve all collective bargaining agreements in the public and private sectors. There is little flexibility in setting wages. In the public sector, which employs 57 percent of the labor force, the Government sets mandatory wage scales for employees. Wages in the private sector generally are set by the employer in individual agreements with the employee, but in the few larger businesses, wage scales are subject to the Government's right of review and approval. Private employers historically have paid higher wages than the Government in order to attract qualified workers. However, economic problems during the year led to downward pressures on wages.

The 1987 and 1995 Employment Acts constitute the basic labor law. They authorize the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits. Workers frequently have obtained recourse against their employers through the ministry.

While the law prohibits antiunion discrimination by employers against union members, there was widespread discrimination against the members of the independent public sector union, the Public Service Union, before it was disbanded in 1997.

There are 18 companies that participate in an export processing zone known as the Seychelles International Zone (SITZ). The SITZ is bound only by the Seychelles Trade Zone Act and is not obliged to adhere to property, tax, business, immigration, and labor laws, including the Employment Act. One of the companies based in the SITZ, Indian Ocean Tuna (IOT), discharged workers who had come in from Madagascar. IOT claimed that the workers were engaging in prostitution, and they were sent back to Madagascar. The workers alleged that they were being mistreated and were not receiving their salaries.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and it is not known to exist. There are no reports of children being subjected to forced or bonded labor.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Article 31 of the Constitution states that the minimum age for employment is 15, "subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education." It is a criminal offense punishable by a fine of $1,130 (SRS 6,000) to employ a child under the age of 15.

Children are encouraged to attend school until the 10th grade. The National Youth Service was disbanded in January and replaced with a noncompulsory fifth year of secondary school. After completing secondary school, students can go on to the Polytechnic School for Vocational Training, abroad for university studies, or to apprenticeship or short-term work programs. Children in the latter program receive a training stipend, which is below the minimum wage. The Government enforces child labor laws through inspections by the Ministry of Employment and Social Affairs.

The Government does not prohibit forced and bonded labor by children, but such practices are not known to occur.

e. *Acceptable Conditions of Work.*—The complicated minimum wage scale is administratively regulated by the Government; it covers the public and state-owned sectors and differentiates among various job classifications. The Ministry of Employment and Social Affairs enforces minimum wage regulations. The official minimum wage is $360 (SRS 1,900) per month. Trade unions contend that government entities pay some workers less than the legal minimum wage. Even with the free public services that are available, primarily health care and education, independent labor unions dispute that a single salary at the low end of the pay scale provides a worker and family with a minimum standard of living.

In recent years, there has been a growing trend in government policy to admit foreign workers, primarily from China, India, the Philippines, and Madagascar, to work in the construction and commercial fishing sectors, because few citizens chose to work in these sectors. Although it is difficult to determine the living and working conditions of these workers, there is strong evidence that the labor laws are flouted routinely with the Government's knowledge and acquiescence. These workers are paid lower wages and forced to work longer hours than citizens.

The legal maximum workweek varies from 45 to 52 hours, depending on the economic sector, while government employees work shorter hours. Each full-time worker is entitled to a half-hour break per day and a minimum of 21 days of paid annual leave. Workers are permitted to work overtime up to 60 additional hours per month. The Government generally enforces these regulations. Foreign workers do not enjoy the same legal protections.

The Government issued comprehensive occupational health and safety regulations in 1991. The Ministry of Employment and Social Affairs has formal responsibility for enforcing these regulations; however, the Ministry of Health seeks a role in this

area. An ILO team, which visited in early 1995, found serious deficiencies in the management and effectiveness of government monitoring and enforcement efforts. Occupational injuries are most common in the construction, marine, and port industries. A worker who removes himself from a potentially dangerous situation on the job is considered to have resigned. Safety and health inspectors rarely visit job sites. In 1997 there were 5 deaths and 169 on-the-job injuries officially reported. The Ministry had not released later statistics by year's end.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected president and a unicameral legislature; however, due to continuing civil conflict, the democratically elected government did not control the whole country effectively at any time during the year. This situation continued even after a cease-fire went into effect on May 24, following talks in Lome, Togo, and the July 7 signing of a peace accord by the Government and insurgents led by the Revolutionary United Front (RUF), who had fought successive governments since 1991. The President's party, the Sierra Leone People's Party, has had a majority in the Parliament since the 1996 elections. In May 1997 RUF forces and those of the Armed Forces Revolutionary Council (AFRC) overthrew the elected government in a coup, driving it into exile in Guinea. The RUF/AFRC junta was itself driven out of Freetown by forces of the Economic Organization of West African States (ECOWAS) Monitoring Group (ECOMOG), led by the armed forces of Nigeria, in February 1998. The Government was restored to power in March 1998, but fighting between government and RUF/AFRC elements continued. In January after months of increasingly serious skirmishes, particularly in the northern and eastern parts of the country, rebels attacked Freetown once again. According to U.N. and health officials' estimates, between 5,000 and 6,500 combatants and civilian residents were killed in and near the capital before the rebels were driven out by government and ECOMOG forces. Rebel forces abducted additional thousands of persons, mostly women and children, during their retreat; the insurgents wounded or maimed hundreds of others. Large sections of central and eastern Freetown were destroyed, and tens of thousands of persons were left homeless. Government-insurgent fighting, albeit on a significantly reduced scale, continued after the July Lome Accord. After the accord was signed, there was growing tension and some fighting between the AFRC and RUF rebel factions; even the October 3 return to Freetown of the RUF and AFRC leaders did not end it. During the last months of the year there were several armed clashes between forces of the former RUF and AFRC and between elements of each. In late December, RUF field commander Sam Bockarie fled from Kailahun to Liberia after claiming that RUF leader Foday Sankoh had targeted him for death. By the end of the year only some 4,000 of the estimated 45,000 former combatants had disarmed and entered the demobilization process. The U.N. Security Council approved a 6,600 member peacekeeping operation, the U.N. Mission in Sierra Leone (UNAMSIL). Kenyan and Indian peacekeeping forces began arriving in December, even as the Nigerian, Guinean, Ghanaian, and Malian ECOMOG components were preparing to leave Sierra Leone. The disarmament, demobilization, and reintegration program called for in the Lome Accord includes provisions to protect the human rights of the former combatants. The officially independent judiciary functioned only in part of the country and only during part of the year but demonstrated substantial independence in practice when it did function.

Among the Government's security forces, the police officially had primary responsibility for internal order. However, due to the continuing insurgency, the newly constituted army, the Civil Defense Forces (CDF), and ECOMOG shared de facto responsibility with the police in security matters. Both government and ECOMOG forces committed serious human rights abuses.

Sierra Leone is an extremely poor country, with a market-based economy and a per capita income of less than $100 per year. Only an estimated one-fifth of adults are literate. Although the country is rich in natural resources and minerals (particularly diamonds, gold, rutile, and bauxite) and has large areas of fertile land suitable for farming, the 9-year insurgency brought mineral extraction and agricultural production almost to a standstill. There is little manufacturing, and there are few exports; approximately 70 per cent of the Government's budget comes from foreign assistance. Years of fighting, corruption, and mismanagement resulted in a crumbling infrastructure.

The Government's human rights record was characterized by serious problems. Both government forces and ECOMOG forces operating in support of the Government committed extrajudicial killings and summarily executed suspected rebels and their collaborators. Government, CDF, and ECOMOG forces at times beat noncombatants. Prison and jail conditions remained harsh and sometimes life threatening. Government and ECOMOG forces continued occasionally to arrest and detain persons arbitrarily. Prolonged detention and long delays in trials, due to the inability of the judicial system to function, remained problems. The Government restricted freedom of speech and of the press, and harassed, arrested, and detained journalists for their coverage of security-related issues. Violence and discrimination against women and prostitution remained problems. Prior to the Lome Accord, CDF units inducted child soldiers. Female genital mutilation continued to be a widespread practice. Discrimination against ethnic minorities persists. There was some forced labor in rural areas. Child labor persists. There were a few cases of vigilante-style extrajudicial killings by citizens, particularly in Freetown following the January attack. Before the signing of the Lome Accord, AFRC and RUF rebels committed numerous egregious abuses, including brutal killings, abductions, deliberate mutilations, and rape. The rebels continued the particularly vicious practice of cutting off the ears, noses, hands, arms, and legs of noncombatants as a deliberate terror tactic and to punish those unwilling to cooperate with the insurgents. The victims ranged from small children to elderly women; in some cases, one limb was cut off, in others two limbs, typically two hands or arms. Many died from their wounds before they could obtain any form of medical treatment. Rebel forces abducted civilians, missionaries, aid workers from nongovernmental agencies, U.N. personnel, and journalists; ambushed humanitarian relief convoys; raided refugee sites; and extorted and stole food. Junta forces continued the longstanding practice of abducting villagers (including women and children) and using them as forced laborers, as sex slaves, and as human shields during skirmishes with government and ECOMOG forces. Boys were forced to become child soldiers. Rebel forces used rape as a terror tactic against women. Rebel atrocities prompted the internal displacement of hundreds of thousands of civilians. As many as half a million persons have fled to neighboring countries to escape the civil conflict and remain outside the country on their own or in refugee camps, primarily in Guinea and Liberia. After the May cease-fire, insurgents committed similar abuses, particularly in the north and northwest of the country. Although the number of such reported abuses decreased, they still included murder, rape, mutilation, and abduction.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Both government/CDF forces and ECOMOG forces operating in support of the Government summarily executed suspected rebels and suspected rebel collaborators. These abuses were particularly serious during the January attack on Freetown and the ultimately successful effort to drive rebel forces from the city. During the fighting in Freetown, on January 13 ECOMOG troops summarily executed 22 rebel captives on Aberdeen bridge, and CDF members executed 6 alleged rebels in Kingtom. In early February ECOMOG forces summarily shot at least six suspected rebel collaborators in Freetown. At least several others were killed in the course of house-to-house checks by ECOMOG for rebel collaborators and infiltrators in Freetown. On February 3, an ECOMOG officer summarily executed Abdulai Jumah Jalloh, news editor of the African Champion newspaper, in central Freetown, after a CDF officer identified him as an arsonist responsible for setting houses on fire in Kissy.

Hundreds of civilians killed by AFRC and RUF insurgent forces in the conflict were executed deliberately for political motives. Insurgent forces targeted government officials, human rights activists, religious leaders, and lawyers as they entered Freetown. Journalists were also particular targets. On January 10, Associated Press television producer Myles Tierney was shot to death in the center of Freetown, while a colleague, West Africa bureau chief Ian Stewart, was wounded. In addition to Tierney, Sierra Leonean journalists James Ogogo, Jenner Cole, Mohamed Kamara, Paul Abu Mansaray, Alpha Amadu Bah Bash, Muniru Turay, and Mabay Kamara were sought out and killed during the January battles in Freetown. Surviving journalists told the Paris-based Reporters Without Borders that in some cases, when rebels failed to find journalists at home, they killed close relatives instead.

In early February, the bodies of two cabinet Ministers, Minister of State for Public Affairs Mohamed B. Sesay and Minister of State for the Northern Region, Y.M. Koroma, were found in Kissy; they had been identified and abducted by rebel forces

in January. Also in January, rebels killed the manager of the fund-raising center for the Sierra Leone Red Cross, S.W. Smith.

Police were also particular targets. Insurgents executed over 250, by some estimates as many as 500, police and some members of their families in Freetown in January. When Lunsar was recaptured by ECOMOG forces in February, they discovered that over 130 of the 170 police in the city were executed, most on the town football field.

Deliberate mutilations by rebel forces, mostly during their withdrawal from Freetown in January, ultimately resulted in dozens of deaths during the year (see Section 1.c.). Over the course of the decade-long conflict, rebel mutilations caused hundreds if not thousands of deaths.

Some victims of rebel kidnap attempts also were killed (see Section 1.b.).

There were a few cases of vigilante-style killings by citizens, particularly in Freetown following the January attack. For example in January youths in Kenema burned alive three rebel infiltrators.

b. *Disappearance.*—AFRC and RUF forces continued the RUF's longstanding practice of kidnaping youngsters and women and compelling them to work for the troops and, at times, act as "shields" in battles with government and ECOMOG forces. Women also were forced to act as sexual slaves (see Sections 5, 6.c., and 6.f.). According to the U.N. Children's Fund, after the January attack on Freetown and the surrounding areas alone, families registered more than 3,800 children missing or abducted; by November there were 2,400 still registered as unaccounted for. The United Nations estimates that rebel forces abducted some 20,000 persons, throughout the country, during the 1991–99 period. Only about 1,000 of them have been released and gone through a formal reintegration process. Other thousands have escaped, but the United Nations believes that thousands still remain prisoners despite the Lome Accord's directive that all captives and prisoners of war be released.

In addition to demanding ransom payments for civilians they abducted, AFRC/RUF insurgents kidnaped religious workers and foreigners as bargaining chips and in an attempt to extort money. On January 10, the rebels abducted two Italian missionary priests, the Reverends Maurizio Boa and Giuliano Pini, in Freetown; the pair were released several days later. In mid-January, they abducted Archbishop Joseph Henry Ganda in Freetown; he escaped captivity a week later along with five other abducted missionary priests, including Father Mario Guerra, who was abducted in November 1998. On January 14, they abducted six Sisters of Charity from Freetown; they shot one, Sister Aloysious Maria from India, on January 22, and two others, Kenyan Sister Carmeline and Bangladeshi Sister Sweva, were killed during later fighting between the rebels and ECOMOG forces. Sister Hindu, a fourth captive nun, who was shot during the fighting, died on February 5 in Conakry from her wounds. Rebels abducted Father Vittorio Mosele on February 12 from Kambia; he subsequently was held in Makeni until being released on April 6.

Rebel forces also abducted 13 Indian businessmen resident in Freetown, including the honorary consul of Japan, on January 25 from Wellington. One was killed during the kidnaping; two more were murdered during captivity, and another was wounded seriously; the remaining nine businessmen were released on January 29 along with the three surviving Sisters of Charity.

On January 25, the rebels seized two European journalists near the capital but released them over the succeeding 2 days.

On August 4, a splinter group of the AFRC abducted over 30 individuals, including personnel from the U.N. Observer Mission in Sierra Leone (UNOMSIL), ECOMOG officers, aid officials, journalists, and Makeni Bishop Giorgio Biguzzi, in the Occra hills northeast of Freetown. The delegation members, who had come to discuss the fate of civilian captives held by the AFRC, subsequently were released over several days; the last hostages were freed on August 10, with some 200 women and children previously held hostage whom the delegation had sought to release. Bishop Biguzzi and 15 colleagues also were caught in fighting between AFRC and RUF factions in Makeni in mid-October. They emerged unharmed several days later, but during the fighting their personal possessions were stolen by the combatants.

In December forces loyal to RUF field commander Sam Bockarie detained two foreign Medecins sans Frontieres workers, Belgian national Patrick Cloos and German national Klaus Lippold, for over a week in Kailahun. The two were released shortly before Bockarie and a number of his followers fled to Liberia on December 16.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, government, and CDF and and ECOMOG forces operating in support of the Government, occasionally beat and detained noncombatants, particularly during the January attack on Freetown.

In January ECOMOG forces beat two Italian missionary priests suspected of being mercenaries before learning that rebel forces had abducted the pair.

AFRC and RUF forces continued to use rape as a terror tactic against women. Rebel forces also were responsible for many cases of deliberate mutilation, including the chopping off of hands, arms, ears and legs; attempted and successful decapitations; and severe cuts with machetes. The victims have ranged from babies 10 months old to elderly men and women. U.N. officials and humanitarian organizations estimated that hundreds if not thousands of individuals, including children, had one or both limbs amputated over the decade-long conflict, including dozens in the January attack on Freetown alone. During the overall course of the conflict, it was estimated that for every one of these wounded who eventually succeeded in securing medical aid, at least three or four died en route from their wounds, shock, and the hazards of the journey or from lack of adequate medical assistance. During the fighting in Freetown rebels inflicted machete wounds on the president of the Sierra Leone Red Cross, Mohamed Jalloh; they also amputated the left hand of Soloman Conteh, the organization's director of programs and operations and also wounded a driver. The proportion of those surviving mutilations during the fighting in Freetown in January increased because of the proximity of medical facilities. Insurgents tortured abducted Archbishop John Henry Ganda with lighted cigarettes during his captivity in January.

Prison conditions and those in police lockup facilities generally are harsh; at best they are Spartan, and at worst life threatening. The Pademba road maximum security prison, which was designed for 325 prisoners, routinely houses hundreds more. Diet and medical care were inadequate, and only a handful of toilets were available for use. Although male and female quarters were separate, adults and juveniles were incarcerated together. Convicted felons, those in the middle of the judicial process, and those who had not yet been charged formally also were incarcerated together. Other prison facilities were equally rudimentary; the holding cells in police offices are even further from compliance with international standards.

The Government allowed the International Committee for the Red Cross (ICRC), U.N. human rights officials, and other observers to visit the prisons, assess conditions, and see inmates.

d. *Arbitrary Arrest, Detention or Exile.*—Government and ECOMOG forces continued at times to arrest and detain persons arbitrarily. Although the Constitution and law provide for a speedy trial, in practice the lack of judicial officers and facilities often produced long delays in the judicial process. Due to the civil conflict, the judicial system did not function in some parts of the country at any time during the year and functioned in other parts of the country only during part of the year. Many criminal suspects were held for months before their cases were examined or formal charges were filed.

ECOMOG forces at times detained noncombatants, particularly those suspected of having collaborated with or supported the insurgents, for periods of weeks or longer. In some cases they were released only after their families paid a sum to free them. Several journalists were arrested in the spring in separate incidents (see Section 2.a.).

In the first major evidence of friction within the rebel ranks, in late August AFRC members detained a group of RUF commanders and aides near the same Occra hills location where the August 4 abduction (see Section 1.b.) occurred. The group, some members of which were mistreated badly, was released on September 5.

The Government does not use forced exile.

e. *Denial of fair public trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice; however, the judiciary functioned only in part of the country and only during part of the year, but demonstrated substantial independence in practice when it did function.

The judicial system consists of the Supreme Court, appeals courts, and a high court whose justices are chosen by the Head of State. Local courts administer traditional law with lay judges; appeals from these lower courts move to the superior courts.

Although there are often lengthy delays between arrest, detention, the impositions of charges, and judicial proceedings, trials are usually free and fair. Traditional justice systems continued to supplement the central government judiciary extensively in cases involving family law, inheritance, and land tenure, especially in rural areas.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution and law prohibit such practices, and government authorities generally respected these prohibitions.

Throughout the year, there were numerous instances in which rebel forces invaded, looted, and destroyed private property and terrorized civilians. Although at times the homes and businesses associated with members of the former government and supporters of the elected Government were particular targets, many homes of ordinary citizens also were looted, burned, or destroyed.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The CDF continued to accept, train, and induct children into its ranks until in June it pledged to stop the practice.

AFRC and RUF rebel forces routinely committed numerous serious abuses, and sought to coerce, intimidate, and terrorize those who either refused to cooperate with them or supported the Government. Both in Freetown and the country they massacred groups of persons fleeing fighting; maimed and cut off the limbs and ears of noncombatants; kidnaped children and women to work for them and men to carry equipment; raped women as a means of punishment and to inspire fear and cooperation. They forced individuals to commit atrocities under penalty of their own mutilation or death; commandeered relief supplies; and vandalized religious institutions, hospitals, and schools. Both during their attack on Freetown and their retreat from the city, rebels used civilians as human shields, leading to many civilian casualties.

After many residents fled into the bush following the January attacks on Wellington, near Freetown, rebels made forays into the bush to rape young girls who sought refuge there. Insurgents killed at least 125 civilians in Songo, near the capital, as they retreated under ECOMOG attack mid-April. When retreating from Masiaka in May, rebels performed amputations on and decapitated civilians; abducted scores of women and children; and detained others for forced labor. In mid-August rebel troops attacked commercial vehicles and relief trucks along two major highways west and north of Masiaka and a relief truck near Lunsar, looting relief food and supplies.

During the January fighting in Freetown, rebels tried to force residents to "celebrate" their "liberation" with street demonstrations; they burned the homes of those who refused and on occasion those who complied. During their retreat from the city, the insurgents looted and deliberately set on fire large sections of eastern Freetown. Up to 90 percent of the housing in the Kissy and Calaba town areas was damaged or destroyed, as were numerous mosques, churches, and businesses, and a significant percentage of the housing in Wellington was destroyed. An estimated 200,000 persons in and near Freetown were made homeless in the January fighting. Rebels attacked and looted the Catholic mission at Madina in Kambia district on February 1; when Kambia itself was attacked in February, rebels burned down city buildings, the city hospital, a polio rehabilitation center, a secondary school, and the residence of the Xaverian missionary sisters. As ECOMOG forces advanced in early May, retreating rebel forces burned virtually the entire town of Masiaka as well as nearby villages.

In early October RUF/AFRC commanders prevented an Irish nongovernmental organization (NGO), Concern Worldwide, from resuming relief activities on the road between Magburaka and Matatoka. Also in October in Makeni, rebel forces looted supplies and vehicles belonging to a team from Medecins Sans Frontieres as they were attempting to survey the needs of the population there.

In October serious fighting between factions of the former RUF and the AFRC broke out between Makeni and Lunsar, resulting in approximately 150 combatant and 50 civilian deaths and the displacement of hundreds of civilians. On November 20, armed former combatants ambushed a bus in the Kambia district, looted the passengers, and abducted several of them. In late November, hundreds of civilians fled across the border to Guinea to escape the continued factional fighting and banditry in the northwestern part of the country.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. The Government attempted to regulate the press through registration and attempted to control the publication of information on security-related topics. It also took action against the writers and publishers of articles considered unfavorable to the Government. For example, on February 24, plainclothes police officers arrested the managing editor of the Standard Times, Phillip Neville, after he published an article concerning Vice President Albert Joe Demby. He was released on March 8. British Broadcasting Corporation Freetown correspondent Winston Ojukutu-Macaulay was detained by ECOMOG forces on April 20, following an earlier broadcast of his story on ECOMOG vehicle impoundment, but was released later the same day. On May 5, three journalists, Ahmed Bob Kande, Thomas Gbou, and Mohamed Massaquoi, were arrested by ECOMOG following the publication of an article in the New Storm

newspaper concerning the ECOMOG force commander; they were released after paying bail of $2,500 (5 million leones) a week later. Managing Editor Jonathan Leigh of the Independent Observer newspaper was arrested by ECOMOG on May 17 following publication of an article on ECOMOG, and The Democrat newspaper's editor, Joseph Mboka, was detained on May 18 after an article about recent government-rebel fighting in Kabala. On June 10, ECOMOG forces raided the Independent Observer's offices and arrested six employees after displaying a cache of arms said to have been found in the newspaper's offices; editor Jonathan Leigh surrendered to the police in Freetown on June 15. On July 6, the state prosecutor dropped charges of spying and arms possession, which had been made against Leigh and Independent Observer staff writer Jerry Tryson. On August 27, CID officials arrested and threatened to deport Cameroonian national Emmanuel Sanossi, the editor of The Reporter newspaper, following the publication of an article on government weapons purchases.

Over 50 newspapers were published in Freetown alone, covering a wide spectrum of interests. Their number fluctuated weekly; many contained sensational, undocumented stories and repeated items carried by other newspapers. Newspapers openly and routinely criticized the Government and its officials, as well as the rebel forces.

Due to low levels of literacy and the relatively high cost of newspapers and television, radio remained the most important medium of public information. Several government and private radio and television stations broadcast; both featured domestic news coverage and political commentary.

The government-controlled Sierratel communications company provided Internet access in Freetown, although the condition of its land lines often made internet connectivity problematic.

The rebels shot and killed several journalists during the January fighting in Freetown (see Section 1.a.). On August 20, three high-ranking RUF members ransacked the offices of For Di People newspaper and assaulted its editor, Paul Kamara, after he published an article critical of the lifestyle of rebel leaders in Freetown.

The Government generally respected academic freedom. All institutions of higher learning were wholly or partly closed during the year; most had been looted, burned, or used as quarters by rebels, and there have not yet been funds to restore infrastructure.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respected this right in practice. The Government was not known to deny requests to use public areas for meetings or demonstrations, many of which took place throughout the year.

The Constitution provides for freedom of association and the Government respected this right in practice. There were numerous civic, philanthropic, and social organizations, and the registration system was routine and apparently nonpolitical. No known restrictions were applied to the formation or organization of more than a dozen opposition political parties.

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

Insurgent forces targeted religious leaders for attack, including Christians and Muslims, both because of their position in the religious community and their support for the Government. During the January RUF/AFRC invasion, which occurred during Ramadan, the Freetown population was terrorized and virtually deprived of religious freedom. Muslims who were found praying in mosques were forced to drink alcoholic beverages, and some of those who refused to partake were beaten. Others reportedly were shot and killed. Three churches and two mosques were set on fire and burned down in Freetown during the January attack.

Rebel forces targeted Roman Catholic priests and nuns in particular, largely on the assumption that the church would pay ransom for their return. Another reason is that the rebels saw the use of the church's radio network by ECOMOG troops during the January RUF/AFRC invasion as church support for the Government.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Citizens were required to get a police clearance within 72 hours before international travel, but such clearances were issued nonrestrictively; the Government did not attempt to limit citizens' departure or return for political or discriminatory reasons. According to occasional reports, troops manning roadblocks attempted to extort food or money from travelers.

More than 1 million citizens—more than one-quarter of the population—still either are displaced internally or have fled the country to escape the continuing insurgency. More than 500,000 persons remain in refugee camps in Guinea and Liberia; others remain in The Gambia, Cote D'Ivoire, Ghana, and other African nations, while still others are in countries outside Africa. In October an estimated 3,000 refu-

gees returned to the Kailahun area from Liberia, in part to escape fighting there. At least 150 persons drowned at sea in March when their overloaded watercraft capsized when they were returning home after having fled fighting.

There is no formal process for granting political asylum or refugee status. The Government cooperated with the U.N. High Commissioner for Refugees and other organizations on repatriation matters and continued to provide first asylum to over 5,000 Liberians who had fled to Sierra Leone because of conflict in their home country in earlier years of the decade. There were no reports of the forced return of persons to countries where they feared persecution.

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

The Constitution provides for the right of citizens to change their government, and the 1996 elections won by Ahmed Tejan Kabbah and his Sierra Leone People's Party were the first free and fair multiparty elections in the country in 30 years. Several political parties were represented in the unicameral legislature and in the cabinet. Locally elected councils and a traditional chieftancy system controlled local government. Preparations for local elections, which were to have taken place early in the year, were postponed because of continued fighting. In July the Parliament ratified a bill allowing the RUF to transform itself into a political party, as called for in the Lome Accord, and in November the Revolutionary United Front Party (RUFP) received a provisional registration certificate from the interim National Election Commission.

Women are underrepresented in government and politics. There are relatively few women in senior government positions: Only 2 of the 18 cabinet positions were filled by women, and of the 80 members of the unicameral legislature, only 7 were women.

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

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Representatives of various local and international NGO's, foreign diplomats, the ICRC, and U.N. human rights officers were able to monitor trials and to visit prisons and custodial facilities. Following allegations that it aided rebel forces, the ICRC was asked in January to suspend operations in the country. However, President Kabbah in June asked for the organization's return, and it subsequently resumed operations.

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

The Constitution prohibits discrimination against women and provides for protection against discrimination on the basis of race and ethnicity, except for the longtime prohibition against citizenship for persons with a non-African father. This provision effectively blocks citizenship for much of the sizable Lebanese community and for other persons with non-African fathers.

Women.—Violence against women, especially wife beating, is common. The police are unlikely to intervene in domestic disputes except in cases involving severe injury or death. Domestic violence is not recognized as a societal problem. However, rape is recognized as a societal problem punishable by up to 14 years' imprisonment. There is a significant amount of prostitution: many women, especially those displaced from their homes and with few resources, resort to it to secure income for themselves and their children. Rebel forces used rape as a terror tactic (see Sections 1.c. and 1.g.) and forced women and girls to act as sexual slaves (see Sections 1.b., 6.c., and 6.f.).

The Constitution provides for equal rights for women, but in practice women face both legal and societal discrimination. In particular their rights and status under traditional law vary significantly depending on the ethnic group to which they belong. The Temne and Limba tribes of the north afford greater rights to women to inherit property than does the Mende tribe, which gives preference to male heirs and unmarried daughters. However, in the Temne tribe, women cannot become paramount chiefs. In the south, the Mende tribe has a number of female paramount chiefs. Women are nevertheless very active in civic organizations and NGO's, were instrumental in pressuring the previous government to allow free and fair multiparty elections in 1996, and were vocal representatives of civil society during the peace talks in Lome.

Women do not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas, women perform much of the subsistence

farming and have little opportunity for formal education. The average educational level for women is markedly below that of men: only 6 percent are literate. At the university level, men predominate. Women are very active in civic and philanthropic organizations, and a significant number are employed as civil servants.

Children.—Although the Government is committed to improving children's education and welfare, it lacks the means to provide basic education and health services for them. The law requires school attendance through primary school; however, schools, clinics, and hospitals throughout the country were looted and destroyed during the 8-year insurgency, and most were not rebuilt. A large number of children receive little or no formal education. Schools are financed largely by formal and informal fees, but many families cannot afford to pay them. In July senior officials of the Ministry of Education were charged with embezzling approximately $500,000 (1 billion leones), which was to have gone to pay arrears in teachers' salaries. The Ministry of Social Welfare, Gender, and Children's Affairs has primary responsibility for children's issues.

The recruitment for military service by the CDF and the kidnaping and forced conscription of children into rebel forces were serious problems. An estimated 5,000 youthful soldiers served alongside adults during the civil conflict; some observers place the number at almost double that figure. Children, both on the CDF and AFRC sides, fought alongside their fathers and other family members. While the CDF forces accepted children as volunteers, this practice ended with the signing of the Lome Accord. However, most children who join the insurgent ranks do so under duress. For years rebels kidnaped young boys and girls to serve them and augment their forces and to perform as sexual slaves (see Sections 5, 6.c., and 6.f.). In some cases they have forced these children to commit atrocities involving family members. However, even children who escape and wish to leave the ranks sometimes are rejected by their families and communities because of their perceived involvement in rebel activities.

Female genital mutilation (FGM), which is condemned by international health experts as damaging to both physical and psychological health, is widely practiced among all levels of society, although with varying frequency. The form practiced is excision. Some estimates of the percentage of women and girls who undergo the practice range as high as 80 to 90 percent. While UNICEF estimates the percentage of females who have undergone this procedure to be as high as 90 percent, local groups believe that this figure is overstated. No law prohibits FGM. A number of NGO's are working to inform the public about the harmful health effects of FGM and to eradicate it; however, an active mass campaign by secret societies countered the well-publicized international efforts against FGM.

People With Disabilities.—Questions of public facility access and discrimination against the disabled are not public policy issues. No laws mandate accessibility to buildings or provide for other assistance for the disabled. Although a few private agencies and organizations attempted to train the disabled in useful work, there was no government policy or program directed particularly at the disabled. There does not appear to be outright discrimination against the disabled in housing or education. However, given the high rate of general unemployment, work opportunities for the disabled are few.

Some of the many individuals who were maimed in the fighting, or had their limbs amputated by rebel forces, are receiving special assistance from various local and international humanitarian organizations. Such programs involve reconstructive surgery, prostheses, and vocational training to help them acquire new work skills. The Lome Accord also called for the creation of a special fund to implement a program for rehabilitation of war victims, although the fund had not yet been established by year's end.

National/Ethnic/Racial minorities.—The country's population is ethnically diverse and consists of at least 13 ethnic groups. These groups generally all speak distinct primary languages and are concentrated outside urban areas. However, all ethnic groups use Krio as a second language, little ethnic segregation is apparent in urban areas, and interethnic marriage is common. The two largest ethnic groups are the Temne in the northern part of the country and the Mende in the southern part; each of these groups is estimated to make up about 30 percent of the population.

Ethnic loyalty remained an important factor in government, the armed forces, and business. Complaints of corruption within ethnic groups and ethnic discrimination in government appointments, contracts, military commissions, and promotions were common. There did not appear to be a strong correspondence between ethnic or regional and political cleavages. Ethnic differences also did not appear to contribute appreciably to the RUF rebellion, the 1997 coup, or the civil conflict during the year. No ethnic or regional base of voluntary popular support for the rebels was identifi-

able, and they controlled territory by terror and coercion rather than by popular consent.

Residents of non-African descent face institutionalized political restrictions. The Constitution restricts citizenship to persons of patrilineal Negro-African descent. This constitutional restriction effectively denies citizenship to many long-term residents, notably the Lebanese community.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of association, and, in practice workers had the right to join independent trade unions of their choice. About 60 percent of the workers in urban areas, including government workers, are unionized, but attempts to organize agricultural workers and mineworkers have met with little success. All labor unions by custom join the Sierra Leone Labor Congress (SLLC), but such membership is voluntary. Police and members of the armed services are prohibited from joining unions. There are no reliable statistics on union membership, but the membership numbers have declined as a percentage of all workers with the virtual collapse of the small manufacturing sector.

The Trade Union Act provides that any five persons may form a trade union by applying to the registrar of trade unions, who has statutory powers under the act to approve the creation of trade unions. The registrar may reject applications for several reasons, including an insufficient number of members, proposed representation in an industry already served by an existing union, or incomplete documentation. If the registrar rejects an application, his decision may be appealed in the ordinary courts, but applicants seldom take such action.

Workers have the right to strike, although the Government can require 21 days' notice. Union members may be fired for participating in even a lawful strike. No strikes were reported during the year. No laws prohibit retaliation against strikers.

Unions are free to form federations and to affiliate internationally. The SLLC is a member of the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The 1971 Regulation of Wages and Industrial Relations Act provides the legal framework for collective bargaining. Collective bargaining must take place in trade group negotiating councils, each of which has an equal number of employer and worker representatives. Most enterprises are covered by collective bargaining agreements on wages and working conditions. The SLLC provides assistance to unions in preparations for negotiations; in case of a deadlock the government may intervene.

No law prohibits retribution against strikers. An employee fired for union activities may file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions are made to a tribunal. Individual trade unions investigate alleged violations of work conditions to try to ensure that employers take the necessary steps to correct abuses.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced and bonded labor, including that performed by children; however, forced labor remains a problem. Under the Chiefdom's Council Act, individual chiefs may impose compulsory labor and may require members of their villages to contribute to the improvement of common areas. This practice exists only in rural areas. There is no penalty for noncompliance. The last Saturday in each month is declared a national cleanup day; in Freetown traffic is proscribed before 10:00 a.m. so that all residents may clean their immediate areas. There was some compulsory labor, possibly including labor by children in rural areas.

The AFRC/RUF rebels forcibly impressed young boys and girls into their ranks and forced them into involuntary servitude and to perform as sexual slaves. Many later became fighters with the rebel forces. Women were also forced to act as sexual slaves (see Sections 1.b., 5, and 6.f.).

Rebel forces also forced civilians to labor as porters and workers in diamond fields under insurgent control months after the signing of the peace accord. On October 4, rebel forces seized a commercial bus on the Freetown-Bo highway and, after releasing the elderly on board, forced some 40 young male and female passengers to carry looted goods from the vehicle into the bush.

d. *Status of Child Labor and Minimum Age for Employment.*—The minimum age for employment is officially 18 years, although children between the ages of 12 and 18 years may be employed in certain nonhazardous occupations, provided they have their parents' consent. In practice this law is not enforced because there is no government entity charged with the task. Children routinely assist in family businesses and work as petty vendors. In rural areas, children work seasonally on family subsistence farms.

Because the adult unemployment rate remains high, few children are involved in the industrial sector. Foreign employers have hired children to work as domestics overseas at extremely low wages and in poor conditions. The Department of Foreign Affairs and International Cooperation is responsible for reviewing overseas work applications to see that no one under the age of 14 is employed for this purpose.

The law requires school attendance through primary school. However, there is a shortage of schools and teachers, due both to inadequate government funding of public education and to the widespread destruction of educational facilities by rebel forces (see Section 5). Many children consequently enter the work force with few skills and with limited, if any, literacy. The Constitution prohibits forced and bonded labor, including that by children; however, such practices exist (see Section 6.c.).

e. *Acceptable Conditions of Work.*—A 1997 law set the minimum wage at approximately $11 (21,000 leones) per month; it has not been adjusted since then. The minimum wage is not sufficient to provide a decent standard of living for a worker and family. Purchasing power continues to decline through inflation. Most workers support an extended family, often including relatives who have been displaced by the insurgency in the countryside, and it is common both to pool incomes and to supplement wages with subsistence farming.

The Government's suggested workweek is 38 hours, but most workweeks for those who are employed exceed that figure.

Although the Government sets health and safety standards, it lacks the funding to enforce them properly. Trade unions provide the only protection for workers who file complaints about working conditions. Initially a union makes a formal complaint about a hazardous working condition. If this complaint is rejected, the union may issue a 21-day strike notice. If workers remove themselves from dangerous work situations without making a formal complaint, they risk being fired.

f. *Trafficking in Persons.*—No law prohibits trafficking in persons. There were no reports of persons being trafficked to or from the country; however, rebel forces kidnaped young boys and girls, forcibly impressed them, and compelled the children to serve them and to perform as sexual slaves (see Sections 5 and 6.c.). Women also were forced to act as sexual slaves (see Sections 1.b., 5, and 6.c.).

SOMALIA [1]

Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. Subsequent fighting among rival faction leaders resulted in the killing, dislocation, and starvation of thousands of persons and led the United Nations to intervene militarily in 1992. In a conference in Cairo, Egypt, in December 1997, all parties except two signed the so-called "Cairo Declaration." The Declaration provided for a 13-person council of presidents, a prime minister, and a national assembly. A national reconciliation conference held early in 1998 in Baidoa produced no significant results. There were no further attempts at national reconciliation during the year; however, in September during a speech before the U.N. General Assembly, Djiboutian President Ismail Omar Guelleh announced an initiative on Somalia to facilitate reconciliation under the auspices of the Inter-Governmental Authority for Development. Serious interclan fighting occurred in part of the country, notably in the central regions of Bay and Bakool, in the southern regions of Gedo and Lower Juba, and around Kismayo. Hussein Aideed is the leader of the Somali National Alliance (SNA), which continued to assert that it was the government of the entire country. There were occasional skirmishes between the SNA and other militias, including with forces supporting the breakaway former financier of the Aideed faction, Osman Atto, and with the Somali Salvation Alliance (SSA), led by Ali Mahdi. On June 11, Marehan and Habr Gedr militiamen captured the southern town of Kismayo from a rival militia led by General "Morgan" of the Majereteen subclan. Also in June the Rahanweyn Resistance Army regained control of the Bay and Bakool regions from Hussein Aideed. No group controls more than a fraction of the country's territory. International efforts to forge a peace accord achieved little during the year. There is no national judicial system.

Leaders in the northeast proclaimed the formation of the "Puntland" state in July 1998. The Puntland's leader publicly announced that he did not plan to break away from the remainder of the country. In the northwest, the "Republic of Somaliland" continued to proclaim its independence within the borders of former British Somaliland, which had obtained independence from Britain in 1960 before joining

[1] The United States does not have diplomatic representation in Somalia. This report draws in part on non-U.S. Government sources.

the former Italian-ruled Somalia. Somaliland has sought international recognition since 1991. Somaliland's government includes a parliament, a functioning civil court system, executive departments organized as ministries, six regional governors, and municipal authorities in major towns. The ban in Puntland and Somaliland on all political parties remained in place. After the withdrawal of the last U.N. peacekeepers in 1995, clan and factional militias, in some cases supplemented by local police forces established with U.N. help in the early 1990's, continued to function with varying degrees of effectiveness. Repeated intervention by Ethiopian troops helped to maintain order in Gedo region, a base of support for a local radical Islamic group called Al'Ittihad. In Somaliland over 70 percent of the budget was allocated to maintaining a militia and police force composed of former troops. Police and militia committed numerous human rights abuses.

Insecurity, bad weather, and crop-destroying pests helped worsen the country's already dire economic situation. In May Saudi Arabia lifted a 16-month ban against the export of livestock, which before the ban accounted for more than half the trade from some ports, somewhat improving matters. The country's economic problems caused a serious lack of employment opportunities and led to pockets of malnutrition in Mogadishu and some other communities.

Serious human rights abuses continued throughout the year. Many civilian citizens were killed in factional fighting, especially in the Bay and Bakool regions between supporters of Hussein Aideed, most of whom came from the Habr Gedr subclan, and the Rahanweyn Resistance Army. There were numerous reports of human rights abuses by the Aideed forces. Key human rights problems remained the lack of political rights in the absence of a central authority; some disappearances; harsh prison conditions; arbitrary detention; the judicial system's reliance in most regions on some combination of traditional and customary justice, Shari'a (Islamic) law, and the pre-1991 Penal Code; infringement on citizens' privacy rights; some limits on the freedoms of assembly, association, and religion; restrictions on freedom of movement; discrimination against women; and the abuse of women and children, including the nearly universal practice of female genital mutilation (FGM). Abuse and discrimination against ethnic minorities in the various clan regions continued. There is no effective system for the protection of worker rights, and there were isolated areas where minority group members were forced to labor for local gunmen.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Political violence and banditry have been endemic since the revolt against Siad Barre, who fled the capital in January 1991. Since that time, tens of thousands of persons, mostly noncombatants, have died in interfactional and interclan fighting. Although reliable statistics were not available, a number of persons were killed during the year. In January during a fight for control of Kismayo, militia from the Habr Gedr/Marehan alliance shot and ran over nine Majereteen prisoners. In February in retaliation, Majereteen militia killed eight Marehan businessmen. An attempt in March by a warlord to collect taxes at a roadblock in north Mogadishu turned into an interclan battle that left at least 40 persons dead. In April fighting between militia loyal to Mohamed Qanyareh Afreh and soldiers loyal to Islamic courts (see Section 1.e.) in south Mogadishu resulted in the deaths of at least 30 civilians and injuries to almost 50 others. In late April and early May, fighting between forces loyal to Hussein Mohamed Aideed and forces from the Rahanwein Resistance Army for control of the town of Baidoa resulted in the deaths of several dozen civilians and numerous injuries.

Although many civilians died as a result of fighting during the year, politically motivated extrajudicial murder was uncommon. The numerous extrajudicial killings during the year generally centered on conflicts over land or over job disputes. Militia working for Islamic courts in the south occasionally executed without trial persons suspected of criminal acts (see Section 1.e.).

In July members of Ali Mahdi's Abgal sub-clan allegedly killed Osman Jeyte, a well-known comedian. The reason for the killing remained unclear, and there was no investigation.

In August members of a Mogadishu militia fired on a demonstration by the Ismail Jumale Center for Human Rights in north Mogadishu, killing one person and injuring another (see Section 2.b.).

In March a foreign worker with a religious organization was killed near the southern port of Ras Kaimboni. There was a report that the local deputy police chief and deputy military commander for Al'Ittihad were responsible; however, there no inves-

tigation and no arrests were made by year's end. In September a senior UNICEF official was killed, and as a result, the U.N. suspended activities in the south for 5 days. In September a well-known businessman, Haji Aboullahi Korehey, was killed during a battle between rival factions in the southern town of Kismayo.

In February unknown persons killed Dr. Singh Bohgal, a Kenyan veterinarian. There was no investigation.

There was an increase during the year in attacks within Ethiopian territory by armed groups opposed to the Government of Ethiopia, supported by Eritrea, operating out of Somalia. These attacks took the form of landmine incidents and hit-and-run attacks by guerrillas and bandits armed with small arms and grenades. In response the Ethiopian Government conducted military incursions into Somalia. Some civilians and combatants were killed as a result of these attacks and in confrontations between Ethiopian government forces and the guerrillas, although the total number of deaths could not be confirmed. In August Ethiopian troops fired on a group of Somali civilians protesting Ethiopia's occupation of their border town, killing two persons.

No investigation was conducted into a 1998 attack by militia fighters on a World Food Program Convoy that killed two persons.

The investigation into the 1997 killing of a Portuguese doctor still was pending at year's end.

In 1997 a War Crimes Commission in Hargeisa in Somaliland began investigating the murder in 1988 of at least 2,000 local residents, including women and children, by Siad Barre's troops. Heavy rains in 1997 revealed numerous mass graves in the Hargeisa area. During the year, the War Crimes Commission continued to record eyewitness accounts and other evidence.

b. *Disappearance.*—There were no known reports of unresolved politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees, displaced persons, and war dead. Kidnaping remained a problem, particularly for relief workers and critics of faction leaders. In February gunmen kidnaped two Oromo Liberation Front (OLF) officials and a senior Al'Ittihad official. Reportedly the gunmen, believed to be militiamen loyal to Habr Gedr, handed over the OLF officials to the Ethiopian Government. There was a report that in April a veterinarian in Hagar was kidnaped by unknown persons and released unharmed later after paying a ransom. In May businessman Ali Shire Mohammed was kidnaped by unidentified militiamen in South Mogadishu. He was released later, reportedly after paying a ransom. Kidnaping also was a major concern in the northeast, where gunmen hijacked a number of vessels on the high seas and, in some cases, kidnaped the crews or passengers (see Section 1.d.). In March the crew of a foreign fishing vessel held since December 18, 1998, was released after a ransom was paid to their captors. In late April, gunman kidnaped two Finnish tourists sailing off the coast of Puntland, but released them a week later unharmed. In June gunman kidnaped four German nationals from their yacht off the coast of Puntland and demanded a ransom; however, in July they were released when their captors were attacked by Puntland militia.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of the use of torture by warring militiamen against each other or against civilians. Many incidents of torture probably are unreported. Although reliable statistics were not available, a large number of persons were injured as a result of interfactional and interclan fighting (see Section 1.a.).

In April a domestic human rights group accused fighters loyal to warlord Hussein Aideed of routinely raping women in 15 villages in southern Qoroley district.

In August members of a Mogadishu militia fired on a demonstration by the Ismail Jumale Center for Human Rights in north Mogadishu, killing one person and injuring another (see Section 2.b.).

There were several bomb explosions during the latter half of the year in Hargeisa, Somaliland, including an explosion on December 21 at the U.N. Development Program office in Hargeisa. Somaliland police attributed the bombings to disgruntled persons who had failed to get jobs with various international organizations, and reported that a number of persons had been arrested in connection with the bombings.

There were no reports of the use of harsh physical punishments by Shari'a courts, which in past years included public whippings, amputations, and stoning (see Section 1.e.).

There was an increase in attacks within Ethiopia by armed opposition groups operating out of Somalia (see Section 1.a.). These attacks took the form of landmine incidents and hit-and-run attacks by guerrillas and bandits armed with small arms and grenades (see Section 1.a.).

Prison conditions varied by region. Conditions at the south Mogadishu prison controlled by the Aideed forces improved markedly in 1997 after the start of visits by

international organizations; however, conditions at the north Mogadishu prison of the Shari'a court system remained harsh and life threatening. Conditions elsewhere reportedly were less severe, according to international relief agencies. A prison established by the Mursade subclan at the border between north and south Mogadishu reportedly holds hundreds of prisoners. Conditions are described as adequate. The costs of detention are paid by the detainees' clans. In many areas, prisoners are able to receive food from family members or from relief agencies.

The Jumale Center for Human Rights visited prisons in Mogadishu during the year. The government of Puntland permits prison visit by independent monitors; however, no such visits occurred during the year. Somaliland authorities permit prison visits by independent monitors; however, it is not known if any such visits occurred during the year.

d. *Arbitrary Arrest, Detention, or Exile.*—In the absence of constitutional or other legal protections, various factions and armed bandits continued to engage in arbitrary detention, including the holding of relief workers. The crews and passengers of vessels on the high seas were hijacked frequently and held for ransom (see Section 1.b.).

In Somaliland a special security committee that includes the mayor of Hargeisa and local prison officials can order an arrest without a warrant and sentence persons without a trial. In July the mayor of Hargeisa sentenced five men to prison terms ranging from 3 months to 1 year for heckling during a speech organized by the Government and the leaders of the Council of Elders. At the end of July, the Parliament abolished the emergency law that established the special security committees. The five men were released from prison in August.

In December Somaliland authorities arrested five persons in Boroma, Somaliland and accused them of acts of subversion after they demonstrated against the Government on issues of employment, education, and reintegration assistance (see Section 2.b.).

Lengthy pretrial detention in violation of the 1991 Penal Code was reported in Somaliland and Puntland.

In August in Puntland the regional administration detained three journalists reportedly for writing articles critical of the government (see Section 2.a.).

In February two Ethiopians were detained and deported, allegedly for engaging in Christian missionary activities in Somaliland. At the end of May, seven Ethiopians were arrested in Somaliland, allegedly for attempting to proselytize Christianity (see Section 2.c.).

None of the factions used forced exile.

e. *Denial of Fair Public Trial.*—There is no national judicial system.

Some regions have established local courts that depend on the predominant local clan and associated faction for their authority. The judiciary in most regions relies on some combination of traditional and customary law, Shari'a law, the penal code of the pre-1991 Siad Barre government, or some combination of the three. For example in Bosasso and Afmedow criminals are turned over to the families of their victims, which then exact blood compensation in keeping with local tradition. Shari'a courts continued to operate in several regions of the country, filling the vacuum created by the absence of normal government authority. Shari'a courts traditionally ruled in cases of civil and family law, but extended their jurisdiction to criminal proceedings in some regions beginning in 1994. In the northwest, the self-proclaimed Republic of Somaliland adopted a new constitution based on democratic principles, but continued to use the pre-1991 Penal Code. A U.N. report issued in September noted a serious lack of trained judges and of legal documentation in Somaliland, which caused problems in the administration of justice. In Bardera courts apply a combination of Shari'a law and the former penal code. In south Mogadishu, a segment of north Mogadishu, the Lower Shabelle, and parts of the Gedo and Hiran regions, court decisions are based solely on Shari'a law. The five Islamic courts operating in Mogadishu are aligned with different subclans, raising doubts about their independence. The courts generally refrained from administering the stricter Islamic punishments, like amputation, but their militias administered summary punishments, including executions, in the city and its environs. With the collapse in December 1998 of the Shari'a courts in north Mogadishu headed by Sheikh Ali Dere, the application of physical punishment appears to have ceased.

The right to representation by an attorney and the right to appeal do not exist in those areas that apply traditional and customary judicial practices or Shari'a law. These rights more often are respected in regions that continue to apply the former government's penal code, such as Somaliland.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Looting and forced entry into private property continued, with the Bay, Bakool, and Lower

Juba regions being especially hard hit. Following the June capture of Baidoa by the Rahanweyn Resistance Army, a few Rahanweyn families reportedly were evicted from their houses in South Mogadishu.

Most properties that were occupied forcibly during militia campaigns in 1992–93, notably in Mogadishu and the Lower Shabelle, remained in the hands of persons other than their prewar owners.

Approximately 40 percent of the population, or almost 300,000 persons, have been displaced internally as a result of interfactional and interclan fighting.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The print media consist largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these newspapers nominally are independent and are critical of the faction leaders.

Somaliland has two independent daily newspapers, one government daily, and an independent English-language weekly. Treatment of journalists in Somaliland reportedly improved during the year.

In Puntland, Abulkadir Ali and Mohamed Deeq of the newspaper Sahan, and Ahmed Mohamed Ali of the newspaper Riyaq were arrested by the regional administration, reportedly for writing articles critical of the Government.

Most citizens obtain news from foreign news broadcasts, chiefly the British Broadcasting Corporation, which transmits a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of the self-declared Republic of Somaliland, operate small radio stations.

There is no organized higher education system in most of the country. In January a university opened in north Mogadishu, and about 200 students attended classes during the year. On November 4, Amoud University opened in Boroma, Somaliland. A second university is scheduled to be opened in Hargeisa, Somaliland in 2000.

b. *Freedom of Peaceful Assembly and Association.*—Many clans and factions held meetings during the year without incident, although usually under tight security. Although citizens are free to assemble in public, the lack of security effectively limits this right in many parts of the country. Few public rallies took place during the year without the sponsorship of an armed group. In August the Ismail Jumale Center for Human Rights organized a rally in north Mogadishu to protest the killing of Osman Jeyte, a well-known comedian (see Section 1.a.). Members of a Mogadishu militia fired on the demonstration, killing one person and injuring another.

In December Somaliland authorities arrested five persons in Boroma, Somaliland, and accused them of acts of subversion after they demonstrated against the Government on the issues of employment, education, and reintegration assistance.

Some professional groups and local NGO's operate as security conditions permit.

The 1997 Somaliland Constitution established the right of freedom of association; however, political parties are banned in Somaliland. Puntland's leadership banned all political parties for 3 years, beginning in August 1998.

c. *Freedom of Religion.*—There is no constitution and no legal provision for the protection of religious freedom, and there were some limits on religious freedom.

Somalis overwhelmingly are Sunni Muslim. Some local administrations have made Islam the official religion in their regions, in addition to establishing a judicial system based on Shari'a law (see Section 1.e.). The Somaliland judicial system recognizes elements of Shari'a law as well as the pre-1991 Penal Code and traditional law (Xeer) (see Section 1.e.).

In March the Minister of Religion in Somaliland issued a list of instructions and definitions on religious practices. Under the new rules, religious schools and places of worship are required to obtain the Ministry of Religion's permission to operate. Entry visas for religious groups must be approved by the Ministry, and certain unspecified doctrines are prohibited.

Local tradition and past law make it a crime to proselytize for any religion except Islam. Christian-based international relief organizations generally operate without interference, as long as they refrain from proselytizing. In February two Ethiopians were detained and deported, allegedly for engaging in Christian missionary activities in Somaliland. At the end of May, seven Ethiopians were arrested in Somaliland, allegedly for attempting to proselytize Christianity.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Freedom of movement continued to be restricted in most parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibit passage by other groups. In the absence of a recognized national government, most citizens do not have the documents needed for international travel.

As security conditions improved in many parts of the country, refugees and internally displaced persons continued to return to their homes. Approximately 17,000

Somali refugees were returned from Ethiopia under the auspices of the U.N. High Commissioner for Refugees (UNHCR) during the year. Despite sporadic harassment, including the theft of UNHCR food packages by militiamen and attacks on World Food Program convoys, repatriation generally took place without incident. The repatriation of refugees to Somaliland from Ethiopia continued during the year; however, there were several interruptions in the repatriation process due to misunderstandings among the refugees about their reintegration packages, allegations of corruption in the contracts for transport of the refugees, and inertia on the part of both the Somaliland authorities and the Ethiopian government. Nevertheless, approximately 9,000 refugees had returned to Somaliland by year's end. However, despite the relative stability in many parts of the country, many citizens still flee to neighboring countries, often for economic reasons. During the year, most migrants left from the northeast and traveled via boat to Yemen. Hundreds of such migrants drowned during the year in accidents at sea.

The number of Somali refugees in Kenya remained at approximately 124,000 at year's end, down from more than 400,000 at the height of the humanitarian crisis in 1992. In Ethiopia the number of Somali refugees fell to 180,000 by October from over 200,000 a year earlier. Djibouti hosted approximately 21,500 Somali refugees in camps at year's end.

As there is no functioning central government, there is no policy of first asylum nor are there any laws with provisions for the granting of refugee or asylee status. A small number of Ethiopian refugees remained in the country, mostly in the northeast near Bosasso. The authorities in Somaliland have cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees. There were no reports of the forced expulsion of those having a valid claim to refugee status.

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

In the absence of a widely supported effective national government, recognized either domestically or internationally, citizens cannot exercise this right. In most regions, local clan leaders function as de facto rulers. Although many such groups derive their authority from the traditional deference given clan elders, most face opposition of varying strength from political factions and radical Islamic groups.

In the Republic of Somaliland, the existence of which was endorsed by clan elders in 1991 and 1993, a clan conference led to a peace accord early in 1997. This accord demobilized militia groups, established a constitution and bicameral parliament with proportional clan representation, and elected a president and vice president from a slate of candidates. The Hargeisa authorities have established functioning administrative institutions in virtually all the territory they claim, which equals the boundaries of the Somaliland state that achieved international recognition in 1960. Political parties are banned in Somaliland.

In March 1998, Puntland was established as a regional government during a consultative conference with delegates from six regions, including traditional community elders, the leadership of political organizations, members of legislative assemblies, regional administrators, and civil society representatives. Representatives of Puntland-based subclans chose Abdullahi Yussuf as President. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which plays a largely consultative role. Political parties are banned in Puntland.

Although several women were important behind-the-scenes figures in the various factions, women as a group remained seriously underrepresented in government and politics. No women held prominent public positions, and few participated in regional reconciliation efforts.

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

Several local human rights groups were active during the year. They investigated the causes of conflict in the Mogadishu area, protested the treatment of prisoners before the Shari'a courts, and organized periodic peace demonstrations. In August the Ismail Jumale Center for Human Rights organized a rally in north Mogadishu to protest the killing of well-known artist Osman Jeyte (see Section 2.b.). Women's NGO's played an important role in galvanizing support in the country for the initiative on Somalia launched by Djiboutian President Ismail Omar Guelleh.

In Hargeisa in Somaliland, local NGO's appeared to operate freely and without harassment during the year.

Several international organizations operated in the country during the year including the Red Cross, Care, the Halo Trust, and various demining agencies. In June Save the Children opened an office in Hargeisa to promote child protection and improve non-formal education among returned refugees.

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

Societal discrimination against women and widespread abuse of children continued to be serious problems. The 1997 Somaliland Constitution contains provisions that prohibit discrimination on the basis of sex and national origin.

Women.—Violence against women exists, although there are no reliable statistics on its prevalence. Women suffered disproportionately in the civil war and in the strife that followed. For example, there were reports that fighters loyal to Hussein Aideed routinely raped women in southern Qoroley district (see Section 1.c.). Women are subordinated systematically in the country's overwhelmingly patriarchal culture. Polygyny is permitted, but polyandry is not. Under laws issued by the former government, female children could inherit property, but only half the amount to which their brothers were entitled. Similarly, according to the tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family as they would if the victim were a man.

Several women's groups in Hargeisa in Somaliland actively promote equal rights for women and advocate the inclusion of women in responsible government positions.

Children.—Children remain among the chief victims of the continuing violence. Boys as young as 14 or 15 years of age have participated in militia attacks, and many youths are members of the marauding gangs known as "morian," or "parasites or maggots." Even in areas with relative security, the lack of resources has limited the opportunity for children to attend school. There are three secondary schools in Somaliland and more than three secondary schools in Mogadishu; however, only 10 percent of those few children who enter primary school graduate from secondary school. Schools at all levels lack textbooks, laboratory equipment, and running water. Teachers are trained poorly and paid poorly. The literacy rate is less than 25 percent. The Somaliland authorities drafted a national education policy during the year.

Female genital mutilation, which is widely condemned by international experts as damaging to both physical and psychological health, is a near-universal practice. Estimates place the percentage of women who have been subjected to FGM at 98 percent. Infibulation, the most harmful form of FGM, is practiced. The practice was illegal in 1991, when the Siad Barre government collapsed, and in Somaliland it remains illegal under the Penal Code (see Section 1.e.); however, the law is not enforced. While U.N. agencies and NGO's have made intensive efforts to educate persons about the danger of FGM, no reliable statistics are available on their success.

People With Disabilities.—In the absence of a functioning state, no one is in a position to systematically address the needs of those with disabilities. There are several local NGO's in Somaliland that provide services to the disabled.

Religious Minorities.—Non-Sunni Muslims often are viewed with suspicion by members of the Sunni majority. There is strong social pressure to respect Islamic traditions, especially in Islamist enclaves such as Luuq in the Gedo region. There was an increase in religious intolerance among Muslims by Al'Ittihad. In north Mogadishu, Al'Ittihad forcibly took over two mosques. There reportedly have been other mosque takeovers in Puntland and Lower Shabelle.

There was an influx of foreign Muslim teachers into Hargeisa in Somaliland to teach in new private Koranic schools. These schools are inexpensive and provide basic education; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices not normally found in the local culture.

There is a small, low-profile Christian community. Christians face societal harassment if they proclaim their religion.

National/Racial/Ethnic Minorities.—More than 80 percent of citizens share a common ethnic heritage, religion, and nomadic-influenced culture. The largest minority group consists of "Bantu" Somalis, who are descended from slaves brought to the country about 300 years ago. In most areas, members of groups other than the predominant clan are excluded from effective participation in governing institutions and are subject to discrimination in employment, judicial proceedings, and access to public services.

Members of minority groups are subjected to harassment, intimidation, and abuse by armed gunmen of all affiliations.

Section 6. Worker Rights

a. *The Right of Association.*—The 1990 Constitution provided workers with the right to form unions, but the civil war and factional fighting negated this provision and shattered the single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the country's polit-

ical and economic breakdown and the lack of legal enforcement mechanisms, trade unions could not function freely.

The new Constitution of Somaliland established the right of freedom of association, but no unions or employer organizations yet exist.

b. *The Right to Organize and Bargain Collectively.*—Wages and work requirements in the traditional culture are established largely by ad hoc bartering, based on supply, demand, and the influence of the clan from which the worker originates. As during past years, labor disputes sometimes led to the use of force or kidnaping (see Section 1.d.).

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The pre-1991 Penal Code prohibits forced labor; however, local clan militias generally forced members of minority groups to work on banana plantations without compensation.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Formal employment of children was rare, but youths commonly are employed in herding, agriculture, and household labor from an early age. The lack of educational opportunities and severely depressed economic conditions contribute to child labor.

e. *Acceptable Conditions of Work.*—There was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year.

f. *Trafficking in Persons.*—The pre-1991 Penal Code prohibits trafficking, and there were no reports of persons being trafficked in, to, or from the country.

SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the President and the Parliament, which includes the National Assembly and the National Council of Provinces. President Thabo Mbeki leads the African National Congress (ANC) party, which holds 266 seats in the 400-seat National Assembly. The Parliament was elected in free and fair elections on June 2; the Parliament, in turn, elected the President during its first sitting on June 14. The country's governing institutions and society continued to consolidate the democratic transformation initiated by the historic 1994 elections. The Government includes ministers from the African National Congress (ANC) and the Inkatha Freedom Party (IFP) but is dominated by the ANC, which gained in parliamentary strength in the June elections. The Democratic Party (DP) replaced the New National Party (NNP) as the official opposition in the National Assembly. The judiciary, including the Constitutional Court, is independent.

The South African Police Service (SAPS) has primary responsibility for internal security, although the Government continues to call on the South African National Defense Force (SANDF) to provide support for the SAPS in internal security situations. The SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service oriented police force; however, it remained understaffed, overworked, and undertrained. The SANDF and the SAPS border control and policing unit share responsibility for external security. The Government formed a Special Directorate of Investigations (SDI), dubbed "the Scorpions," in mid-year to coordinate efforts against organized crime. The civilian authorities generally maintain effective control of the security forces. However, some members of these forces committed human rights abuses.

The economy continues to undergo important fundamental changes as the Government attempts to shift towards the manufacturing and services sectors and away from a historical focus on mining and commodities exports. The gross domestic product is $133 billion, of which manufacturing accounts for 20 percent, services 41 percent, and mining 6.5 percent. Agriculture, though only 5 percent of the gross national product, is an important source of export earnings. Since the fall of apartheid, foreign investors have used the country as a base of operations for economic expansion into the Sub-Saharan region. The economy is driven largely by market forces, although some sectors such as banking and mining remain tightly controlled by a handful of powerful corporations. Although a privatization program is underway, the State holds majority stakes in the telecommunications, transport, and power sectors. The Government's Growth, Employment, and Redistribution macroeconomic program largely has been successful in controlling inflation and instilling discipline in government spending. Ownership of wealth remains highly skewed along racial lines. The disparity between skilled and unskilled workers is considerable, as is the income distribution gap between white and black, and urban and rural citizens. Official unemployment is approximately 25 percent, though figures are debated widely.

A significant number of citizens, particularly blacks, are employed in the largely retail-oriented informal sector. The numerous social and economic problems that developed largely during the apartheid era are expected to persist for many years.

The Government generally respected the human rights of its citizens; however, problems remain in several areas. Some members of the security forces committed human rights abuses, including killings due to use of excessive force, and there were deaths in police custody. In addition to killings by security forces, there were more than 200 political and extrajudicial killings, but although political violence remained a problem, it was reduced slightly from 1998 levels, both in KwaZulu-Natal and countrywide. Security forces were responsible for torture, excessive use of force during arrest, and other physical abuse. The Government has taken action to investigate and punish some of those involved. Prisons are seriously overcrowded. The judiciary is overburdened, and lengthy delays in trials and prolonged pretrial detention are problems. Discrimination against women, violence against women and children, and discrimination against the disabled remained serious problems. Child labor, including instances of children forced into prostitution, is a problem. Vigilante violence and mob justice increased during the year. Trafficking in persons is a problem.

The Truth and Reconciliation Commission (TRC), created to investigate apartheid-era human rights abuses, make recommendations for reparations for victims, and grant amnesty for full disclosure of politically motivated crimes, continued its work on a large backlog of amnesty and restitution applications following the release of its 1998 report.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Police use of lethal force during apprehensions resulted in numerous deaths, and deaths in police custody also remain a problem. The Government's Independent Complaints Directorate (ICD) investigates deaths in police custody and deaths as a result of police action. The ICD reported 450 deaths as a result of police action between January and November. Of these deaths, 192 occurred while in police custody, and 258 occurred as a result of police action. These figures represented a decrease compared with the estimated 789 deaths as a result of police action that occurred in 1998. The ICD's report lists the subcategories under deaths in police custody, which include natural causes, suicide, injuries in custody, injuries prior to custody, and possible negligence. The ICD experienced some resistance to its activities from the SAPS; for example, members of the SAPS refused to appear in identity line-ups or to make statements; however, cooperation on the part of the SAPS reportedly improved by year's end.

In January police opened fire with rubber bullets on a group of protestors with Muslims Against Global Oppression (MAGO) in Cape Town, killing one protestor and injuring several others (see Sections 2.b. and 2.c.).

In October the trial of Dr. Wouter Basson, the head of the chemical warfare program under the former apartheid government, began. Dr. Basson faces 61 charges including 30 counts of murder, fraud, and narcotics trafficking. His trial was ongoing at year's end.

The TRC denied amnesty to the killers of Steve Biko and Chris Hani, and granted it to the killers of Sizwe Kondile, Dr. Fabian Ribeiro, Piet Ntuli and Griffiths Mxenge, and to 10 right-wing activists responsible for a series of bombings that killed 21 persons. Other amnesty applications involving killings remained pending (see Section 4).

In September a black lieutenant killed 6 white officers at an army base in Tempe before he was shot and killed. A Government investigation into the possibility that the shootings were the result of racial tensions on the base was ongoing at year's end.

The South Africa Institute for Race Relations, a nongovernmental organization (NGO) that follows political and extrajudicial killings, reported 204 politically motivated killings during the first 7 months of the year, most of which occurred in the province of KwaZulu-Natal, compared with 219 for the same period in 1998.

On January 23, the general secretary of the United Democratic Movement (UDM), Sifiso Nkabinde, was killed in Richmond, KwaZulu-Natal. Within hours of the killing, 11 persons associated with the ANC were killed and several others wounded in what appeared to be a retaliatory attack. Seven persons were arrested in connection with the Nkabinde killing. All seven were denied bail and remained in detention awaiting a trial scheduled for March 2000. One person was arrested for the retaliatory attack—he also was denied bail, and is scheduled to appear in court in March 2000. In March one ANC member and four UDM members were killed in

Cape Town; reportedly as the result of both political and economic competition. On November 2, a prominent Zulu leader and ANC member, Prince Cyril Zulu, was killed by unknown persons. It is not known whether this was a politically motivated killing; no suspects were arrested by year's end.

A peace process continued between the IFP and the ANC, the two parties most closely associated with the political violence in KwaZulu-Natal. In May 3 weeks before the general elections, a special provincial bilateral IFP–ANC Peace Committee signed a provincial peace code of conduct. Although violence in KwaZulu-Natal remained higher than in other provinces, resulting in dozens of deaths during the year, there was an improved level of overall tolerance during campaigning and voting, attributable to the IFP–ANC talks as well as an increased police presence. Complaints to the committee concerned primarily posters being removed or defaced, individuals being threatened because of political affiliations, and other incidents of intimidation. There are several theories to explain the violence in KwaZulu-Natal, including a legacy of "warlordism" that fuels interparty conflict, and the actions of criminal elements involved in a Mafia-like illegal trade in drugs, arms, and wildlife. Some have blamed an undefined "third force," which allegedly combines criminal and conservative elements determined to undermine the new political order. Observers warn that the fact that the province has not yet been demilitarized and disarmed promotes the area's violence.

Violence in Richmond was reduced significantly during the year due largely to the replacement in 1998 of the regular police force in the area with a special, larger "public order police" force.

Taxi drivers in crime-ridden neighborhoods were responsible for a continuing series of attacks on rivals. Conflict between warring taxi companies resulted in gun battles and other street violence, frequently resulting in deaths and injuries to bystanders. The SAPS began an investigation of the Cape Town taxi rivalries that caused approximately 13 deaths as of July and a large number of injuries. No arrests were announced at year's end.

Vigilante action and mob justice remained problems. In Northern and Mpumalanga Provinces, a vigilante group called Mapogo A Mathamaga has grown in membership and has opened offices in at least nine cities, including Pretoria. Mapogo members attacked and tortured, including beating with clubs and whips, suspected criminals and drug dealers. Some members of the Cape Town-based People Against Gangsterism and Drugs (PAGAD), an Islamic-oriented, community-based organization that called for stronger action against crime and drugs, engaged in acts of intimidation and violence against suspected drug dealers, gang leaders, and critics of its violent vigilantism. Gun battles erupted between this group and other gangs, but its earlier tactics of mass marches and drive-by shootings largely were replaced by pipe-bomb attacks, none of which resulted in deaths during the year (see Section 1.c.). Homes of suspected drug dealers and gangsters were targeted, as were homes of anti-PAGAD Muslim clerics, academics, and business leaders. In January a high-profile anti-PAGAD task force policeman was killed as he drove home after a police search of a farm suspected of being a hideout for PAGAD-affiliated persons. At year's end, there were 55 cases pending against over 100 PAGAD members in Western Cape courts. In December a court convicted one PAGAD member for murder. Another PAGAD member was acquitted of murder charges amid allegations of witness intimidation, including the killing of a witness.

The murders of farm families in rural parts of the country have received considerable media attention. Between January and March, there were approximately 228 attacks on farms and smallholdings, usually by black assailants, which resulted in 31 killings of farm owners, most of whom were white. There is widespread concern that white farmers are being targeted for racial and political reasons, although no evidence exists that the murders are part of an organized political conspiracy, and statistics indicate that crimes against farmers occur at approximately the same rate as crimes against the general population.

There were incidents of abuse and killings of black farm laborers by their white employers. NGO's claim that rural police and courts refuse to arrest whites in many incidents, and the Human Rights Commission (HRC) criticized the "unfair collusion between the farmers, the police prosecution services, and the magistrates," citing several cases in which farmers attacked their employees without penalty.

There were occasional reports of killings linked to the continued practice of witchcraft in some rural areas. In the Northern Province, where traditional beliefs regarding witchcraft remain strong, officials reported dozens of killings of persons suspected of witchcraft. The Government has instituted educational programs to prevent such actions.

b. *Disappearance.*—There were no reports of politically motivated disappearances caused by government authorities or agents.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution's Bill of Rights prohibits torture and cruel, inhuman, or degrading treatment, and provides for the right to be free from all forms of violence from either public or private sources; however, some members of the police tortured and otherwise abused suspects and detainees through beatings and rape. The ICD reported 24 cases of torture and 8 cases of rape perpetrated by security forces between April and November; the Government investigated these allegations and prosecuted some offenders. In April the British Broadcasting Corporation broadcast a documentary that showed police officers beating and abusing four suspected criminals. Two of the officers were suspended and a trial against them was ongoing at year's end. There also were reports of police abuse of detainees awaiting deportation (see Section 2.d.). Broad efforts to reform police practices have reduced such activities substantially, and the ICD investigates reports of police misconduct and corruption (see Section 1.a.). NGO's continued to conduct human rights education programs for the SAPS. In 1993 the SAPS Training Division initiated a human rights program and has trained 6,000 NGO and SAPS instructors who are, in turn, expected to train 90,000 police officers through 2001.

In January police opened fire with rubber bullets on a group of MAGO protesters who attempted to attack a government building in Cape Town, killing one protester and injuring several others (see Sections 1.a., 2.b., and 2.c.). In April police fired rubber bullets at teen-age protestors who were marching to a political rally. In August police used rubber bullets and tear gas to disperse a group of students whose peaceful demonstration led to looting (see Section 2.b.).

Following the killing of an anti-PAGAD task force police officer in January (see Section 1.a.), police, while searching the homes of two senior PAGAD members, allegedly roughed-up the son of PAGAD's national coordinator.

In 1998 police at a Guguletu police station severely beat a Cape Town journalist, Thabo Mabaso, after he went to the station to report a traffic accident. The officers responsible were initially suspended, then reinstated and transferred to another police station pending their trial scheduled for February 2000.

Security personnel in detention centers beat refugees and robbed them of money and personal belongings (see Section 2.d.)

The SAPS continued to undergo sweeping, mostly positive changes, including the institution of reforms designed to create partnerships between local police forces and the communities that they serve. The SAPS finalized the merger of the country's 11 former police forces into a single organization. Resignations and retirements of senior police officials have permitted the infusion of new personnel at senior levels, from both inside and outside the SAPS; these appointments also have served to further affirmative action within the SAPS. However, the SAPS has been left with deficiencies in midlevel leadership, and an institutional memory that has been harmful to its overall performance. The SAPS continued to be understaffed, overworked, and undertrained. The first intake of new recruits since 1994 occurred in 1998.

The TRC granted amnesty to apartheid-era government officials responsible for the 1988 bombing of Khotso House in which 20 persons were injured, and to Jeffrey Benzien, a former police officer responsible for torturing anti-apartheid activists (see Section 4).

There were a number of bombings during the year, which resulted in numerous casualties, including at least 80 pipe-bomb explosions in Cape Town for which no organization claimed responsibility. For example, in January a pipe-bomb exploded at the Victoria and Alfred Waterfront injuring 3 persons, and another pipe-bomb exploded at the downtown headquarters of the Cape Town police, injuring 11 persons. In November a pipe-bomb exploded at a crowded Cape Town beachfront restaurant injuring 48 persons. On December 23 a bomb exploded outside of a Cape Town restaurant injuring seven police officers. In December, the national coordinator of PAGAD, his wife, and two other members of PAGAD were arrested and charged with, among other things, possession of equipment for explosive devices; however, none of the charges specifically were in connection with the bombings. The wife was released on bail, and trials were ongoing at year's end.

There were incidents of abuse, including killings, of black farm laborers by their white employers, and NGO's claim that rural police and courts refuse to arrest whites in many incidents (see Section 1.a).

Vigilante action and mob justice resulted in attacks on suspected criminals and drug dealers, some of whom were tortured (see Section 1.a.).

Xenophobia is a growing problem. There were a number of violent attacks on foreigners, particularly refugees and asylum seekers. In December 1998, the U.N. High Commissioner on Refugees (UNHCR), the National Consortium on Refugee Affairs, and the HRC launched a campaign called "Roll Back Xenophobia" to raise public awareness of the situation and rights of refugees and the difference between refu-

gees and economic migrants. The campaign has produced several publications and organized several public relations events.

The trial of two suspects arrested for a series of bombings in January 1997, including a mosque in Rustenberg that injured two persons, was ongoing at year's end (see Section 5).

Prison conditions generally meet minimum international standards; however, overcrowding remains a serious problem.

In 1997 the Government commissioned the first of several planned "C–MAX" prisons in Pretoria. C–MAX prisons are designed to hold the country's most dangerous criminals. Human rights groups have raised serious concerns regarding C–MAX facilities, including the Government's criteria for transferring prisoners from other prisons to a C–MAX facility and the restrictive, solitary conditions of the prisons themselves. No additional C–MAX prisons had begun operations by year's end.

Parliament passed legislation in late 1998 to restructure the prison service and bring prison law in line with the Constitution. Parts of the Correctional Services Act went into effect in February, but the sections relating to treatment of prisoners still had not been implemented at year's end. A Judicial Inspectorate for prisons began operations during the year, and a number of civilian prison visitors were appointed throughout the country.

Juveniles between the ages of 14 and 18 accused of serious crimes, including murder or rape, sometimes are placed in pretrial detention in prisons with adult offenders (see Section 5).

The Government permits independent monitoring of prison conditions, including visits by human rights organizations.

d. *Arbitrary Arrest, Detention, or Exile.*—The Bill of Rights prohibits detention without trial, and the Government generally respects this right in practice. It also provides that every detained person has the right to be informed promptly of the reasons for the detention; to be advised promptly of the right to remain silent and the consequences of waiving that right; to be charged within 48 hours of arrest; to be detained in conditions of human dignity; to consult with legal counsel at every stage of the legal process; to communicate with relatives, medical practitioners, and religious counselors; and to be released (with or without bail) unless the interests of justice require otherwise.

Courts and police generally respected these rights; however, there was a growing problem with bringing detainees to trial expeditiously. According to the HRC, prisoners wait on average for 6 months to be tried in the regional courts and 6 months to 1 year in the high courts; however, in extreme cases detention can extend up to 2 years. This problem primarily is the result of an understaffed, underfunded, and overburdened judiciary (both magistrates and prosecutors), with more cases than can be handled efficiently (see Section 1.e.). Parliament passed laws in 1997 mandating minimum sentences and refusing bail in most cases for certain serious offenses, which raised concern among some human rights groups about judicial independence and civil liberties (see Section 1.e.).

There were no reports of forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent and impartial judiciary subject only to the Constitution and the law, and the Government respects this provision in practice.

Under the Constitution, the Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. Generally magistrates' courts and high courts are the courts of original jurisdiction in criminal cases.

Judges try criminal cases. The jury system was abolished in 1969. The presiding judge or magistrate determines guilt or innocence. In 1998 Parliament passed the Magistrates Court Amendment Act, which made it compulsory to have a panel of lay assessors hear cases along with a magistrate in cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also are required to use their discretion in using assessors in an advisory capacity in bail applications and sentencing. The Office of the National Director of Public Prosecutions (the so-called super Attorney General) exercises national control over prosecution policy, and applies a consistent national policy for the prosecution of offences. In 1998 Parliament established nine provincial directors and offices to coordinate and streamline prosecutions.

The Bill of Rights provides for due process, including the right to a fair, public trial within a reasonable time of being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when "substantial injustice would otherwise result." In practice the law functions as intended.

However, a general lack of information on the part of accused persons regarding their rights to legal representation, and the Government's inability to pay the cost of those services are continuing problems. There was public concern about the capacity of the criminal justice system to deal with the high level of crime, as well as the continuing political violence in KwaZulu-Natal and elsewhere. The resurgence of vigilante justice (see Sections 1.a. and 1.c.) reflects these concerns.

In 1997 parliament passed laws that provided minimum sentencing guidelines and provided for the refusal of bail in most cases for certain serious offenses. Some human rights groups expressed concern with parts of these new laws, stating that they would harm judicial independence and limit civil liberties. The law mandating minimum sentences came into force in 1998 and was used in December in the sentencing of a PAGAD member on charges of murder (see Section 1.a.) However, in October a Cape Town High Court Judge, when exercising his discretion, chose not to follow minimum sentencing guidelines in a rape case. The new bail law was upheld by the Constitutional Court.

The Government and legal bodies have acted to redress historic racial and gender imbalances in the judiciary and the bar. The ranks of judges, magistrates, senior counsels, and attorneys are more reflective of society, although they still fall far short of a representative composition. On August 30, the Justice Minister criticized the judiciary for retaining vestiges of apartheid. He noted that the High and Constitutional Courts still were staffed mostly by whites—of 187 judges, 142 are white—and had light caseloads, while the Magistrates courts were "hopelessly underresourced."

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

In 1994 the Redistribution of Land Rights Act established the Constitutional Land Court and the Commission on Restitution of Land Rights. The Court's mission is to settle cases previously vetted and evaluated by the Commission. Claims only can be filed for land dispossessions following the promulgation of the Natives Land Act of 1913, although this does not include dispossessions that occurred in 1913, which marked the year of the Government's most significant land redistribution in favor of whites. The various forms of compensation offered to claimants are the return of the original land, a deed to another piece of land, financial remuneration, or preferential access to government housing. A deadline of December 31, 1998, was set for receiving claims. There is no deadline for completion of the claim settlements, and the pace at which cases are moving is slow. As of December 1998, 63,455 cases had been received, of which 4,000 were accepted and are under investigation. Only 795 claims had been resolved by year's end. A provision passed by Parliament in late 1997, which allows the Ministry of Land Affairs to offer settlements without first going to court, has expedited the resolution process.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. However, these rights can be limited by law under some circumstances. Several apartheid-era laws that remain in force pose a potential threat to the media. In addition, the Constitution bans the advocacy of hatred based on race, ethnicity, gender, or religion, and that constitutes incitement to cause harm. Nevertheless, the press freely criticized both the Government and the opposition.

Several laws from the apartheid era remain in effect that permit the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws have not been enforced regularly, journalists perceive them to be a threat to the freedom of the press. Another law, the Criminal Procedure Act, could be used to compel reporters to reveal their sources. In June the South African National Editors' Forum (SANEF) launched a media campaign to compel changes to legislation that restrict the free flow of information. In July SANEF and the Government reached an informal agreement to introduce safeguards to prevent the use of the Criminal Procedure Act against journalists; however, in September the ICD stated that the Provincial Director of Public Prosecutions decided to invoke a section of the Criminal Procedure Act against an unnamed person. The Act reportedly was not invoked officially during the year; however, SANEF continues to push for a formal amendment of the Act that would ensure this agreement.

The Government used both legislative and structural means to encourage greater racial, ethnic, and gender diversity in the ranks of the media. The media offer a broad range of news, opinion, and analysis. Coverage of news and expression of

opinion is vigorous. However, high-ranking government officials on occasion have reacted sharply to media criticism of government programs and problems, going so far as to accuse journalists, particularly black journalists, of disloyalty. A few journalists fear that the Government would like to control the media. A larger number of journalists believe that the Government's sensitivity and its reaction to criticism cause self-censorship in the media.

Three publishing conglomerates own 80 percent of the newspapers in South Africa. All newspapers except one are independent. The independent Sowetan had the greatest circulation with an estimated readership of 1.2 million. Print media reaches only about 20 percent of the population due to illiteracy, the lack of newspapers in rural areas, and the cost of newspapers. The majority of the population receive the news through radio broadcasts.

The state-owned South African Broadcasting Corporation (SABC) continues to own and control the majority of the television and radio outlets. In December the SABC became a limited company increasing the potential for private ownership and greater editorial independence; the process of splitting the corporation into commercial and public services is scheduled to begin in April 2000. The SABC is managed by black citizens, provides broadcasting in the country's main African languages, and offers balanced news coverage of the Government and the leading opposition parties. The SABC maintains editorial independence from the Government; however, the summary dismissal of several of the SABC's most senior journalists in late 1998 and early in the year raised concern about its tolerance for dissenting voices. During the period preceding the June elections, a number of opposition leaders accused the SABC of marginalizing their parties in its coverage of the campaign; however, the Independent Broadcasting Authority (IBA), the government agency that regulates broadcasters, ruled that there was no evidence of biased reporting by the SABC.

The first commercial television station, E–TV, began broadcasting in October 1998. Most of E–TV's schedule consists of newscasts and foreign-produced programs. Majority ownership of E–TV is held by Midi Television, a black-owned consortium composed of a number of South African associations and syndicates representing workers, women, and disabled persons.

In addition to E–TV, the SABC competed with two pay-per-view broadcasters, M–NET and Multichoice, several commercial radio broadcasters, and a large number of low-power, not-for-profit community radio stations. The IBA has issued more than 100 community radio licenses since 1994; many of the licensees continue to experience startup and personnel-retention problems. Nevertheless, community radio provides radio access for the first-time to thousands of historically marginalized citizens, providing special event information and news tailored for specific interest groups.

In 1997 a black-owned consortium acquired control of the country's leading black-oriented newspaper, the Sowetan, and of a major, traditionally white-oriented publishing business, Times Media Limited. These acquisitions made inroads into the historic monopoly of white citizens over the print and electronic media. Black citizens also are gaining access to the media through community radio and in upper level management positions at the SABC. In the spring, the HRC launched an investigation into racism in the media; the investigation focused journalists on the issue of subliminal racism, while creating some concern that it would have an intimidating effect on freedom of the press. The HRC monitored the media to assess whether allegations of racism are used to co-opt black journalists and to pressure white journalists into changing their reporting. The HRC's final report was delayed pending public hearings on the report scheduled for March 2000.

In a landmark judgement in September 1998, the Supreme Court ruled that if journalists could prove that they had taken all the steps necessary to verify that the information they obtained was genuine and the articles published as a consequence were reasonable and not negligent in their reporting of the facts, journalists would not be liable if the information obtained was defamatory.

There are several government agencies with media-related responsibilities. The IBA, created in 1994 to dismantle the Government's monopoly of electronic media and serve as a regulatory agency for the broadcast media, lost some of its independence in 1998 when it was placed under the Minister of Post, Telecommunications, and Broadcasting. The Board of Censors reviews and passes judgment on written and graphic materials published in or imported into the country. The Board has the power to edit or ban books, magazines, movies, and videos. It regularly exercises that power, although with restraint. The Government Communications and Information Services, coordinates and facilitates communications with the citizenry through its Directorate for Media Diversity and Development, which began operations in March.

There are no restrictions on academic freedom.

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

In January in Cape Town, the Government denied MAGO, a group believed to be associated with the radical Islamic-based political group Qibla, a permit to march in protest of U.S. and British air strikes against Iraq. Despite the denial, MAGO members demonstrated on January 7 and 8 and attempted to attack a government building in which a foreign dignitary was speaking. In attempts to disperse the demonstration, police arrested several protesters and opened fire on the protesters with rubber bullets, killing one protester and injuring several others. On January 13, the Government denied a permit to Qibla to demonstrate against Israel's occupation of Jerusalem on the last Friday of Ramadan; however, a magistrate overturned the denial and Qibla was permitted to march.

In April police fired rubber bullets at a group of teenage protestors who were marching to a political rally in Umtata to commemorate the fifth anniversary of South Africa's first democratic elections (see Section 1.c). In August a group of secondary school students marched in protest of an ongoing labor dispute between teachers and the government. When some of the marchers began looting and vandalizing property, the police used teargas and rubber bullets to disperse the demonstration (see Section 1.c.).

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

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

Members of PAGAD complained that they were the target of police brutality. There was no indication that police targeted PAGAD members for investigation because of their religious affiliation. Some religious communities believe that the Government is too lenient in regards to PAGAD.

In January the Government denied MAGO, a group believed to be associated with the radical Islamic-based political group Qibla, a permit to march (see Section 2.b.). MAGO members demonstrated despite the denial; police arrested several protesters, and fired rubber bullets that killed one protestor and injured several others (see Sections 1.a. and 1.c.). Also in January, the Government denied a permit to Qibla to demonstrate; however, a magistrate overturned the denial (see Section 2.b.).

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

The law does not contain provisions for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In November 1998, the National Assembly and the National Council of Provinces passed the Refugees Act—framework legislation that codified the country's obligations under the U.N. Convention and its Protocol; however, the act had not gone into effect by year's end. The Refugees Act stipulates that no persons shall be expelled, extradited, or returned to any other country if they face persecution due to race, religion, or political affiliation, or when "his or her life, physical safety, or freedom would be threatened." The act also stipulates that designated refugees lose their status if they voluntarily return to their country of origin, take citizenship of another country, or if the circumstances that caused their flight from the country of origin change. However, the act stipulates that in order to renew their temporary residency permits, asylum seekers must return to the town in which they originally lodged their application to be recognized as refugees. Permits that are lost, stolen, or destroyed are not renewed. If found without a valid permit, asylum seekers are subject to arrest, detention, and deportation. However, until the Act goes into effect, the more restrictive Alien's Control Act of 1991 remains in effect. The Alien's Control Act does not differentiate between refugees and aliens, and does not take into account commitments made by Government in signing international conventions governing the treatment of refugees.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum, granting applicants the right to work and study. There were 9,536 applications for refugee status submitted during the year. Of those applications, 524 were accepted, 3,185 were rejected, and 1,193 were cancelled. The rest still were outstanding at year's end. Recognized refugees include refugees from Angola, Burundi, Rwanda, the Democratic Republic of Congo, the Republic of Congo, Liberia, Somalia, and Sudan.

About 70 percent of the thousands of illegal immigrants deported during the year came from Mozambique. Illegal immigrants are processed for deportation at a central facility, and sent back to Mozambique and Zimbabwe by weekly trains. Inadequate security on the trains allows many deportees to jump from the train en

route, perpetuating the illegal immigration problem. Despite numerous procedural safeguards, efforts to combat a mounting illegal immigration problem occasionally resulted in the wrongful deportation of aliens legally in the country. However, no persons were returned forcibly to countries where they feared persecution. There also were credible reports of overcrowded, unhygienic detention facilities; beatings by security personnel in detention centers; and the theft of money and personal possessions from refugees by security personnel.

Xenophobia led to a number of violent attacks on foreigners, particularly refugees and asylum seekers (see Section 1.c.).

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

Citizens exercised the right to change their government in June elections that observers deemed to be free and fair. There was an improved level of overall tolerance during the campaigning and voting period over the 1994 elections, attributable to IFP–ANC talks, as well as an increased police presence. Complaints primarily concerned posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation.

The new Constitution went into effect in February 1997. Under its terms, the country retains a bicameral parliament, an executive state presidency, and an independent judiciary, including a constitutional court.

The 400-member National Assembly was retained under the Constitution. A National Council of Provinces (NCOP), consisting of six permanent and four rotating delegates from each of the nine provinces, replaced the former Senate as the second chamber of Parliament. The NCOP, created to give a greater voice to provincial interests, must approve legislation that involves shared national and provincial competencies according to a schedule in the Constitution. An 18-member Council of Traditional Leaders, which the Constitution accords an advisory role in matters of traditional law and authority, was inaugurated in 1997.

Two parties, the ANC and the IFP, continued to share executive power, although the ANC dominated the Government and gained in parliamentary strength in the June elections. The ANC fills 24 of the 27 cabinet positions. In June the ANC leader, President Thabo Mbeki, succeeded Nelson Mandela as Head of State. As a result of the June elections, the Democratic Party (DP) replaced the New National Party (NNP) as the official opposition in the National Assembly. In addition to the ANC, IFP, DP, and NNP, the National Assembly includes the UDM, the African Christian Democratic Party, the Freedom Front, the Pan Africanist Congress, the United Christian Democratic Party, the Federal Alliance, the Afrikaner Unity Movement, the Azanian People's Organization, and the Minority Front.

There are no legal impediments to women's participation in government; however, women are underrepresented in government and politics. Of the 400 National Assembly members 119 are women, while in the NCOP, 17 of the 54 permanent delegates are women. Women currently occupy three of four parliamentary presiding officer positions (speaker and deputy speaker of the National Assembly, chair of the NCOP). Women hold 8 of 27 ministerial positions, as well as 8 of 13 deputy ministerial slots.

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

Human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views. Many organizations participate in governmental bodies that seek to gather public input and to fashion policies related to human rights.

The government-created HRC is tasked with promoting the observance of fundamental human rights at all levels of government and throughout the general population. The HRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. While commissioners were named in late 1995, the HRC's powers were not determined formally until May 1996. Its operations have been hampered by red tape, budgetary concerns, the absence of civil liberties legislation, several high-level staff resignations, and concerns about the HRC's broad interpretation of its mandate.

The Office of the Public Protector investigates abuse and mismanagement by the Government, and acts as an office of last resort where citizens report unfair treatment by government organizations. Such complaints generally take the form of concerns over lost pension checks or unfair hiring practices. The office handles an increasing number of complaints but is hampered by severe resource constraints.

Under its 1995 enabling legislation, the TRC was empowered to look into apartheid-era gross human rights abuses committed between 1960 and 1994, to grant amnesty to perpetrators of a broad range of politically motivated crimes, and to recommend compensation for victims of human rights abuses. Due to the volume of work, the TRC's original 2-year mandate was extended to allow the continuation of amnesty hearings, and the TRC continued to operate freely throughout its fourth year. Its 5-volume report was released in 1998, and a codicil is to be added upon completion of the amnesty process. In its report, the TRC found that apartheid was a crime against humanity, that the former apartheid regime was responsible for most of the human rights abuses during the era of its rule, and that the ANC and other liberation movements also committed abuses during their armed struggle. Following a court challenge in 1998, findings on former State President F.W. De Klerk were excised from the report, pending a hearing that has yet to be scheduled. Former President P.W. Botha was subpoenaed to testify in the TRC's amnesty hearings but refused and was convicted of contempt in 1998. In June the Cape Town High Court overturned his conviction on procedural grounds.

By January approximately 7,120 amnesty applications had been filed with the TRC. By year's end 700 cases remained outstanding, 300 of which remained unheard. An estimated 80 to 90 percent of all applications were from persons already incarcerated. In October the TRC began amnesty hearings on 10 former members of the Umkhonto we Sizwe, the armed wing of the ANC, for their role in a series of bar bombings in Durban in 1986. A decision still was pending at year's end. A decision on amnesty for the killer of ANC activist Ruth First still was pending. The applications for amnesty by the killers of South African Communist Party (SACP) leader Chris Hani and black consciousness leader Steve Biko were denied. Amnesty was granted to the killers of human rights lawyer Griffiths Mxenge, anti-apartheid activist Sizwe Kondile, ANC member Dr. Fabian Ribeiro, and minister Piet Ntuli, and to Jeffrey Benzien, a former police officer who tortured anti-apartheid activists. In December the TRC granted amnesty to 10 right-wing activists responsible for a series of bombings, which killed 21 persons and wounded almost 200, leading up to the 1994 elections. The TRC granted amnesty to a former Minister of Law and Order, Adriaan Vlok; the former Commissioner of Police, General Johan van der Merwe; the former head of the Vlakplaas police unit, Eugene de Kock; and 16 others for their roles in the 1988 bombing of Khotso house, a church headquarters in Johannesburg, which injured more than 20 persons. The TRC is still considering Vlok's amnesty applications for other offenses. The TRC granted amnesty to all applicants in the bombing of the Congress of South African Trade Unions (COSATU) House. The TRC granted amnesty to De Kock and General John Coetzee, head of the Security Branch from 1980 to 1983 and National Police Chief from 1983 to 1987, for their roles in the bombing of ANC offices in London in 1982. In December De Kock was granted amnesty for his role in the murder of the "Cradock Four" in 1985. In 1998 a Cape Town High Court overturned a blanket amnesty from the TRC for 38 high-profile ANC leaders, declaring there was no provision in the law for group amnesties. Twenty-nine of the leaders resubmitted individual amnesty applications, which the Committee declared to be invalid in March because the applications did not provide details of specific acts for which amnesty was being requested.

The TRC report called for a reconciliation summit to be scheduled during the year, but had not received a formal response from the Government by year's end. The TRC also called for increased counseling services for victims of trauma, and consideration of a mechanism for restitution, such as a wealth tax. The Cabinet and Parliament have yet to approve the TRC's recommendations for an overall payment formula for reparations, which include monetary compensation as well as community support and legal and symbolic reparations. The Government had not resolved any of these matters by year's end; however, the processing of financial reparation applications from eligible victims continued through year's end. In 1998 interim assistance was given to those considered to be in the greatest financial difficulty. The TRC officially expressed concern regarding delays in implementing reparation measures along with doubt about the level of government support for reparation funding.

In March the Director of Public Prosecutions revealed that his office had established a special unit to set up a process for proceeding against those who had failed to ask for amnesty or to whom amnesty had been denied. The unit would establish uniform criteria on which cases should be prosecuted; the criteria would include the strength of evidence available as well as the "implications for national reconciliation." The case against Dr. Basson is the first, and at year's end only, case to be pursued by this unit (see Section 1.a.).

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

The Constitution prohibits discrimination on grounds of race, religion, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, or marital status. Legal recourse is available to those who believe that they have been discriminated against; however, entrenched attitudes and practices, as well as limited resources, limit the practical effect of these protections.

Women.—There is a high rate of violence against women including rape, assault and battery, and domestic violence. Approximately 23,900 women reported being raped between January and June. Police sources believe that a majority of rapes still are unreported. Entrenched patriarchal attitudes towards women are a significant factor in underreporting. Abused women have difficulty getting their cases prosecuted effectively and also often are treated poorly by doctors, police, and judges.

The Domestic Violence Act, passed by Parliament in 1998 and enacted in December, defines victims of domestic violence, facilitates the serving of protection orders on abusers, provides places of safety for victims, allows police to seize firearms at the scene and arrest abusers without a warrant, and compels medical, educational, and other practitioners working with children to report abuse immediately. The Prevention of Family Violence Act of 1993 defines marital rape as a criminal offense, and it allows women to obtain injunctions against their abusive husbands and partners in a simpler, less expensive, and more effective manner than under previous legislation. However, the implementation process is inadequate, as the police generally are unwilling to enforce the act. As a consequence, a limited number of women pressed complaints under the law, despite government and NGO efforts to increase public awareness of it. Parliament began considering additional legislation to remedy these and other defects.

While some progress has been made, the number of shelters for battered women remained insufficient. The SAPS continued to operate new units that deal specifically with domestic violence, child protection, and sexual violence, and which are intended, in part, to increase victims' confidence in the police, thereby leading to increased reporting of such crimes. However, these units often were hampered by a lack of training among officers.

Discrimination against women remains a serious problem despite legal and constitutional protections, particularly in areas such as wages, extension of credit, and access to land. Progress was made in bringing customary law in line with constitutional provisions. The Recognition of Customary Marriages Bill, passed by Parliament in 1998, recognizes customary marriages, both monogamous and polygynous, but it does not address religious marriages, which are not recognized under law; however, the bill was not enacted into law by year's end. The bill includes a number of safeguards for women and children, including requiring a minimum age of 18 and the consent of both spouses to enter into such marriages and a court decree to dissolve them. The bill also addresses inequities of property arrangements under some customary laws. The 1998 Maintenance Bill, which, except for one section, was enacted into law in November, tightens procedures for child support payments and improves the ability of caregivers, most of whom are women, to collect maintenance payments from partners. Other legislation, such as the Employment Equity Act, and the Basic Conditions of Employment Act, counter discrimination against women in the workplace. The 1997 Interim Protection of Informal Land Act protects persons who have insecure and informal rights and interests in land; many women are in this category. There are 12 known women's private investment companies in the country.

A number of governmental and nongovernmental organizations monitor and promote women's rights. The Office on the Status of Women, located in the Deputy President's office, coordinates departmental gender desks, which develop strategies to ensure integration of gender concerns in policy and planning. The Commission on Gender Equality (CGE), a constitutionally mandated body, is authorized to investigate allegations of gender discrimination and make recommendations to Parliament on any legislation affecting women. As with some of the other statutory watchdog bodies, the CGE continued to be hampered by a lack of funding. The Women's National Coalition, an umbrella organization of women's groups from labor, political parties, trade unions, and religious, cultural, and professional bodies, monitors and promotes women's equity and issues of interest to women.

Polygyny continues to be practiced by several ethnic groups. Exacting a bride price ("lobola") also is a traditional practice of some ethnic groups.

Children.—The Constitution stipulates that children have the right "to security, education, basic nutrition, and basic health and social services." The Government remains committed to providing these services and has made some progress toward

developing the mechanisms for delivering them, including improvements in the provision of education and a campaign against child abuse. However, the demand for such services far outstrips the resources available.

The Schools Act and the National Education Policy Act, passed by Parliament in 1996, provide greater educational opportunities for disadvantaged children—traditionally black children—through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages 7 to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. Approximately 95 percent of school-age children are enrolled in school. The school funding formula, based on norms and standards tied to physical resources and performance, devotes 75 percent of nonpersonnel resources toward the 40 percent most needy schools. However, the availability and quality of primary schooling still is a problem, especially in rural areas where schools may not be easily accessible or children may have to work (see Section 6.d.). To address this problem, the Government is building many new schools, introducing basic skills development and prevocational training into the curriculum and, in some cases, developing plans to provide food for disadvantaged children.

Student populations on university campuses are becoming more representative of the general population, with previously all-white universities reaching out to recruit students from black and colored communities. The enrollment of black students has risen to between 30 and 40 percent at prestigious universities, including the University of Pretoria.

Social programs known as "Presidential Initiatives," which were included in the former Reconstruction and Development Program, continued to receive government support. These initiatives offer free health care to pregnant women and to children under 6 years of age and provide nutritious meals for primary school children.

In December a Cape Town High Court ruled that children in squatter camps have a constitutional right to housing, and thus, are entitled to state-provided shelter. The High Court also ruled that children have a constitutional right to family, and therefore, have the right to be accompanied by their parents in state-provided shelter. The Government requested leave to appeal the case to the Constitutional Court due to the significant resource implications of this ruling.

Violence against children remains widespread. While there has been increased attention to the problem by the Government, the public, and the media, a lack of coordinated and comprehensive strategies to deal with such crimes continues to impede the delivery of needed services to young victims. Reports of child rape have increased significantly, as have reports that men are committing rape due to a growing myth that having sexual intercourse with a virgin can cure HIV/AIDS.

Traditional circumcision rituals still are practiced on teenage boys in rural areas of the Eastern Cape and KwaZulu-Natal and resulted in the hospitalization, mutilation, or death of several youths.

Child prostitution is on the rise, primarily in Cape Town, Durban, and Johannesburg. There reportedly has been an increase in the number of children who live on the streets, and observers believe that this has contributed to the growing number of child prostitutes. The child sex industry increasingly has become organized, with children either being forced into prostitution or exploited by their parents to earn money for the family. In March the Parliament passed the Child Care Amendment Bill, which prohibits the commercial sexual exploitation of children. The Bill is scheduled to be implemented in January 2000.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, still is practiced in some rural areas of the Eastern Cape and KwaZulu-Natal, although it is not thought to be widespread. There is no legislation that addresses FGM; however, a person who subjects another to FGM is subject to the common-law offense of assault.

Parliament passed legislation in 1995 prohibiting the detention of unconvicted juveniles in prisons, police cells, or lock-ups. A 1996 law gave courts limited discretion to detain in prison 14 to 18-year-old children who were awaiting trial for serious crimes such as murder or rape. The measure was expected to be temporary pending the establishment of "places of safety" for the detention of juveniles. However, due to delays in the establishment of such centers, provisions of the 1996 law lapsed in 1998. Amid concerns that dangerous juvenile offenders were being released to return to the streets, additional legislation was passed in 1998 to regulate limited pretrial detention of juvenile offenders accused of serious crimes. The law states that any child under the age of 14 must be released within 24 hours into the custody of a parent or guardian when possible.

People With Disabilities.—The Constitution prohibits discrimination on the basis of disability. Society is increasingly open to the concept of persons with disabilities

as a minority whose civil rights must be protected. The Government attempts to ensure that all government-funded projects take account of the needs of disabled citizens. However, in practice government and private sector discrimination against the disabled in employment still exists. According to an NGO, the Affirmative Action Monitor, fewer than two-thirds of companies target the disabled as part of their affirmative action programs. The law mandates access to buildings for the disabled, but such regulations rarely are enforced, and public awareness of them remains minimal. The Employment Equity Act requires private firms with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for the disabled. The National Environmental Accessibility Program, an NGO comprising disabled consumers as well as service providers, has established a presence in all nine provinces in order to lobby for compliance with the regulations and to sue offending property owners when necessary.

Religious Minorities.—Relations between the various religious communities generally are amicable. However, there is a concern among Christians about the perceived growing influence of Islam. Reports of violence perpetrated by PAGAD have fueled these concerns. PAGAD portrays itself as a community organization opposed to crime, gangsterism, and drugs; however, it is known for its violent vigilantism (see Section 1.a.). PAGAD also claims to be a multifaith movement, even though its orientation is Islamic and the vast majority of its members are Muslim. PAGAD is most active in the Western Cape, but also has branches elsewhere in the country. Surveys indicated that some two-thirds of Muslims supported PAGAD soon after its inception in 1995, but that figure has dropped significantly since; the vast majority of Muslims no longer support PAGAD. While PAGAD continues to lose support when it is linked to violent acts, it gains sympathy when high-profile incidents occur that are perceived by the Muslim community to have been acts of discrimination against Muslims.

PAGAD members disrupted prayers at mosques led by anti-PAGAD clerics. PAGAD also targeted the homes of anti-PAGAD Muslim clerics, academics, and business leaders.

In January 1997, a mosque in Rustenberg was bombed in a series of bombings that also struck a post office and general store and injured two persons. Authorities arrested two suspects for the bombings, but their trials still were pending at year's end.

In December 1998, a synagogue in Wynberg was bombed. Four suspects have been arrested, and their trials still were pending at year's end.

Indigenous People.—The Constitution provides for the recognition of "the institution, status, and role of traditional leadership," and requires the courts to "apply customary law when that is applicable, subject to the Constitution and any legislation that specifically deals with customary law."

The Constitution further permits legislation for the establishment of provincial houses of traditional leaders and a National Council of Traditional Leaders, to deal with matters relating to traditional leadership, the role of traditional leaders, indigenous and customary law, and the customs of communities that observe a system of customary law. Six provinces have established houses of traditional leaders. Under the terms of the Constitution and implementing legislation, the National Council of Traditional Leaders was inaugurated in 1997. The Council is to advise the Government on matters related to traditional authorities and customary law. However, much work remains to be done to integrate traditional leadership and customary law into the formal legal and administrative system.

National/Racial/Ethnic Minorities.—The Constitution and Bill of Rights prohibit discrimination on the basis of race, ethnic or social origin, and culture. The Government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally. The Government has instituted an effective affirmative action program, and, under the Employment Equity Act, also requires private firms with more than 50 employees to institute affirmative action programs. According to a 1996 Department of Labor survey, 82 percent of private sector firms already have instituted affirmative action programs.

According to the Affirmative Action Monitor, affirmative action policies have had little impact on the top echelons in business. Based on a consultants' survey in 1996, one-third of the organizations with no affirmative action program did not intend to implement one. Twelve percent of the companies surveyed stated that they had experienced a drop in standards or deterioration in quality of work due to affirmative action. However, the country's black majority increasingly is making inroads into the previously all-white entrepreneurial sector through pooled investments and acquisitions. The armed forces have struggled with the process of integrating blacks into the predominantly white officer corps.

Xenophobia led to a number of violent attacks on foreigners, particularly refugees and asylum seekers (see Section 1.c. and 2.d.).

The continued killings of mostly white farm owners by black assailants created concern that the white farmers were being targeted for racial and political reasons (see Section 1.a.) There also were reports that white employers abused and killed black farm laborers, but avoided penalty due to collusion with the authorities (see Section 1.a.).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for freedom of association and the right to strike, and these rights are given statutory effect in the 1996 Labor Relations Act (LRA). All workers in the private sector are entitled to join a union. Most workers in the public sector, with the exception of members of the National Intelligence Agency, and the Secret Service, also are entitled to join a union. In May the Constitutional Court struck down the prohibition on members of the National Defense Force joining a union, although they may not strike. No employee can be fired or discriminated against because of membership in or advocacy of a trade union. Union membership in the private sector has continued to decline steadily in the last few years as a result of job layoffs and declining employment, including in sectors that have been heavily unionized, such as mining. However, some public sector unions have experienced growth. Total union membership is approximately 3.4 million persons, nearly 35 percent of those employed in the wage economy.

The largest trade union federation, COSATU, is aligned formally with the African National Congress (ANC) and the South African Communist Party (SACP). About 20 ANC members of the Cabinet have a COSATU leadership background, and the current premier of Gauteng, the country's richest province, is a former COSATU general secretary. COSATU's largest rival, the Federation of Unions of South Africa (FEDUSA), is an apolitical, multiracial federation that was formed in 1997 by merging several smaller worker organizations. A relatively minor labor federation, the National Council of Trade Unions, while officially independent of any political grouping, has close ties to the PAC and the Azanian Peoples Organization.

The LRA seeks to create an industrial relations regime that is stable and recognizes that basic worker rights need to be protected. The act protects workers against unfair dismissal, recognizes their right to form trade unions, provides for the right to strike, and establishes a simple set of procedures that protect striking workers from the threat of dismissal. Essentially, for a strike to proceed, all that is required is that a dispute be referred for conciliation. There is no time limit on conciliation efforts; however, if conciliation fails to resolve the dispute, or lasts more than 30 days, a trade union is entitled to advise an employer of intent to strike so long as it gives 48-hours notice to a private sector employer or 7-days notice to a state employer. Organized labor also has the right to engage in "socioeconomic protest," whereby workers can demonstrate, without fear of losing their jobs, in furtherance of broader social issues. The LRA also allows employers to hire replacement labor for striking employees, but only after giving 7 days' notice to the striking trade union. Employers have the right to lock out workers if certain conditions are met.

The LRA applies to public sector as well as private sector workers. Public sector employees, with the exception of essential services and the three components of the security services, also are provided with the right to strike. While this right first was asserted in the Public Sector Labor Relations Act of 1993, the LRA simplifies and rationalizes collective bargaining in the public sector and the resort to industrial action.

Wage negotiations between the Government and public sector unions led to a number of strikes by public sector employees during the year. In April 18,000 employees of 18 long distance bus companies went on strike, and in August 26,500 members of the Communications Workers' Union went on strike against Telkom, the Government's telecommunications parastatal.

The Government does not restrict union affiliation with regional or international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—The law defines and protects the rights to organize and bargain collectively. The Government does not interfere with union organizing and generally has not interfered in the collective bargaining process. The LRA statutorily provides for "organizational rights," such as trade union access to work sites, deductions for trade union dues, and leave for trade union officials, which strengthens the ability of trade unions to organize workers.

Union participation as an equal partner with business and government in the National Economic Development and Labor Council, a tripartite negotiating forum, ensures a direct voice for labor in the formulation of economic, social, and labor policy.

The LRA allows for the establishment of workplace forums that are intended to promote broad-based consultation between management and labor over issues such as work organization, corporate downsizing, and changes in production processes. The forums, in order to receive statutory protection, can be established by trade unions only in businesses with more than 100 employees. Although trade unions in a few factories have established workplace forums, the intent of the law is to build wide support within the trade union movement and business for such cooperative workplace relationships.

To further reduce the adversarial nature of labor relations, the LRA also created a Commission for Conciliation, Mediation, and Arbitration (CCMA). Since its inception in 1996, the CCMA has resolved many disputes referred to it successfully and remains critical to the emergence of a less confrontational business climate. The CCMA also gradually is beginning to play an interventionist role by getting involved in disputes before they deteriorate into a full-fledged strike or lockout. A labor court and a labor appeals court are other important creations of the LRA. The labor court has jurisdiction to resolve disputes that the CCMA is unable to mediate to the satisfaction of both parties. Notwithstanding the existence of the CCMA and specialist courts for labor disputes, the thrust of industrial relations is to minimize the need for judicial intervention in labor relations, leaving it to the contending parties themselves to resolve disputes whenever possible.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor by either adults or children is illegal under the Constitution; however, there were reports that children were forced into prostitution (see Section 5). Smugglers use the country as a transit and destination point for trafficking in persons for purposes of forced prostitution and forced labor (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of minors under the age of 15. Children between 15 and 18 years of age may not be employed in jobs that risk their "well-being, education, physical or mental health, or spiritual, moral, or social development." However, the law gives discretionary powers to the Minister of Welfare to exempt certain types of work to allow individual employers or groups of employers to hire children under certain conditions (for example, on weekends and holidays when they are not in school). This is a common practice in the agricultural and informal sector. Child labor also is used on a more regular basis in the informal economy.

According to the NGO Network Against Child Labor, an estimated 200,000 children, some as young as 5-years-old, work in rural areas, mostly in the agricultural sector. This figure does not include unpaid domestic work or children working in the informal sector. Child laborers from Zimbabwe and Mozambique work in the country on commercial farms, for the taxi industry, or as domestic servants. Child prostitution is a growing problem in metropolitan areas (see Section 5). Child labor figures for the informal sector nearly are impossible to quantify, since the Government has yet to identify the size of the informal sector's contribution to employment and the economy in general. The Government has stated that it is committed to abolishing child labor through new legislation and improving the enforcement of current child labor laws.

In 1998 the Ministry of Defense adopted a policy that raised the minimum age of enlistment into the National Defense Force from 17 to 18; however, this policy does not become law until passage of the Defense Act, which still was under consideration by Parliament at year's end.

Forced or bonded labor by children is illegal under the Constitution; however, there were reports that children were forced into prostitution (see Sections 5 and 6.c.).

e. *Acceptable Conditions of Work.*—There is no legally mandated national minimum wage. Instead, unionized workers in the formal sector of the economy set wage rates on an industry-by-industry basis through annual negotiations with employer organizations. Such wages generally are sufficient to provide a decent standard of living for a worker and family. In those sectors where workers are not organized sufficiently to engage in the collective bargaining process, the Basic Conditions of Employment Act, which went into effect in December 1998, gives the Minister of Labor the authority to set wages, including, for the first time, for farm laborers and domestic workers. However, income disparities between skilled and unskilled workers and the income distribution gap between rural and urban workers mean that many workers are unable to provide a decent standard of living for themselves and their families.

The Basic Conditions of Employment Act, which went into effect in December 1997, standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek and longer maternity leave for women (4 months instead of 3). A ministerial

determination exempted businesses employing fewer than 10 persons from certain provisions of the act concerning overtime and leave.

Occupational health and safety issues are a top priority of trade unions, especially in the mining and heavy manufacturing industries. Although attention to these issues has increased significantly, including passage in 1993 of the Occupational Health and Safety Act, the country's industrial and mining processes are dangerous and sometimes deadly. Government attempts to reduce mining fatalities culminated in the 1996 Mine Health and Safety Act, which went into effect in January 1997. The act provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. Moreover, it establishes a tripartite mine health and safety council and an inspectorate of mine health and safety tasked with enforcing the act and monitoring compliance with its provisions. The Act specifically makes it an offense for a company to discriminate against an employee who asserts a right granted by the act (for example, to leave a hazardous work site) and requires mine owners to file annual reports that provide statistics on health and safety incidents for each mine being worked.

There are no laws or regulations in other industries that permit workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment.

f. *Trafficking in Persons.*—The Alien Control Act prohibits trafficking in persons; however, South Africa is a destination point for the trafficking of persons from Mozambique, Thailand, and other countries. In August there were reports that women and girls from neighboring countries, particularly Mozambique, were lured into South Africa by Nigerian and other organized crime syndicates based in the country with the promise of jobs and decent wages, and then held as near-slaves on farms and other enterprises. In August a group of Mozambican women were discovered being held against their will in a brothel. The women apparently had been recruited in Mozambique to work as domestic servants, but upon arriving in the country were forced to work as prostitutes. Women from Thailand, and a few women from Cambodia and China, were being smuggled into the country for prostitution by Chinese and South African organized crime syndicates. While many of these women come willingly, some claim that they were tricked into coming, or that they were forced to continue working as prostitutes until they had paid off the cost of their transport.

South Africa is also a transit point for a large trafficking network operating between developing countries and Europe, the United States, and Canada. Migrants from foreign countries, particularly China, India, the Middle East, former Eastern Bloc countries and other African countries, are lured to South Africa with stories of money and jobs in the West. Once in the country they are provided with documentation and accommodation before being moved on to final destinations where they are forced into prostitution, drug dealing, or other criminal activity or forced to work in factories as virtual slaves until they pay off the debt of their travel expenses. Traffickers apparently have identified the country as one in which fraudulent documents are easy to obtain and in which direct flight and shipping routes are available to most countries in the developed world.

Government efforts to deal with trafficking through its police services are hampered by corruption, lack of training, and understaffing. The courts generally deal with trafficking through deportations and fines, rather than exacting criminal penalties. Reportedly there were some arrests and prosecutions during the year for trafficking, but no convictions.

SUDAN

The 1989 military[1] coup that overthrew Sudan's democratically elected government brought to power Lieutenant General Omar Hassan Al-Bashir and his National Salvation Revolution Command Council (RCC). Bashir and the RCC suspended the 1985 constitution, abrogated press freedom, and disbanded all political parties and trade unions. In 1993 the RCC dissolved itself and appointed Bashir President. In 1996 Bashir won highly structured national elections as President, while a National Assembly with 275 of 400 members popularly elected in a deeply flawed process replaced the transitional national assembly. The opposition boycotted the electoral process. Despite the adoption of a new Constitution through a referendum in June 1998, the Government continued to restrict most civil liberties. Since 1989 real power has rested with the National Islamic Front (NIF), founded

[1] The United States does not have diplomatic representation in Sudan. This report draws in part on non-U.S. Government sources.

by Dr. Hassan al-Turabi who became Speaker of the National Assembly in 1996. In November 1998, the NIF renamed itself the National Congress (NC); NIF/NC members and supporters continue to hold key positions in the Government, security forces, judiciary, academic institutions, and the media. On December 12, Bashir declared a 3-month state of emergency, dismissed Turabi, and disbanded Parliament 2 days before it was to vote on a bill introduced by pro-Turabi legislators to reduce Bashir's presidential powers. The judiciary is subject to government influence.

The civil war, which is estimated to have resulted in the death of 2 million persons, continued into its seventeenth year. The principal insurgent faction is the Sudan People's Liberation Movement (SPLM), the political wing of the Sudan People's Liberation Army (SPLA). The SPLA remains the principal military force in the insurgency. In April 1997, the South Sudan Independence Movement/Army, which broke away from the SPLA in 1991, and several smaller southern factions concluded a peace agreement with the Government. However, the SPLM/SPLA and most independent analysts regard the 1997 agreement as a tactical government effort to enlist southerners on the Government's side. The 1997 agreement remains largely unimplemented, and there was significant fighting between progovernment and antigovernment elements of the Southern Sudan Independence Movement (SSIM) during the year. The SPLM/SPLA and its northern allies in the National Democratic Alliance (NDA) carried out military offensives in areas along the borders with Ethiopia and Eritrea and in large parts of the south during the year. As in 1998, neither side appears to have the ability to win the war militarily. There was limited progress toward peace during the year. Government and SPLM/SPLA delegations met with mediators from the Intergovernmental Authority for Development (IGAD) in Nairobi from July 18–23 and participated in IGAD-mediated peace talks. The Bahr El Ghazal cease-fire, which began on July 15, 1998, was extended by both the Government and the SPLM in January, in April, and again in July. On August 10, the government offered a comprehensive cease-fire, which it extended in October through January 15, 2000. The SPLM similarly extended its cease-fire through the same dates, but effectively limited its offer to the humanitarian cease-fire as agreed to in Bahr El Ghazal. The Government and the SPLM met in Oslo May 25–26 and agreed in principle to the establishment of cross-line rail and road corridors for the delivery of humanitarian relief. Surveys were made during the year of possible routes.

In addition to the regular police and the Sudan People's Armed Forces, the Government maintains an external security force, an internal security force, a militia known as the Popular Defense Forces (PDF), and a number of police forces, including the Public Order Police (POP), whose mission includes enforcing proper social behavior, including restrictions on alcohol and "immodest dress." In addition to the group of regular police forces, there is the Popular Police Force, which is made up of nominees from neighborhood popular committees for surveillance and services, and which acts with police powers for political and social ends. Members of the security forces committed numerous serious human rights abuses.

Civil war, economic mismanagement, over 4 million internally displaced persons in a country of an estimated 27.5 million persons, and, to a lesser extent, the refugee influx from neighboring countries have devastated the country's mostly agricultural economy. Approximately 80 percent of the labor force is engaged in agriculture. Exports of gum Arabic, livestock, and meat accounted for more than 50 percent of export earnings. Private investment in the oil sector led to significant increases in oil production during the year. Reforms beginning in the early 1990's aimed at privatizing state-run firms and stimulating private investment failed to revive a moribund economy that is saddled with massive military expenditures and a huge foreign debt of approximately $21.5 billion. Per capita national income is estimated at $900 per year.

The Government's human rights record remained extremely poor, and it continued to commit numerous, serious abuses. Citizens do not have the ability to change their government peacefully.

Government forces were responsible for extrajudicial killings and disappearances. Government security forces regularly tortured, beat, harassed, arbitrarily arrested and detained, and detained incommunicado opponents or suspected opponents of the Government with impunity. Security forces beat refugees, raped women, and reportedly harassed and detained persons on the basis of their religion. Prison conditions are harsh, prolonged detention is a problem, and the judiciary is largely subservient to the Government. The authorities do not ensure due process and the military forces summarily tried and punished citizens. The Government infringed on citizens' privacy rights. The Government still does not fully apply the laws of war to the southern insurgency and has taken few prisoners of war (POW's).

The easing of restrictions on press freedom, which began in 1997, ended as the Government repeatedly suspended publications that criticized or disagreed with the government line, and detained journalists. Moreover, all journalists continue to practice self-censorship. The Government continued to restrict severely freedom of assembly, association, religion, and movement. In the context of the Islamization and Arabization drive, pressure—including forced Islamization—on non-Muslims remained strong. Fears of Arabization and Islamization and the imposition of Shari'a (Islamic law) fueled support for the civil war throughout the country. There are no independent human rights organizations.

Violence and discrimination against women and abuse of children remained problems. Prostitution is a growing problem, and female genital mutilation is widespread. Discrimination and violence against religious minorities persisted, as did discrimination against ethnic minorities and government restrictions on worker rights. Child labor is a problem, and slavery remained a problem. Trafficking in persons continued. Government security forces were responsible for forced labor (including forced child labor), slavery, and the forced conscription of children.

Cooperation with U.N.-sponsored relief operations was mixed. The Government allowed U.N. teams to perform humanitarian assessments in the Nuba Mountains on two occasions. Government forces periodically obstructed the flow of humanitarian assistance. Problems with relief flights in the south centered on the Government's frequent denials of aircraft clearances to the U.N.'s Operation Lifeline Sudan (OLS), particularly for Western Upper Nile.

Insurgent groups continued to commit numerous, serious abuses. The SPLM/SPLA continued to violate citizens' rights, despite its claim that it was implementing a 1994 decision to assert civil authority in areas that it controls, and in many cases, has controlled for many years. The SPLM/SPLA was responsible for extrajudicial killings, beatings, rape, arbitrary detention, forced conscription, and occasional arrests of foreign relief workers without charge. The SPLM/SPLA again failed to follow through on its promise to investigate a 1995 massacre. A local Red Crescent worker and three government officials who were accompanying an International Committee of the Red Cross (ICRC) team in the south were killed while in the custody of the SPLA. SPLM/SPLA officials were guilty of, or complicit in, theft of property of nongovernmental organizations (NGO's) and U.N. agencies operating in the south. The ICRC reported in 1996 that the SPLA had begun to observe some basic laws of war; it takes prisoners on the battlefield and permits ICRC visits to some of them. However, the SPLA did not allow the ICRC to visit prisoners accused by the insurgent group of treason or other crimes, or those held in Southern Blue Nile State.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In their attacks on insurgent forces, government troops killed a large number of civilians (see Section 1.g.). There were credible reports that government forces pursued a scorched earth policy aimed at removing populations from around the newly built oil pipeline and other oil production facilities, which reportedly resulted in some deaths. On numerous occasions, the Government bombed civilian facilities resulting in a number of civilian deaths, including children (see Section 1.g.). Explosions by government-laid landmines resulted in some deaths (see Section 1.g.). There were reports that during raids on civilian settlements government forces killed a number of persons (see Section 1.g.).

According to Human Rights Watch, at least three persons, Abdallah Chol, Hassan Abu Adhan, and Gladino (Sam) Okieny, reportedly died as a result of torture while in police custody. They had been detained in connection with the June 30, 1998 Khartoum bombings. There was no investigation into their deaths, nor were any police officers held accountable. University of Khartoum law student Mohamed Abdelsalaam Babeker was found dead on October 4, 1998, in a university dormitory, after being arrested by NIF security forces. An autopsy indicated that the cause of death was a brain hemorrhage allegedly caused by a head wound. A case was filed against an unknown person and the police reportedly conducted an investigation, but released no information. At year's end, the case was stalled due to failure to identify the defendants.

There was no investigation into the January 1998, reports of reprisal killings of Dinka men by government forces.

In July two State Ministers and numerous civilians reportedly were killed in Unity State during fighting between progovernment and antigovernment militias. It is widely believed that the Government provided direct support to the militia loyal to Paulino Matip. Both militias assert that the other was responsible for the

killings. In May a barge operated by the U.N. World Food Program was attacked near the town of Adok resulting in the death of one persons and injuries to three others (see Section 1.g.). The area was the scene of fighting between progovernment and antigovernment militias, and it is not clear who was responsible for the attack.

Insurgent forces reportedly committed political and other extrajudicial killings, particularly in areas of active conflict; however, details generally were unavailable. Sometime before March 30, a local Red Crescent worker and three government officials who accompanied an ICRC team near the town of Kong in the south were killed while in the custody of the SPLA under circumstances that remain unclear. The four were riding in an ICRC vehicle with two foreign ICRC workers on February 18 when they were detained by the SPLA. The two foreign workers were released on March 12. The SPLM alleges that the four were killed in crossfire during a rescue attempt. The SPLM neither arranged for the return of the bodies nor permitted an independent investigation.

Rebel forces killed a large number of civilians during their attacks on government forces (see Section 1.g.). Insurgent forces laid landmines indiscriminately on roads and paths that killed and maimed both soldiers and civilians. Prisoners reportedly have died while in SPLA custody due to poor prison conditions (see Section 1.c.). There are reliable reports that rebel forces that captured villages along the border with Ethiopia in 1997 carried lists used to identify leading government figures whom they killed summarily.

The SPLM/SPLA again failed to follow through on its promise to investigate a 1995 massacre.

Ongoing fighting between ethnic Dinkas and Didingas in the New Cush and Chukudum areas in eastern Equatoria led to a number of deaths (see Section 5). On January 16, in Chukudum local Didingas led by an SPLA captain killed a Dinka SPLA captain and several officers. The killing led to an outbreak of violence among Dinka and Didinga refugees in the Kakuma refugee camp in Kenya. The fighting, which began on January 26, resulted in at least six deaths and numerous injuries. In October Dinka SPLA soldiers killed a Didinga chief. On November 8, gunmen attacked an aid vehicle carrying members of the Sudan Relief and Rehabilitation Agency (SRRA), the humanitarian wing of the SPLM/SPLA, outside of the town of New Cush and killed two persons, apparently in retaliation for the October killing. Later that evening, Dinka SPLA soldiers killed another SRRA official, apparently in reaction to the vehicle attack. No one has been held accountable for the killings.

In February fighting between Arab pastoralists and African Masaleet tribes in Darfur led to more than a hundred deaths (see Section 5).

b. *Disappearance.*—There were continued allegations that the Government was responsible for the arrest and subsequent disappearance of persons suspected of supporting rebels in government-controlled zones in the south and the Nuba mountains. Persons arrested by government security forces often were held for long periods of time in unknown locations without access to their lawyers or family members.

There were reports that during raids on civilian settlements government forces abducted persons, including women and children (see Section 1.g.). Observers believe that some of the abductees were sold into slavery, while others were used as forced labor or drafted into the military. In some cases, observers believe that the abductees were eventually released or ransomed, and that in other cases some abductees were killed.

In 1996 the Government established the Special Commission to Investigate Slavery and Disappearances in response to a resolution passed by the 1995 U.N. General Assembly. The commission technically still is functioning, but has yet to produce a final report. In May the Government formed the Committee for the Eradication of the Abduction of Women and Children. The committee and UNICEF jointly sponsored a workshop on abductions from July 27–29, during which the committee recognized abduction as a problem that the Government could and should address. The committee formed mechanisms to identify and return abductees. Several high-ranking Government officials participated in the activities of the committee. These mechanisms resulted in the identification and release of several hundred abductees, although the abductees had not been returned to their homes by year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The new Constitution, implemented early in the year, prohibits torture; however, the Government's official and unofficial security forces continued to torture and beat suspected opponents and others. Security forces tortured youths, student leaders, and others whom they deemed opponents of the Government. The Government reportedly harassed, detained, and tortured lawyers whom they viewed as political opponents (see Section 1.e.). In 1997 the U.N. Special Rapporteur on Torture described torture as a fairly extensive problem. Refugees also were subjected to beatings and mistreatment (see Section 2.d.). There continued to be reports that security forces

regularly harassed and at times used threats and violence against persons on the basis of their religious beliefs and activities (see Section 2.c.). Security forces used excessive force, including beatings and tear gas, to disperse unapproved demonstrations (see Section 2.b.). Members of the security forces rarely, if ever, were held accountable for such abuses.

According to Amnesty International, journalist Mohamed Abd Al-Seed, who was arrested and detained by security forces for more than a month in April and May (see Section 1.d.), required medical treatment for infected wounds on his arms and legs as a result of being tortured severely while in detention.

There were reports that security forces continued to torture persons in "ghost houses," places where security forces detain government opponents incommunicado under harsh conditions for an indeterminate time with no supervision by the courts or other independent authorities with power to release the detainees.

Government forces were responsible for injuring many civilians during attacks on insurgent forces, during raids on civilian settlements, and while bombing civilian targets (see Section 1.g.). The explosions of government-laid landmines resulted in a number of injuries (see Section 1.g.). Soldiers were responsible for raping women (see Section 1.g.).

In December police in Khartoum State injured five persons during a conflict over a church school (see Section 2.c.).

The Criminal Act provides for punishments including flogging, amputation, and crucifixion—the public display of a body after execution. In a case involving ethnic clashes in the Darfur region in the west (see Section 5), an emergency court sentenced 10 persons to hanging and subsequent crucifixion. At year's end, the sentence had not been carried out pending confirmation of the High Court of Appeal and presidential approval.

In June a Khartoum court ordered that 25 students from Ahlia University be flogged; they were charged with disturbances, and "obscene acts." The obscene acts apparently referred to the actions of the female students in wearing trousers (see 1.f.).

On June 30, 1998, almost a dozen bombs exploded around Khartoum, in an alleged plot to mar official celebrations of the 1989 NIF coup. According to Human Rights Watch, at least three persons detained in connection with the June 30, 1998, Khartoum bombings reportedly died as a result of torture while in custody. According to Amnesty International, Reverend Lino Sebit reportedly confessed to involvement in the Khartoum bombings as a result of his torture and mistreatment (see Section 1.d.). .

The Government's "scorched earth" policy resulted in a number of injuries (see Section 1.g.).

According to Amnesty International, nine men convicted of bank robbery and imprisoned were deprived of food and sleep, forced to do heavy exercise in the heat, and had cold water thrown over them during winter by prison officials. One of the convicted robbers was ultimately acquitted, but prison officials tortured him so severely while in detention that he was blinded.

Insurgent forces were responsible for a number of civilian injuries and for raping women (see Section 1.g.). Insurgent forces laid landmines indiscriminately on roads and paths that killed and maimed both soldiers and civilians (see Section 1.g.). There are credible reports of beatings and other punishment of prisoners by the SPLA rebels, but the only verifications have been reports by the ICRC and others who have been to SPLM prisoner war camps in earlier years.

Conditions in government prisons remain harsh, overcrowded, and life threatening. Built before the country's 1956 independence, most prisons are maintained poorly, and many lack basic facilities such as toilets or showers. Health care is primitive, and food is inadequate. Minors often are held with adults. There was a report that 16 children who were living with their imprisoned mothers died during the year of diseases. Female prisoners are housed separately from men; rape in prison reportedly is rare. Prison officials arbitrarily denied family visits. High-ranking political prisoners reportedly often enjoy better conditions than other prisoners do.

The Government does not permit regular visits of prisons by human rights monitors. No independent domestic human rights organizations monitor prison conditions.

Prisoners reportedly have died while in SPLA custody due to the poor prison conditions. The SPLM allowed the ICRC to visit some POW's during the year.

d. *Arbitrary Arrest, Detention, or Exile.*—The new Constitution implemented early in the year, prohibits arbitrary arrest and detention without charge; however, the Government continued to use arbitrary arrest and detention in practice. Legal provisions under the 1992 and 1995 National Security Acts and Criminal Code effectively set a fairly simple process to detain anyone for 3 months. A presidential determina-

tion, supported by a magistrate, may serve to detain a person for an additional 3 months. Allegations continue that some persons are detained indefinitely.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment. In theory the Government provides legal counsel for indigent persons in such cases; however, reports continue that defendants do not always receive this right, and that counsel in some cases only may advise the defendant and may not address the court. In some cases, courts have refused to allow certain lawyers to represent defendants. For example, in October 1998 the court ruled that leading human rights lawyer Ghazi Suleiman could not represent the accused in the Khartoum bombings trial.

Authorities continued to detain political opponents of the Government during the year. As a result, many political activists reportedly keep overnight bags packed. Human rights activist Ghazi Suleiman was detained frequently (on at least four occasions—see Sections 1.e. and 2.b.), as were known leaders of banned political parties. On June 6, 84 persons were detained in Omdurman at the inauguration of a new political party, the Democratic Forces Front, (DFF—see Section 2.b.). In November authorities arrested several members of the government-aligned United Democratic Salvation Front who criticized the Government for its actions in the Unity State; reportedly all four were released later.

A number of journalists were detained during the year, including Mohamed Abd Al-Seed, who was arrested and detained in April for more than a month; the editors in chief of the newspaper Al-Rai al-Akher and reportedly two other editors in chief, who were arrested and detained in June; and the chief editor and editorial director of Al Rai Al Aam, who were arrested and detained in May for a day (see Section 2.a.).

There were reports that refugees were subject to arbitrary arrest (see Section 2.d.). Security forces also detained persons because of their religious beliefs and activities (see Section 2.c.). Generally, detentions based nominally on religion were of limited duration; because the practice of religion is not technically illegal, detainees could not be held formally on those grounds indefinitely. However, the Government often resorted to accusing, at times falsely, those arrested for religious reasons of other crimes, including common crimes and national security crimes, which resulted in prolonged detention. In November authorities arrested a religious leader who criticized the Government for being insufficiently Islamic, and several of his followers. Reportedly, all were released later without charge.

In 1998 the Government arrested Catholic priests Hillary Boma and Lino Sebit and 18 other persons, charged them with involvement in the Khartoum bombings in 1998, and brought them before a military court for trial. Boma, Sebit, and the other defendants in the case have been held for a long period of time in an unknown location without outside contact, including with their families and lawyers. In December all of the defendants were released by presidential decree.

Persons arrested by government security forces often were held for long periods of time in unknown locations without access to their lawyers or family members. For example, journalist Mohamed Abd Al-Seed, who was arrested on or about April 14, was held without charge until May 26. During most of that period he was held incommunicado (see Section 1.e.).

In late December, the Government announced that it would release all political detainees. Those involved in the June 30 bombing case and the February 1998 Gezira bombing case were released as part of this amnesty in December.

In February the SPLA detained a local Red Crescent worker, three government officials, and two ICRC members who were riding in an ICRC vehicle near the town of Kong in the south. The government officials and the Red crescent worker were killed while in the custody of the SPLA sometime before March 30 under circumstances that remain unclear (see Section 1.a.).

In October two U.N./OLS employees were detained for a day by SSIM militia forces in Toch. There had been active conflict in the area and the local commander's actions apparently were taken independently.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The judiciary is not independent and is largely subservient to the Government. The Chief Justice of the Supreme Court, formerly elected by sitting judges, is nominated by a Judiciary Committee and appointed by the President. As the senior judge in the judicial service, the Chief Justice also controls the judiciary. On occasion, some courts display a degree of independence. Appeals courts on several occasions overturned decisions of lower courts in political cases, particularly public order courts.

The judicial system includes four types of courts: Regular courts, both criminal and civil; special mixed security courts; military courts; and tribal courts in rural areas to resolve disputes over land and water rights and family matters. In Novem-

ber 1998, Parliament passed a bill to form a constitutional court, which was passed into law in December 1998, and the court's seven members were named that month. Constitutional Court Justices are appointed by the President. Within the regular court system there are civil and criminal courts, public order courts, which hear only minor public order issues, appeals courts, and the Supreme Court.

The new Constitution implemented early in the year provides for fair and prompt trials; however, it resulted in no changes in practice. The 1991 Criminal Act governs criminal cases, and the 1983 Civil Transactions Act applies in most civil cases.

Military trials, which sometimes are secret and brief, do not provide procedural safeguards, sometimes have taken place with no advocate or counsel permitted, and do not provide effective appeal from a death sentence. Other than for clemency, witnesses may be permitted to appear.

Trials in regular courts nominally meet international standards of legal protections. For example, the accused normally have the right to counsel, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment. However, in practice these legal protections are applied unevenly. Persons arrested by government security forces often were held for long periods of time in unknown locations without access to their lawyers or family members. In the June 1998 bombings case, leading human rights lawyer Ghazi Suleiman was rejected by the court as a member of the defense team, reportedly because he had been requested by the defense counsel rather than by the defendants. Journalist Mohamed Abd Al-Seed, who was arrested in April, was held for over a month: during most of that period he was held incommunicado (see Section 2.a.).

In 1989 the Special Courts Act created special three-person security courts to deal with a wide range of offenses, including violations of constitutional decrees, emergency regulations, some sections of the Penal Code, as well as drug and currency defenses. Special courts, on which both military and civilian judges sit, handle most security-related cases. Attorneys may advise defendants as "friends of the court" but normally may not address the court. Lawyers complain that they sometimes are granted access to court documents too late to prepare an effective defense. Sentences usually are severe and implemented at once; however, death sentences are referred to the Chief Justice and the Head of State. Defendants may file appellate briefs with the Chief Justice.

The Government dissolved the respected Sudanese Bar Association in 1989 and reinstated it with an NIF-controlled leadership. In 1997 elections for the leadership of the Bar Association, an NIF-associated group won overwhelmingly amid accusations of blatant fraud. Lawyers who wish to practice must maintain membership in the Bar Association. In April leading human rights lawyer Ghazi Suleiman was banned from the Bar Association's club property, arrested, and subsequently prosecuted for disturbing the peace in connection with his attempts to hold a symposium entitled "The Role of the Advocate in His Society." He was found not guilty on appeal. Human rights monitors report that the Government continued to harass, detain, and torture members of the legal profession whom it viewed as political opponents.

The Government officially exempts the 10 southern states, whose population is mostly non-Muslim, from parts of the Criminal Act; however, the act permits the possible future application of Shari'a law in the south, if the State assemblies so decide. No reports cited court-ordered Hudood punishments, other than lashings, in government-controlled areas of the south. Fear of the imposition of Shari'a law remained a key problem in the rebellion.

Parts of the south and the Nuba mountains fell outside effective judicial procedures and other governmental functions. According to credible reports, government units summarily tried and punished those accused of crimes, especially for offenses against civil order.

Magistrates in SPLM/SPLA-held areas follow a penal code roughly based on the 1925 Penal Code. In rural areas outside effective SPLM control, tribal chiefs apply customary laws. In 1996 the SPLM proclaimed a civilian structure to eliminate the conduct of secret and essentially political trials such as those conducted by military commanders in previous years. The SPLM has a judicial system of county magistrates, county judges, regional judges, and a court of appeals. While officials have been appointed for most of these positions, the court system did not function in many areas due to lack of infrastructure, communications, funding, and an effective police force. Some cases were heard at the magistrate and county levels. The SPLM recognizes traditional courts or "Courts of Elders," which usually hear matters of personal affairs such as marriages and dowries, and base their decisions of traditional and customary law. Local chiefs usually preside over traditional courts. Tradi-

tional courts are particularly active in Bahr El Ghazal. The SPLM is in the process of conducting a needs assessment for the courts.

There are political prisoners in the country, although the Government maintains that it holds none. The Government usually charges political prisoners with a crime, allowing the Government to deny their status as political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The new Constitution implemented early in the year provides for the inviolability of communication and privacy; however, the Government routinely interferes with its citizens' privacy. Security forces frequently conducted night searches without warrants, and they targeted persons suspected of political crimes. During student demonstrations in late September (see Section 2.b.), riot police reportedly broke into private homes to search for demonstrators. Some residents of Khartoum filed lawsuits against the riot police for violating their privacy and damaging property; however, the status of the lawsuits was unclear at year's end. In the north, security forces also targeted persons suspected of making alcoholic beverages, which are illegal.

Security personnel routinely opened and read mail and monitored telephones. The Government continued to restrict the ownership of satellite dishes by private citizens through use of its licensing requirement.

A Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim, unless he converts to Islam (see Section 5); however, this prohibition is not observed or enforced universally, particularly in the south and among Nubans. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

Various government bodies have decreed on different occasions that women must dress according to modest Islamic standards (see Sections l.c. and 5). On June 13, 24 Nuban students of Ahlia University in Khartoum were arrested while picnicking in a Khartoum park. The students reportedly obtained appropriate permits to hold a picnic. The following day, the students were taken to a public order court and reportedly sentenced to fines of up to approximately $20 (50,000 Sudanese pounds) and floggings, because they committed "obscene acts", apparently because female students were wearing trousers and the students were performing traditional Nuban dances that involved men and women dancing together. The sentences reportedly were carried out immediately after the trial. The students subsequently won an appeal and had their fines returned.

Non-Muslim prison inmates were pressured to convert to Islam, as were PDF trainees, children in government-controlled camps for vagrant minors, and persons in government-controlled peace camps (see Sections 1.g and 2.c.).

There were credible reports that government forces pursued a scorched earth policy aimed at removing populations from around the newly built oil pipeline and other oil production facilities.

The Government continued to raze squatter dwellings in Khartoum during the year, but also continued efforts to implement procedures to grant title and move squatters in advance of demolition. In October the First Vice President directed that the demolition of churches and other Christian facilities in Khartoum be suspended and that a committee be formed under the Second Vice President to review the issue (see Section 2.c.).

A wide network of government informants conducted pervasive surveillance in schools, universities, markets, workplaces, and neighborhoods. The Government disbanded political parties and prevented citizens from forming new political groups (see Section 2.b.). As a result of the adoption of the new Constitution and the passage of a new political parties law in December 1998, political parties are now legal. As of the end of the year, there were 17 registered parties. The Government continued to dismiss military personnel summarily as well as civilian government employees whose loyalty it considered suspect. The government committee set up in 1995 to review cases of persons summarily dismissed since the 1989 coup continued to function in theory; however, it has released no results since May 1996.

Government-instituted neighborhood "popular committees"— ostensibly a mechanism for political mobilization—served as a means for monitoring households' activities. These committees caused many citizens to be wary of neighbors who could report them for "suspicious" activities, including "excessive contact" with foreigners. The committees also furnished or withheld documents essential for obtaining an exit visa. In high schools, students sometimes were pressured to join pro-regime youth groups.

Government forces burned and looted villages and stole cattle (see Section 1.g.).

The Government continued to conscript citizens forcibly, including high school age children (see Sections 5 and 6.c.).

As a result of the prolonged war, approximately 4 million persons are displaced internally (see Section 2.d.).

The insurgent SPLM/SPLA generally is not known to interfere with privacy, family, home, or correspondence in areas that it controls, although correspondence is difficult in war zones; however rebel factions continued to conscript citizens forcibly including high school age children (see Sections 5 and 6.c.).

There were unconfirmed reports that the SPLA forcibly recruited Sudanese refugees in northern Uganda for service in their forces.

g. Use of Excessive Force and Violations of Humanitarian Law In Internal Conflicts.—Since the civil war resumed in 1983, an estimated 2 million persons have been killed, and 4 million displaced internally as a result of fighting between the Government and insurgents in the south. Although there were numerous deaths during the year, observers believe that there were fewer deaths than in 1998. The civil war continued despite limited cease-fires, and all sides involved in the fighting were responsible for abuses in violation of humanitarian norms. At year's end, the Government controlled virtually all the northern two-thirds of the country, but was limited to garrison towns in the south. Government bombings continued despite unilateral declarations of a cease-fire. The town of Yei, the center of SPLM civil administration, was bombed repeatedly, killing at least one person, injuring several persons, and damaging the clearly marked Norwegian People's Aid-run hospital on March 5. The Government also repeatedly bombed the towns of Bentiu, Maridi, and Kajo Keji. On May 13, bombs from government aircraft reportedly struck a women's Koranic school in the town of Tahdaye in the east, killing 7 persons and wounding 25 others. Whatever its intended targets, government aerial bombing is so inaccurate that it puts civilians at risk regularly. On May 22, government artillery fire reportedly struck the town of Talkuk in the east, resulting in 5 dead and 17 wounded.

The Government reportedly violated the cease-fire on a number of occasions by carrying out raids and attacks on civilian settlements particularly in the Bahr El Ghazal. These raids were accompanied by killings, abductions, rapes, the burning and looting of villages, the theft of cattle, and significant displacement of civilian populations. For example, there was a report that in February government soldiers attacked the airstrip at Akoch in northern Bahr El Ghazal, killed 30 persons, raped women, abducted persons, stole cattle, and burned the village center. There was a report that in March soldiers attacked the towns of Alal Non and Akoch in northern Bahr El Ghazal, killing 86 persons and abducting 182 women and children. There were reports that in July the army attacked the towns in Ruweng county, burning several churches, abducting hundreds of persons, and killing dozens of civilians.

There are frequent allegations that government or government-associated forces have implemented a scorched earth policy along parts of the oil pipeline and around some key oil facilities. Those forces allegedly have destroyed villages and driven out inhabitants in order to create an uninhabited security zone.

Victims of government bombings, and of the civil war in general, often flee to government-controlled "peace camps." Some NGO's reported that persons in the peace camps were subject to forced labor and at times pressured to convert to Islam.

Government forces routinely killed rebel soldiers captured in battle. Only a small group of prisoners captured before the 1989 coup and a few soldiers taken in the east in 1998 and during the year reportedly are held as POW's in government-controlled areas. In some cases, the Government does not concede that it holds POW's. The Government has not granted the ICRC access to the POW's.

Government restrictions in practice limited or denied travel by nongovernmental relief organizations to many areas long controlled by insurgents. The U.N.'s OLS, a coalition of relief and aid NGO's, generally was allowed to operate in the south; however, at several points during the year, the Government denied flight clearances to the OLS to areas of Western Upper Nile, which exacerbated suffering there caused by fighting between progovernment and antigovernment militias. From June 21–24 and from September 15–29, U.N. teams conducted humanitarian assessment visits to rebel-held areas of the Nuba Mountains. From October 7–12, the U.N. conducted a humanitarian assessment in government-held areas of the Nuba Mountains; however, the U.N. has not yet been permitted to begin a humanitarian aid program for the Nuba Mountains.

Government forces in the south raped women, and forcibly conscripted men and boys (see Sections 1.f. and 6.c.). Government forces routinely displaced, killed, and injured civilians, and destroyed clinics and dwellings intentionally during their offensive operations.

The Government used landmines, including the laying of belts of mines around garrison towns, which resulted in the killing and maiming of both soldiers and civilians. During a March visit by Special Representative for Children and Armed Conflict, Olara Otunnu, both the Government and the SPLM agreed to cease using antipersonnel mines. At year's end, it was not clear to what degree the two sides were

living up to their commitment. Insurgent forces continued to lay landmines indiscriminately on roads and paths that killed and maimed both soldiers and civilians.

In July two State Ministers and numerous civilians reportedly were killed in Unity State during fighting between progovernment and antigovernment militias. Both militias assert that the other was responsible. On May 18, a barge operated by the U.N. World Food Program was attacked near the town of Adok. One person on the barge was killed, while three others were injured. The area was the scene of fighting between progovernment and antigovernment militias, and it is not clear who was responsible for the attack.

Northern Muslim opposition groups under the 1995 NDA umbrella structure, which includes the SPLA, took military action against the Government. The NDA attacked government garrisons, the oil pipeline, and strategic points near the Ethiopian and Eritrean borders.

The SPLA has taken a number of prisoners over the years. The ICRC regularly visited many of these prisoners, although it did not have access to prisoners held in Southern Blue Nile State. Prisoners reportedly have died while in SPLA custody due to extremely poor prison conditions, although there is no evidence of the massacres alleged by some in the north.

There are credible reports of SPLA taxation and diversion of relief supplies. The SPLM leadership repeatedly has committed itself to eliminating these problems; however, in practice, it appears unable to impose consistently those commitments on its representatives in the field.

Insurgent forces in the south raped women and forcibly conscripted men and boys (see Section 1.f. and 6.c.). Insurgent forces also routinely displaced, killed and injured civilians, and destroyed clinics and dwellings intentionally.

Although details generally were unavailable, there were credible reports of civilian casualties as a result of conflict between Dinka and Didinga tribes around the town of Chukudum (see Sections 1.a. and 5). Some of the Dinka incidents reportedly involved members of the SPLA.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The new Constitution implemented early in the year provides for freedom of thought and expression, and freedom of the press "as regulated by law;" however, the Government severely restricts freedom of speech and of the press. Government suspensions of newspapers, intimidation, and surveillance, facilitated in part by an informer network, continued to inhibit open, public discussion of political issues. Journalists practice self-censorship.

As a result of a limited easing of press restrictions that the Government began in 1997, some lively discussions of domestic and foreign policy were published in the press. Nonetheless, the Government still exercised control of news reporting, particularly of political topics and criticism of the Government, through the National Press Council. The Press Law was amended at mid-year, creating the National Press Council (formerly the National Council for Press and Publications). The Press Council applies the Press Law and is directly responsible to the President, with the power to suspend any newspaper for 2 months and individual journalists for 2 weeks if it considers that they violated press guidelines. The Press Council consists of 21 members: 7 selected by the President, 5 from the National Assembly, 7 directly elected by journalists from the Journalists' Union, and 2 selected by the Journalists' Union leadership.

The Government and the Press Council routinely suspended publications. The independent Al Rai Al Akhar was shut down on January 11 for 2 days, on June 22 for 2 days, on July 5 for 3 days, on July 26 for 2 days, on August 17 for 1 week, on September 9 for 1 week, and suspended indefinitely by presidential decree on September 19. On July 5, the daily newspapers Alwan, and Al Bayan were suspended for 3 days, and Al Bayan was suspended again on August 10 for 3 days. On August 31, Al Rai Al Aam was suspended for 2 days.

On November 7, riot police broke up a press conference in the office of human rights activist Ghazi Suleiman (see Section 2.b.).

Journalists often were arrested or detained. Freelance journalist Mohamed Abd Al-Seed was detained from about April 14 to May 26 and reportedly tortured (see Section 1.c.). The chief editor and editorial director of Al Rai Al Aam were arrested on May 24 for "crimes against the State." Both were released on bail that evening, and no further steps were taken regarding their case. The editor in chief of the newspaper Al-Rai al-Akher was arrested and detained in June for "harming national security and dissemination of false information," after publishing a speech by the president of the National Democratic Alliance that called for resistance to the Government. There were reports that the editors in chief of two other newspapers, Elsharee Elsyasi and Al-Ousbou, also were arrested at the same time.

All journalists, even in the privately owned Arabic daily press, still practice self-censorship. There are nine daily newspapers, and a wide variety of Arabic and English publications are available; however, they are subject to censorship.

Radio and television are controlled directly by the Government and are required to reflect government and NIF/NC policies. Television has a permanent military censor to ensure that the news reflects official views.

The Government often charged that the international, and particularly the Western, media have an anti-Sudan and anti-Islam bias.

In spite of the restrictions on ownership of satellite dishes, citizens have access to foreign electronic media; the Government does not jam foreign radio signals. In addition to domestic and satellite television services, there is a pay cable network of six channels, which directly rebroadcasts uncensored Cable News Network (CNN), the London-based, Saudi-owned Middle East Broadcasting Corporation (MBC), Dubai-TV, and Kuwait-TV. Early in the year, the Government reportedly reached agreement with the British Broadcasting Corporation (BBC) to allow FM radio broadcasting; however, such broadcasting had not begun by year's end. Rebel movements have provided relatively few opportunities for journalists to report on their activities.

Academic freedom does not exist. The Government used political criteria whenever possible in appointing new faculty members. In November the daughter of a prominent academic and outspoken government opponent, Dr. Farouq Kadouda, was beaten unconscious by unknown persons. A note was left next her body stating that the attack was a "warning;" Dr. Kadouda received numerous anonymous threats of violence and retaliation should he continue to speak out against the government.

b. *Freedom of Peaceful Assembly and Association.*—The declaration of the state of emergency and of martial law on June 30, 1989 effectively eliminated the right of assembly, and the Government severely restricted this freedom. The authorities permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings that they viewed as politically oriented. Islamic orders associated with opposition political parties, particularly the Ansar and Khatimia, regularly are denied permission to hold large public gatherings. In April the Muslim Brotherhood, a registered political party, announced that it was denied permission to hold symposiums in Khartoum and Omdurman. On June 6, 84 persons were detained in Omdurman at the inauguration of the Democratic Forces Front (DFF). Eleven politicians present were charged with illegal assembly, disturbing public order, and causing a nuisance. They were released on bail and later acquitted. On November 7, riot police broke up a press conference in the office of human rights activist Ghazi Suleiman. At the press conference, leaders of the DFF, the New Democratic Movement, and the Naserite Movement discussed a memorandum they planned to hand to the President that called for expediting reconciliation between the Government and the opposition, restoration of democracy, a new constitution, an interim government, and the organization of free and fair elections. The Government dispersed several unapproved demonstrations during the year, often with excessive force that included beatings and tear gas.

The Government severely restricted freedom of association. In December 1998 implementing legislation linked to the new Constitution that in theory would allow the existence of political parties passed into law. As a result, there are now 17 officially registered political parties; however, the legislation included restrictions that effectively prohibit traditional political parties if they are linked to armed opposition to the Government.

Professional association members accused the Government of manipulating the elections held by many associations. In November 1997, journalists severely criticized the Government's manipulation of journalists' union elections to ensure victory by progovernment candidates.

c. *Freedom of Religion.*—The new Constitution, implemented early in the year, provides for freedom of religion but states that "Shari'a and custom are the sources of legislation;" however, the Government severely restricts freedom of religion in practice. The Government treats Islam as the state religion and has declared that Islam must inspire the country's laws, institutions, and policies.

Religious organizations are subject to the 1994 Societies Registration Act, which replaced the controversial 1962 Missionary Societies Act. It theoretically allows churches to engage in a wider range of activities than did the Missionary Act, but churches are subject to the restrictions placed on nonreligious corporations. Religious groups, like all other organizations, must be registered in order to be recognized or to gather legally. The Government also requires that houses of worship be approved. Registered religious groups are exempt from most taxes. Nonregistered religious groups, on the other hand, find it impossible to construct a place of worship or to assemble legally. Registration reportedly is very difficult to obtain in prac-

tice, and the Government does not treat all groups equally in the approval of such registrations and licenses. In recent years, the Roman Catholic Church has not been given permission to build new churches, although other Christian groups have received permission.

The Government permits non-Muslims to participate in services in existing and otherwise authorized places of worship. The Government continued to deny permission for the construction of Roman Catholic churches; however, it permitted some makeshift structures to be used. There is a longstanding dispute between the Episcopal Church and the Government. In September the Episcopal Church stated that the Government had moved to seize a portion of the property on which church offices in Omdurman stand. A government-run health care center had operated on the site since 1973. The Church claims that it has a freehold title to the land, while the Government claims that it is a leasehold. The Church claims that the courts would not act independently of the Government in the case. At year's end, the Government reportedly had delayed moves to seize the property. In December police injured five persons in a clash in northwest Khartoum over an Episcopal Church school. Local authorities claim that the school was built without a proper permit, and they were trying to confiscate it despite a court ruling in favor of the church.

Government authorities, using soldiers for security, reportedly have razed approximately 30 religious buildings with bulldozers since 1990. In June local press reports indicated that an agreement was signed between the Human Rights Committee of the National Assembly and the Minister of Engineering Affairs of Khartoum State not to remove schools or houses of worship during slum demolitions unless adequate alternative sites were found. Nonetheless, State Minister for External Relations Gabriel Rorege reportedly wrote a letter of complaint asking for action by the chairman of the Religious Dialogue, Ahmed Abdel Rahman Ahmed, to prevent confiscations of schools in the displaced areas. In October the First Vice President directed that demolition of churches and other Christian facilities in Khartoum be suspended and that a committee be formed under the Second Vice President to review the issue.

While non-Muslims may convert to Islam, the 1991 Criminal Act makes apostasy (which includes conversion to another religion) by Muslims punishable by death. In mid 1998, the Government began prosecution of an apostasy case against Faki Koko, a Nuban who was accused of converting from Islam. Faki Koko reportedly was released during the year, and allowed to leave the country for health reasons without charge or trial, although his current status and location remain unclear.

Although the Government considers itself an Islamic government, restrictions often are placed on the religious freedoms of Muslims, particularly against those orders linked to opposition to the Government. Islamic orders such as the Ansar and the Khatimia regularly are denied permission to hold large public gatherings. In April the Muslim Brotherhood, a registered political party, announced that it was denied permission to hold symposiums in Khartoum and Omdurman. In November a religious leader was arrested, along with some followers, allegedly for accusing the Government of being insufficiently Islamic.

Authorities continued to restrict the activities of Christians, followers of traditional indigenous beliefs, and other non-Muslims, and there continued to be reports of harassment and arrest for religious beliefs and activities. Catholic priests report that they routinely are stopped and interrogated by police. Security forces also detained persons because of their religious beliefs and activities (see Section 1.d.).

According to Human Rights Watch, local officials in western Kordofan detained and beat Christians, burned down Christian churches, and lashed Christian youths.

The Government charged Reverend Hillary Boma and Reverend Lino Sebit along with 18 other persons with involvement in the June 1998 Khartoum bombings, but released them in December (see Sections 1.d. and 1.e.). The charges were viewed widely as unsubstantiated and possibly designed to intimidate Christians and the political opposition.

Muslims may proselytize freely in the north, but non-Muslims are forbidden to proselytize. Foreign missionaries and religiously oriented organizations continue to be harassed by authorities, and their requests for work permits and residence visas are delayed. A foreign priest was deported in August. The priest reportedly was summoned by the immigration department on July 15 and told to leave the country within 2 weeks. No reason was given for his expulsion. The Government is least restrictive of Christian groups that historically have had a presence in the country, including Copts, Roman Catholics, and Greek Orthodox, and is more restrictive of newer arrivals.

Various government bodies have decreed on different occasions that women must dress according to modest Islamic standards. This, at the least, entails wearing a head covering. For example, in January the governor of Khartoum State announced

that women in public places and government offices and female students and teachers would be required to conform to what is deemed an Islamic dress code. However, none of these decrees have been the subject of legislation, and enforcement of the dress code regulations was uneven. In June a Khartoum court ordered that 25 students from Ahlia University be flogged; they were charged with disturbances, and "obscene acts." The obscene acts apparently referred to the actions of the female students in wearing trousers (see 1.f.).

Children who have been abandoned or whose parentage is unknown—regardless of presumed religious origin—are considered Muslims and can be adopted only by Muslims. Non-Muslims may adopt only other non-Muslim children. No equivalent restriction is placed on adoption by Muslims of orphans, or other abandoned children. These children are considered by the State to be both Sudanese citizens and Muslims, and therefore can be adopted only by Muslims. In accordance with Islamic law, Muslim adopted children do not take the name of their adoptive parents and are not automatic heirs to their property.

PDF trainees, including non-Muslims, are indoctrinated in the Islamic faith. In prisons, government-supported Islamic NGO's offer inducements to and pressure non-Muslim inmates to convert. Some NGO's reported that persons in the government-controlled peace camps were subject to forced labor and at times pressured to convert to Islam (see Section 1.f.). Children, including non-Muslim children, in camps for vagrant minors are required to study the Koran, and there is pressure on non-Muslims to convert to Islam (see Section 5). Some children from Christian and other non-Muslim families, captured and sold into slavery, were converted forcibly to Islam.

The Government bombed villages in the Nuba mountains, at times striking hospitals, schools, mosques, Christian churches, and religious services (see Section 1.g.). On May 13, bombs from government aircraft reportedly struck a women's Koranic school in the town of Tahdaye in the east, killing 7 persons and wounding 25 others. There was a report in July that the army attacked the towns in Ruweng county, burning several churches, abducting hundreds of persons, and killing dozens of civilians (see Section 1.a.)

The Government requires instruction in Islam in public schools in the north. In public schools in areas in which Muslims are not a majority, students have a choice of studying Islam or Christianity.

In rebel-controlled areas, Christians, Muslims, and followers of traditional indigenous beliefs generally worship freely, although it appears that many of the region's Muslim residents have departed voluntarily over the years. The SPLM officially favors secular government; however, the SPLM is dominated by Christians, and local SPLM authorities often have a very close relationship with local Christian religious authorities. In February Protestant missionaries in the town of Panlit in Bahr El Ghazal in the south reportedly baptized children studying at a Catholic school without their clear understanding or consent. SPLM authorities subsequently detained and later released some of the school's teachers for their roles in the incident.

Government and SPLM/SPLA delegations participated in IGAD-mediated peace talks in Nairobi, Kenya from July 18–23. The delegations continued discussions of the role of religion in national affairs and the predominantly non-Muslim southern region's right to self-determination. Further meetings are expected to take place in 2000.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The new Constitution implemented early in the year provides for freedom of movement and residence, and exit from and entry into the country; however, the Government restricted these rights in practice. The Government restricted freedom of movement by denying exit visas to some categories of persons, including policemen and physicians. The Government also maintained lists of political figures and other citizens not permitted to travel abroad.

Women may not travel abroad without permission of their husbands or male guardians. Some former political detainees were forbidden to travel outside Khartoum. Movement generally was unhindered for other citizens outside the war zones, but travelers who failed to produce an identity card at checkpoints risked arrest. Foreigners needed permits, which were difficult to obtain and often were refused, for domestic travel outside of Khartoum; however, foreign diplomats could travel to many locations under government escort. Foreigners must register with the police on entering the country, seek permission to move from one location to another, and reregister at each new location within 3 days of arrival. Foreign NGO staff sometimes had problems obtaining entry visas or work or travel permits once they had entered the country.

Insurgent movements also required that foreign NGO personnel obtain permission before traveling to areas that they control, although they generally granted such

permission. NGO workers who have worked in government-held territory encountered problems receiving permission to work or travel in insurgent-held territory.

Tens of thousands of persons, largely southerners and westerners displaced by famine and civil war, continued to live in squatter slums in the Khartoum area. The Khartoum State government plans to upgrade conditions in some camps, requiring the movement of populations to other areas so that roads may be built or enlarged and services established. The Khartoum State government is in contact with foreign NGO's and U.N. agencies concerning this effort. During the year, the Government razed thousands of squatter dwellings in Khartoum (see Section 1.f.). Many of those displaced were moved to "planned" settlement areas, but in most cases those areas had no greater services than the squatter camps and were further from areas of economic activity.

Approximately 372,900 Sudanese are refugees in neighboring countries. Refugees fled to Uganda, Ethiopia, Eritrea, Kenya, the Democratic Republic of Congo, and the Central African Republic. In November as a result of fighting between Dinka's and Didingas in the east (see Section 5), hundreds of refugees fled into neighboring Kenya and Uganda. Up to 4 million persons are displaced internally due to the civil war.

The law includes provisions for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian assistance organizations and accorded refugees relatively good treatment. The UNHCR estimated that there were approximately 391,500 refugees, primarily from Eritrea, Ethiopia, Chad, Uganda, the Democratic Republic of Congo and Somalia. Approximately 150,000 refugees are in camps and the rest are scattered in urban areas throughout the country. The Government provides first asylum, although no statistics were available for the year.

There were no reports of the forcible repatriation of refugees, regardless of their status. Some reports cited mistreatment of refugees, including beatings and arbitrary arrests. Refugees could not become resident aliens or citizens, regardless of their length of stay. The Government allowed a large number of refugees to work.

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

Citizens had no genuine opportunity to change their government peacefully. The National Islamic Front (NIF) renamed itself the National Congress (NC) in November 1998. On December 12, President Bashir declared a 3-month state of emergency, dismissed the speaker of the National Assembly, Dr. Turabi, and disbanded Parliament 2 days before it was to vote on a bill introduced by pro-Turabi legislators to reduce Bashir's presidential powers. Bashir suspended the Parliament on the grounds that it was necessary for the unity of the country. Many observers believed that the move would effectively reduce the influence of the NIF/NC and Dr. Turabi.

A new national Constitution, which provides in theory for a wide range of rights, was passed by referendum in June 1998, and was implemented early in the year. There was widespread skepticism about the Government's claims that the constitutional referendum passed with 96.7 percent approval and 91.9 percent participation. Critics of the new Constitution charged that it neither was drafted nor passed with truly national participation. Some critics also objected to the statement that "Islamic law" would be among "the prevalent sources of law" in regard to amending the Constitution. The new Constitution resulted in few changes in practice.

In 1989 the National Salvation Revolution Command Council (RCC) abolished all political parties and detained the major party leaders for a short period. In 1990 the RCC rejected both multiparty and one party systems and, 2 years later, established an entirely government-appointed Transitional National Assembly, based on a Libyan-style political structure with ascending levels of nonpartisan assemblies. The essentially powerless appointed legislature was replaced following the 1996 elections by an elected National Assembly in which 125 of the 400 members were appointed from the National Congress. Opposition parties boycotted the election. In December 1998, implementing legislation linked to the new Constitution passed into law that would allow the existence of political parties. As a result, there are now 17 officially registered political parties; however, the legislation included restrictions that effectively prohibit traditional political parties if they are linked to armed opposition to the Government. The Government continued routinely to deny permission for and disrupt gatherings that it viewed as politically oriented (see Section 2.b.).

The federal system of government was instituted in 1995 and slowly is developing a structure of 26 states, which the Government considers a possible inducement to the insurgents for accommodation through a principle of regional autonomy; however, southerners are underrepresented in the Government. This underrepresenta-

tion remained a key obstacle to ending the rebellion. State elections were held in the 16 northern states and 6 of 10 southern states in June. All the registered opposition parties boycotted the elections, apparently objecting to being allowed only 3 days to register and only 7 to 12 days to campaign. Elections in two of the southern States (Lakes and Warab) were not completed because of insecure conditions, according to the Government.

Women have the right to vote, but are underrepresented in government and politics. The Minister of Manpower is the only woman in the Cabinet. There are two female State ministers in the Ministry of Social Planning. Seats in the National Assembly are set aside for representatives of women's organizations and for female student representatives. A total of 25 women are members of the 400-seat National Assembly.

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

Due to government restrictions on freedom of association (see Section 2.b.), there are no independent domestic human rights organizations; however, individual human rights activists operate in anonymity. There are two local NGO's that address health concerns related to the practice of female genital mutilation (FGM) (see Section 5). A representative of Human Rights Watch visited the country during the year to attend the July 27–29 workshop on abductions.

Government-supported Islamic NGO's pressured imprisoned non-Muslims to convert to Islam.

The Human Rights Advisory Council, a government body whose rapporteur is the Solicitor General for Public Law, continued its active role in addressing human rights problems within the Government. The Parliamentary Human Rights Committee also was particularly vocal in its public criticisms of the indefinite suspension of the daily newspaper Al Rai Al Akhar by presidential decree on September 19 (see Section 2.a.). In May 1998, the Government formed the Committee for the Eradication of the Abduction of Women and Children, which in turn formed mechanisms to identify and return abductees (see Section 1.b.).

In September 1998, the U.N. named a new Special Rapporteur on Sudan, Leonardo Franco. Franco visited the country for approximately 2 weeks in February. U.N. Special Representative for Children and Armed Conflict Olara Otunnu visited for approximately 1 week in March. U.N. Special Rapporteur for Freedom of Opinion and Expression Abid Hussein visited for 1 week in September, as did a delegation from the U.N. Human Rights Commission.

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

A governmental decree prohibits discrimination based on religion or sex. Redress is provided through the administrative courts or the labor office. The 1992 General Education Act stipulates equal opportunity in education for the disabled. Mechanisms for social redress, especially with respect to violence against women and children, are weak. The new Constitution implemented early in the year prohibits discrimination based on race, sex, or religious creed; however, it has resulted in no changes in practice.

Women.—Violence against women continues to be a problem, although accurate statistics do not exist. Many women are reluctant to file formal complaints against such abuse, although domestic violence is a legal ground for divorce. The police normally do not intervene in domestic disputes. In particular, displaced women from the south were vulnerable to harassment, rape, and sexual abuse. The Government did not address the problem of violence against women, nor was it discussed publicly. The punishment for rape under the Criminal Act varies from 100 lashes and 10 years imprisonment to death. In most cases, convictions are not announced, but observers believe that sentences are often less than the maximum provided for by law.

Prostitution is a growing problem, although there is no sex tourism industry. There are no specific laws regarding sexual harassment.

Some aspects of the law, including certain provisions of Islamic law as interpreted and applied by the Government, and many traditional practices, discriminate against women. Gender segregation is common in social settings. In keeping with Islamic law, a Muslim woman has the right to hold and dispose of her own property without interference. Women are ensured inheritance from their parents; however, a daughter inherits half the share of a son, and a widow inherits a smaller percent than do her children. It is much easier for men to initiate legal divorce proceedings than for women. These rules only apply to Muslims and not to those of other faiths, for whom religious or tribal laws apply. Although a Muslim man may marry a non-

Muslim, a Muslim woman cannot marry a non-Muslim unless he converts to Islam. Women cannot travel abroad without the permission of their husbands or male guardians (see Section 2.d.).

A number of government directives require that women in public places and government offices and female students and teachers conform to what the Government deemed an Islamic dress code. This, at the least, entailed wearing a head covering. However, enforcement of the dress code regulations was uneven. In June a Khartoum court ordered that 25 students from Ahlia University be flogged; they were charged with disturbances, and "obscene acts." The obscene acts apparently referred to the actions of the female students in wearing trousers (see Section 1.f.).

There are credible reports that government and government-associated forces seized and sold women for work as domestic servants (see Sections 6.c. and 6.f.).

Children.—Education is compulsory through grade eight, although local inability to pay teachers' salaries reportedly has resulted in declining attendance. Boys and girls are treated similarly in the educational system.

A considerable number of children suffered serious abuse, including enslavement and forced conscription in the war zones (see Sections 1.f. and 6.c.). There continued to be credible reports that government and government-associated forces seized children for purposes of forced labor (see Section 6.c.).

The Government forcibly conscripted young men and boys into the military forces. The Government officially requires that young men, typically of ages 17 to 19, must enter military service to be able to receive a certificate on leaving secondary school. Such a certificate is a requirement for entry into a university, and the decree effectively broadened the conscription base.

The Government operates camps for vagrant children. Police typically send homeless children who have committed crimes to these camps, where they are detained for indefinite periods. Health care and schooling at the camps generally are poor; basic living conditions often are primitive. All the children in the camps, including non-Muslims, must study the Koran, and there is pressure on non-Muslims to convert to Islam (see Section 2.c.). Teenagers in the camps often are conscripted into the PDF.

As many as 3,000 Ugandan children, abducted from northern Uganda by the Lord's Resistance Army (LRA), a Ugandan armed opposition group, were held in the southern part of the country. These children were forced to become soldiers or sexual slaves. The Government actively supported the LRA. In December in Nairobi, Kenya, the Governments of both countries signed an accord agreeing, among other things, to cease supporting rebel groups and to return abductees; however, it was not clear at year's end if the accord was still in effect due to an LRA excursion into Uganda from Sudan in late December.

FGM, which is widely condemned by international health experts as damaging to both physical and psychological health, is widespread, especially in the north. An estimated 90 percent or more of females in the north have been subjected to FGM, with consequences that have included severe urinary problems, infections, and even death. Infibulation, the most severe type of FGM, is also the most common type. Usually it is performed on girls between the ages of 4 and 7. It is performed often by traditional practitioners in improvised, unsanitary conditions, causing severe pain, trauma, and risk of infection to the child. No form of FGM is illegal under the Criminal Code; however, the health law forbids doctors and midwives from performing infibulation. Reportedly women displaced from the south to the north increasingly are imposing FGM on their daughters, even if they themselves have not been subjected to it. The Government neither arrested nor prosecuted any persons for violating the health law against infibulation.

Two local NGO's, with funding from the U.N. and a government agency, are involved actively in efforts to eradicate FGM, which they describe as a "harmful practice." A small but growing number of urban, educated families are abandoning the practice completely. A larger number of families, in a compromise with tradition, have adopted the least severe form of FGM as an alternative to infibulation.

People With Disabilities.—The Government does not discriminate against disabled persons but has not enacted any special legislation or taken other steps, such as mandating accessibility to public buildings and transportation for the disabled. The 1992 General Education Act requires equal educational opportunities for the disabled.

Religious Minorities.—Muslims predominate in the north, but are in the minority in the south, where most citizens practice traditional indigenous religions or Christianity. There are from 1 to 2 million displaced southerners in the north who largely practice traditional indigenous religions or Christianity. About 500,000 Coptic Christians live in the north. Traditionally there have been amicable relations between the various religious communities, although there were a small number of clashes.

On February 6, clashes took place at the University of Khartoum when Christian students attempted to hold a Christian book exhibition. Some Muslim students, calling themselves the "Islamic Movement," reportedly attacked the exhibit and burned some books. Injuries were reported on both sides. The Islamic Movement claimed that a mosque on the campus had been defiled and criticized what they described as a humiliation of Islam by allowing Christianity into the University. However, other Muslim students issued statements criticizing the attack on the Christian students. The book exhibition, which was scheduled in February, subsequently was postponed by the university administration.

There were press reports in March that on two occasions a group of Muslims calling itself Al D'awa Wa Tabligh gathered at an Orthodox church in Khartoum and launched verbal attacks against the church and Christianity. On one of the occasions, police reportedly arrested 30 Muslims.

There are reliable reports that Islamic NGO's in war zones withhold food and other services from the needy unless they convert to Islam.

In government-controlled areas of the south, there continued to be credible evidence of prejudice in favor of Muslims and an unwritten policy of Islamization of public institutions, despite an official policy of local autonomy and federalism. In the past, some non-Muslims lost their jobs in the civil service, the judiciary, and other professions. Few non-Muslim university graduates found government jobs. Some non-Muslim businessmen complained of petty harassment and discrimination in the awarding of government contracts and trade licenses. There also were reports that Muslims receive preferential treatment for the limited services provided by the Government, including access to medical care.

National/Racial/Ethnic Minorities.—The estimated population of 27.5 million is a multiethnic mix of over 500 Arab and African tribes with scores of languages and dialects. The Arabised Muslim culture in the north and central areas and the non-Muslim African culture in the south are the two dominant cultures. Northern Muslims, who form a majority of about 16 million, traditionally have dominated the Government. The southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) total approximately 6 million and seek independence, or some form of regional self-determination, from the north.

The Muslim majority and the NIF/NC-dominated Government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic-speaking areas who do not speak Arabic experienced discrimination in education, employment, and other areas. The use of Arabic as the language of instruction in higher education discriminated against non-Arabs. For university admission, students completing high school are required to pass examinations in four subjects: English language; mathematics; Arabic language; and religious studies. Even at the university level, examinations in all subjects except English language were in the Arabic language, placing nonnative speakers of Arabic at a disadvantage.

In March at a grassroots organized peace conference in Wunlit, Bahr El Ghazal, representatives of the Nuer and Dinka tribes signed a peace covenant. The Dinka and the Nuer are the two largest tribes and had been on opposite sides of the war since 1991. The Wunlit accord provides concrete mechanisms for peace, including a cease-fire, an amnesty, the exchange of abducted women and children, and monitoring mechanisms. The Wunlit accord greatly reduced conflict between the Dinka and Nuer tribes during the year.

Although details generally were unavailable, there were credible reports of civilian casualties as a result of ongoing fighting between ethnic Dinkas and Didingas in the New Cush and Chukudum areas in eastern Equatoria (see Section 1.a.). The January killing of a Dinka SPLA captain and several officers led to an outbreak of violence among Dinka and Didinga refugees in the Kakuma refugee Camp in Kenya, which resulted in at least six deaths and numerous injuries. The October killing of a Didinga chief led to a series of retaliatory attacks.

In February there was significant fighting between Arab pastoralists and African Masaleet tribes in Darfur. Traditional disputes over grazing and water rights were behind some of the fighting; however, the Government reportedly exacerbated the conflict by providing Arab pastoralists with arms. As a result of the fighting, more than 100 persons were killed, more than 40 were injured, approximately 50 villages were burned, and more than 1,000 families were displaced. Members of the Masaleet tribes were affected most heavily.

Section 6. Worker Rights

a. *The Right of Association.*—The RCC abolished the pre-1989 labor unions, closed union offices, froze union assets, forbade strikes, and prescribed severe punishments, including the death penalty, for violations of its labor decrees. The Govern-

ment dismissed many labor leaders from their jobs or detained them, although most of those arrested later were freed.

The new Constitution implemented early in the year provides for the right of association for economic and trade union purposes; however, it has resulted in no changes in practice.

The Sudan Workers Trade Unions Federation is the leading blue-collar labor organization with about 800,000 members. In 1992 local union elections were held after a delay to permit the government-controlled steering committees to arrange the outcomes. The elections resulted in government-approved slates of candidates voted into office by prearranged acclamation. In 1997 largely the same leadership was reelected.

There were some teacher strikes over the nonpayment of salaries in many areas. In some cases, the strikes lasted for months.

Unions remained free to form federations and affiliate with international bodies, such as the African Workers' Union and the Arab Workers' Union.

The U.S. Government in 1991 suspended Sudan's eligibility for trade benefits under the generalized system of preferences because of its violations of worker rights.

b. *The Right to Organize and Bargain Collectively.*—A 1989 RCC constitutional decree temporarily suspended the right to organize and bargain collectively. Although these rights were restored to labor organizing committees in 1996, government control of the steering committees meant in practice that the Government dominates the process of setting wages and working conditions. The continued absence of labor legislation allowing for union meetings, the filing of grievances, and other union activity greatly reduced the value of these formal rights. Although local union officials raised some grievances with employers, few carried them to the Government. The law does not prohibit antiunion discrimination by employers. The new Constitution implemented early in the year provides for the right of organization for economic or trade union purposes; however, it resulted in no changes in practice.

Wages are set by a tripartite committee comprising representatives of the Government, labor unions, and business. Specialized labor courts adjudicate standard labor disputes.

In 1993 the Government created two export processing zones (EPZ's); it later established a third at Khartoum International Airport. During the year, only the EPZ at Khartoum International Airport was open. The labor laws do not apply in the EPZ's.

c. *Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, slavery persists, particularly affecting women and children. The taking of slaves, particularly in war zones, and their transport to parts of central and northern Sudan, continued. There were frequent and credible reports that Baggara raiders, supported by PDF and regular government troops, took women and children as slaves during raids in Bahr El Ghazal during the year. The Government did not take any action to halt these practices and continued to support some Baggara tribal militias. There were reports that during attacks on civilian settlements government forces abducted a number of persons including women and children (see Section 1.g.). Credible reports persist of practices such as the sale and purchase of children, some in alleged slave markets. These practices all have a pronounced racial aspect, as the victims are exclusively black southerners and members of indigenous tribes of the Nuba mountains. There were reports that local authorities took actions to prevent slavery. The Government denies involvement or complicity in slavery, and states that hostage taking often accompanies tribal warfare, particularly in war zones not under government control. The new Constitution implemented early in the year prohibits slavery and forced labor, but resulted in no changes in practice.

In May 1998, the Government formed the Committee for the Eradication of the Abduction of Women and Children (see Section 1.b.). These mechanisms resulted in the identification and release of several hundred abductees, although they had not been returned to their homes by year's end.

The law prohibits forced and bonded labor by children; however, the Government does not enforce it effectively. There continued to be credible reports that government or government-associated forces took hundreds of children as slaves.

Both the Government and rebel factions continued to conscript men and boys forcibly into the fighting forces (see Sections 1.f. and 5). Conscripts face significant hardship and abuse in military service. The rebel factions continued to force southern men to work as laborers or porters.

Approximately 3,000 Ugandan children were forced to become soldiers or sex slaves for the LRA, a Ugandan armed opposition group in the south, which is actively supported by the Government (see Section 5).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for workers is 16 years; however, the law is enforced loosely by inspectors from the Ministry of Labor and only in the official or wage economy. Children as young as 11 or 12 years of age worked in a number of factories, particularly outside the capital, including the factories at Um Ruwaba that produce edible oils. In addition severe poverty has produced widespread child labor in the informal, unregulated economy. In rural areas, children traditionally assist their families with agricultural work from a very young age. The new Constitution implemented early in the year provides that the State protect children from exploitation; however, it resulted in no changes in practice.

Child labor exists in SPLM/SPLA-held areas, particularly in the agricultural sectors. Child labor in such areas is exacerbated by a lack of school, extreme poverty, and the lack of an effective legal minimum age for workers.

The law prohibits forced and bonded labor by children; however, the Government does not enforce it effectively, and there were credible reports that children are taken as slaves (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The legislated minimum wage is enforced by the Ministry of Labor, which maintains field offices in most major cities. Employers generally respect the minimum wage. Workers who are denied the minimum wage may file a grievance with the local Ministry of Labor field office, which then is required to investigate and take appropriate action if there has been a violation of the law. In January the minimum wage theoretically was raised from approximately $9 (24,000 Sudanese pounds) per month to approximately $11 (3,000 Sudanese dinars or 30,000 Sudanese pounds) per month; however, most government offices continue to pay the old rate. The Sudanese Workers Trade Union Federation requested the Minister of Finance to execute the increase retroactively, and the Minister promised to increase the minimum wage when submitting the next Government budget for the year 2000. The current minimum wage is insufficient to provide a decent standard of living for an average worker and family.

The workweek is limited by law to six 8-hour days, with a day of rest on Friday, which generally is respected.

Legal foreign workers have the same labor rights as domestic workers. Illegal workers have no such protections and, as a result, typically work for lower wages in worse conditions than legal workers.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor is minimal. The law does not address the right of workers to remove themselves from dangerous work situations without loss of employment.

f. *Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, it does prohibit slavery and forced labor; however, slavery persists, particularly affecting women and children (see Section 6.c.). The taking of slaves, particularly in war zones, and their transport to parts of central and northern Sudan, continued. Credible reports persist of practices such as the sale and purchase of children, some in alleged slave markets. Libyans have been implicated in the purchase of Sudanese slaves, particularly women and children who were captured by government troops.

There are credible reports that government and government-associated forces seized and sold women for work as domestic servants.

There were unconfirmed reports that the SPLA forcibly recruited Sudanese refugees in northern Uganda for service in their forces.

Approximately 3,000 Ugandan children were forced to become soldiers or sex slaves for the LRA, a Ugandan armed opposition group in the south, which is actively supported by the Government (see Section 5). There were also reports in past years that the LRA had sold and traded some children, mostly girls, or provided them as gifts, to arms dealers in Sudan.

The new Constitution implemented early in the year prohibits slavery and forced labor, but resulted in no changes in practice. In May 1998, the Government formed the Committee for the Eradication of the Abduction of Women and Children (see Section 1.b.). The committee formed mechanisms to identify and return abductees, which have resulted in the return of approximately 200 persons.

SWAZILAND

Swaziland is governed as a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the King (Mswati III). The King rules according to unwritten law and custom, in conjunction with a partially

elected parliament and an accompanying structure of published laws and implementing agencies. Parliamentary and municipal elections were held in 1998 and introduced increased representative government; however, political power continues to rest largely with the King, and his circle of traditional advisors, including the Queen Mother. The 1968 Constitution was suspended by the present King's father in 1973. Based upon the 1973 decree, the King has the authority to issue decrees that carry the force of law, and exercised this authority with the introduction of the 1998 Administrative Order. The 1973 decree also bans political parties, meetings, and processions except in local "Tinkhundla" administrative centers or as authorized by the police. There are public demands to lift the 1973 decree. That question is among the issues on which a Constitutional Review Commission (CRC), appointed by the King in 1996, was expected to make recommendations after carrying out a nationwide program of civic education and receiving submissions from individual citizens. However, in October the King again extended the deadline for the CRC to complete its task, and CRC members who resigned in 1997 to protest the CRC's terms of reference and slow progress did not rejoin the CRC. The judiciary is independent; however, the King has certain judicial powers.

Both the Umbutfo Swaziland Defense Force and the Royal Swaziland Police operate under civilian control and are responsible for external and internal security. Some communities, questioning the ability of National Police to deal with enforcement at the community level, have formed community police. There were reports of conflicts between national and community police. Members of both the National Police and the community police committed some human rights abuses.

Swaziland has a free market economy, with relatively little government intervention. The majority of citizens are engaged in subsistence agriculture, although a relatively diversified industrial sector now accounts for the largest component of the formal economy. The economy relies heavily on the export sector, especially on the wood pulp, soft drink concentrate, and sugar industries, which are composed primarily of large firms with mostly foreign ownership. The country depends heavily on South Africa from which it receives almost all of its imports and to which it sends the majority of its exports. A quasi-parastatal organization established by royal charter maintains large investments in major sectors of the economy, including industry, agriculture, and services. This parastatal normally requires partnership with foreign investors and international development agencies.

There continued to be serious human rights problems, although there was some marginal improvement in a few areas. Citizens still are not able to change their government. Police continued to torture and beat some suspects. Police forcibly dispersed demonstrators who sought to disrupt voting activity. The Government generally failed to prosecute or otherwise discipline officers who committed abuses. Prison conditions improved with the opening of new facilities, but the Government continued to use a nonbailable offense provision. The Government infringed on citizen's privacy rights. The Government continued to limit freedom of speech and of the press, restraints continued on news coverage by government-owned broadcast houses, and all media practiced some self-censorship, although journalists spoke out on key issues. Parliament indefinitely deferred a media council bill that would have limited freedom of the press further by establishing a government media council. The Government restricted freedom of assembly and association and retained prohibitions on political activity, although numerous political groupings operated openly and voiced opinions critical of the Government, which received prominent press coverage. However, the police on occasion harassed political activists. There are some limits on freedom of movement. Legal and cultural discrimination and violence against women, as well as abuse of children, remained problems. Some societal discrimination against mixed race and white citizens persisted. The Government restricts workers' rights. In October Parliament passed a new Industrial Relations Act (IRA) and forwarded it to the King to sign into law. The new IRA would remedy many of the inequities in the existing labor law and bring the country into substantial conformity with international labor conventions. There were reports of trafficking in persons, particularly women and girls, from Mozambique.

RESPECT FOR HUMAN RIGHTS

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

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

Three bombings took place between August and November 1998, apparently timed to coincide with major state events. Targets included the base of a Swaziland Electricity Board power line, an abandoned bridge over the Lusushwana river, and at the offices of the Deputy Prime Minister. The final bombing killed one person. Al-

though a previously unknown group claimed responsibility for the bombings, the existence of the group was unconfirmed and the perpetrators remained unidentified and their motives unknown.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were credible reports by criminal defendants of the use of torture during interrogation. Police sometimes beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate suspects through the use of a rubber tube around the face and mouth. The Government generally failed to prosecute or otherwise discipline police officers for such abuses. An internal complaints and discipline unit investigates reports of human rights abuses by the police, but no independent body has the authority to investigate police abuses. However, courts have invalidated confessions induced through physical abuse; for example, in September 1998, the High Court awarded a former prisoner approximately $7,000 (42,000 emalangeni) in damages for cruel and unusual punishment suffered while incarcerated in 1992–94.

In November a bomb destroyed an office building in the township of Mahlanya used by local politicians, although there were no casualties. The perpetrators of the bombing remained unknown at year's end.

Overcrowding and generally poor prison conditions were alleviated markedly through the opening of new institutions including a modern correctional facility for women. In 1998 foreign diplomats and representatives of international agencies toured the prisons, including maximum-security institutions, and reported favorably on improved medical care, nutrition, sanitation, and vocational training. While these facilities meet minimum international standards, the use of nonbailable provisions led to less favorable conditions, including continued overcrowding in government remand centers where suspects are held during pretrial detention and often are released for time served after being sentenced (see Section 1.d.). Women and juveniles are held in separate prison facilities.

The Government routinely has permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations, and some prison visits by journalists and political figures occurred during the year.

d. *Arbitrary Arrest, Detention, or Exile.*—The law requires warrants for arrests in most circumstances, except when police observe a crime being committed or have reason to believe that a suspect may flee. Detainees may consult with a lawyer of their choice and must be charged with the violation of a statute within a reasonable time, usually 48 hours, or, in remote areas, as soon as the judicial officer appears. The authorities generally respected these rights in practice.

In September an editor of an independent newspaper was arrested for criminal defamation after reporting that the King's latest fiancee was a high-school dropout (see Section 2.a.).

The Government continued to limit provisions for bail for crimes appearing in the Nonbailable Offenses Order, which became effective in 1993 and was strengthened by Parliament in 1994. The Order currently lists 11 offenses. The mere charge of the underlying offense, without any evidentiary showing that the suspect is involved, is sufficient to employ the nonbailable provision. The Minister of Justice may amend the list by his own executive act.

The Government does not use forced exile. There are no barriers to prevent the return of dissidents.

e. *Denial of Fair Public Trial.*—The judiciary is independent; however, the King has certain judicial powers.

Judicial powers are vested in a dual system, one independent and based on Western law, the other based on a system of national courts that follows unwritten traditional law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court; however, this power was used last in 1987.

The Western judiciary consists of the Court of Appeal (composed entirely of expatriate, usually South African, judges), the High Court, and magistrate courts, all of which are independent of executive and military control and free from intimidation from outside forces. The expatriate judges, often distinguished members of their respective bars, serve on the basis of 2-year renewable contracts. Local judges serve indefinitely on good behavior. In magistrate courts, defendants are entitled to counsel at their own expense. Court-appointed counsel is provided in capital cases or when difficult points of law are at issue. There are well-defined appeal procedures up to the Court of Appeals, the highest judicial body.

Most citizens who encounter the legal system do so through the traditional courts. The authorities may bring ethnic Swazis to these courts for relatively minor offenses

and violations of traditional law and custom. In traditional courts, defendants are not permitted formal legal counsel but may speak on their own behalf and be assisted by informal advisers. Sentences are subject to review by traditional authorities and can be appealed to the High Court and the Court of Appeals. The public prosecutor legally has the authority to determine which court should hear a case, but in practice the police usually make the determination. Accused persons have the right to transfer their cases from the traditional courts. Delays in trials are common.

In November 1998, the King issued an administrative order that strengthened the judicial powers of traditional chiefs appointed by the King. The order provides for chiefs' courts with limited civil and criminal jurisdiction and authorizes the imposition of fines up to approximately $50 (300 emalangeni), and prison sentences of up to 3 months. Accused persons are required to appear in person without representation by a legal practitioner or advocate. However, chiefs' courts only are empowered to administer customary law "insofar as it is not repugnant to natural justice or morality," or is inconsistent with the provisions of any law in force. The order provides that defendants may appeal decisions of the chief's court to regional appeal courts and to the higher courts of appeal. Appeals in criminal matters can be taken to the Judicial Commissioner as a last resort, and the High Court is the court of last resort for civil matters. Human rights organizations and the press expressed serious concern over issuance of the order.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires a warrant from a magistrate before police may search homes or other premises, and police generally respect this requirement in practice. However, police officers with the rank of subinspector or higher have the right to conduct a search without a warrant if they believe that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occur occasionally.

In April police ransacked the properties of a suspected narcotics trafficker without first obtaining a proper warrant. Warrants later were issued, but the High Court Judge ruled that they were authorized improperly. A majority of the seized property, including personal items, cash, and automobiles, was returned, except for the items being used in the prosecution of a criminal case.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government limits freedom of speech and of the press through a continuing formal ban on political parties and occasional harassment of journalists. The Government also has discouraged critical news coverage of the royal family, and journalists practice self-censorship in regard to the immediate royal family and national security policy.

In September an editor of an independent newspaper was arrested for criminal defamation after reporting that the King's latest fiancee was a high-school dropout. After being released on bail, the editor was fired from his job. In response to the scandal, the Ministry of Public Service drafted antidefamation statutes, which were pending approval by the Attorney General and Parliament at year's end.

In general, both government-owned and independent newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste, frequently using harsh invectives. However, the Government uses the same media to rebut such allegations. With some exceptions, the Government continued to withhold its advertising from the country's only independently-owned daily newspaper. The Prime Minister's office distributes a free weekly circular reporting on government policy and activities. The government-owned television and radio stations—the most influential media in reaching the public—generally followed official policy positions. Government broadcast facilities retransmit Voice of America and British Broadcasting Corporation news programs in their entirety.

The Minister of Public Service promised to consult with journalists before reintroducing the Media Council Bill, which was deferred indefinitely in May 1998. The bill as proposed originally would have created a media council with powers to punish journalists and publishers who did not comply with strict licensing requirements.

Private companies and church groups own several newsletters, magazines, and one radio station that broadcasts throughout the region, but these generally avoid political controversy.

The practice of self-censorship and the prohibition of political gatherings limit academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Government restricts freedom of assembly. King Sobhuza's 1973 decree prohibits meetings of a political nature, processions, or demonstrations in any public place without the consent of the

Commissioner of Police. The authorities did not routinely grant permission to hold such meetings, but they did not rigidly enforce the 1973 decree. Political organizations, including the People's United Democratic Movement (PUDEMO) and the Swaziland Youth Congress (SWAYOCO), often met without the required permission and without repercussions. However, the threat of police intervention pursuant to terms of the 1973 decree remains.

Several traditional forums exist for the expression of opinion, including community meetings, national councils, and direct dialog with area chiefs. However, these local channels are not meant as a vehicle for political change; they often depend on the whims of leaders and are not consistently effective channels for expressing political dissent.

The Government restricts freedom of association. King Sobhuza's 1973 decree prohibits political parties. The 1996 IRA restricts the ability of trade union organizations to participate in the social and political affairs of the nation (see Section 6.a.).

c. *Freedom of Religion.*—There are no formal constitutional provisions for freedom of religion; however, the Government respects freedom of religion in practice. Followers of all religious faiths are free to worship without government interference or restriction.

New religious groups or churches are expected to register with the Government upon organizing in the country. Government permission is required for the construction of new religious buildings.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens may travel and work freely within the country; however, under traditional law, a married woman requires her husband's permission to apply for a passport, and unmarried women require the permission of a close male relative. A citizenship law passed in 1992 removed several ambiguities relating to citizenship and nominally enabled nonethnic Swazis to obtain passports and citizenship documents. However, individuals seeking these documents sometimes experienced lengthy processing delays, in part due to occasional prejudice that mixed-race and white Swazis are not real Swazis. Political dissenters often have their citizenship questioned and can experience difficulty in obtaining travel documents.

The Government treats several thousand ethnic Swazis living across the border with South Africa as virtually indistinguishable from local Swazis and routinely grants them travel and citizenship documents.

The law includes provisions for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates fully with the UN High Commissioner for Refugees (UNHCR), as well as the various nongovernmental organizations (NGO's) involved in the care of refugees. The UNHCR officially recognizes several hundred refugees in the country, the majority coming from east and central Africa. The issue of provision of first asylum has not arisen in recent years.

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

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

Citizens are not able to exercise this right. The King retains ultimate executive and legislative authority, and political parties are prohibited. Passage of legislation by Parliament requires the King's assent to become law, which he is not obliged to give. When Parliament is not in session, the King may legislate by decree under his residual emergency powers. The King chooses the Prime Minister and, in consultation with the Prime Minister, also chooses the Cabinet, many senior civil servants, and the heads of government offices.

Citizens elect most members of the lower house of parliament. Parliamentary elections were held by secret ballot in October 1998 for 53 of the 55 elected seats in the 65-seat lower house (the King appoints the remaining 10 members), and a by-election was held in December 1998 for 1 of the 2 remaining constituencies. The final remaining constituency held its by-election in October. The continuing ban on political parties and restrictions on political activity prompted some political groupings and trade unions to call for a boycott of the 1998 elections by their members. Members of the Swaziland Federation of Trade Union who participated in the electoral process were threatened with disciplinary measures by the labor federation. Election officials reported that approximately 200,000 of the 400,000 eligible citizens registered for the parliamentary elections, and that approximately 120,000 citizens voted, although critics questioned that figure.

There was no formal international observer presence, but there was intensive coverage by local and foreign media, and resident diplomats were granted accreditation to observe the proceedings freely. Candidates or their representatives also were al-

lowed to monitor the elections. Election procedures generally were carried out in an orderly fashion. However, the decision to open polling stations for further voting a week after the election because of torrential rains led to irregularities, including persons being found with multiple copies of registration certificates. Alleged irregularities led to legal challenges in four constituencies, and the High Court overturned the result in one constituency as a result. Opposition political groupings remained highly critical of the entire electoral process, due to the continuing formal ban on organized political party activity.

In the days leading up to the 1998 elections, the police searched dozens of homes, including those of trade union leaders and opposition political figures ostensibly in response to some of the bombing incidents that occurred between August and November 1998 (see Section 1.a.). No one was arrested or detained.

As provided under law, the House of Assembly nominated 10 members from the public at large to serve in the upper house or Senate. The King appointed the additional 20 Senate members. The Cabinet of Ministers, sworn in on November 20, 1998, included only three elected Members of Parliament, with the balance drawn from appointed members of the House and Senate.

Elections were held by secret ballot without major difficulties in August 1998 to select new municipal councils in 11 cities and towns across the country. Approximately 70 percent of all eligible voters registered to vote, but only 22 percent of registered voters actually cast ballots. Citizens voted largely without interference or intimidation, except for scattered incidents in Mbabane where representatives of PUDEMO opposed to participation in the election attempted to deter voting activities.

Pressure has been building for several years to modernize the political system, and both the King and the Government recognize that there is a need for political reform, including the drafting of a new constitution and, specifically, a bill of rights. In 1996 the King appointed a 30-member Constitutional Review Commission (CRC), with the stated purpose of examining the suspended 1968 Constitution, carrying out civic education, determining citizens' wishes regarding a future system of government, and making appropriate recommendations on a new constitution. The CRC compiled a constitutional framework, including portions of the 1968 Constitution still in force, the 1973 decree as currently amended, and the 1992 Establishment of Parliament Order. The CRC distributed this framework nationwide as a starting point for discussion. However, the CRC made very limited progress due to members resigning to protest the Commission's terms of reference, and multiple internal disputes. In October the King again extended the deadline for the CRC to complete its task.

Human rights organizations, church groups, labor unions, and other NGO's conducted their own active programs of constitutional and human rights civic education.

Women generally have full legal rights to participate in the political process; however, women are underrepresented in the Government and politics. There are 4 women in the 65-member House of Assembly formed after the October 1998 elections, 4 women in the 30-seat Senate, and 2 women among the 16 ministers in the Cabinet. A woman serves as Secretary to the Cabinet and the head of the civil service. Three women serve as principal secretaries, the most senior civil service rank in the ministries. There are 3 women on the 30-person Constitutional Review Commission. However, in accordance with societal practice, widows in mourning (for periods that can vary from 6 months to 3 years) are prevented from appearing in certain public places and from being near the King and, as a result, can be excluded from voting or running for office.

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

The Government permits domestic human rights groups to operate. Human rights groups often have spoken out on a number of occasions, criticizing the lack of accountability and transparency in government circles. There were no visits by international human rights organizations, although foreign diplomats and local representatives of international agencies were invited to tour correctional facilities (see Section 1.c.). The Government solicited and obtained expert assistance from the International Labor Organization (ILO) in 1997 to form a tripartite committee charged with redrafting national industrial relations legislation.

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

The 1980 Employment Act forbids employers to discriminate on the basis of race, religion, sex, or political affiliation. Under the act, employees may bring suit against

employers for discrimination, and there also are provisions for criminal prosecutions; however, there is no record of any suits or prosecutions. The act reportedly has been used on occasion to bring moral suasion to bear against employers. Legal and cultural discrimination against women remains a problem. Mixed race citizens sometimes experience societal discrimination.

Women.—Violence against women, particularly wife beating, is frequent, despite traditional strictures against this practice. Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently do so, usually in extreme cases when intervention by extended family members fails to end such violence. Rural women often have no alternative but to suffer in silence if family intervention does not succeed, because the traditional courts can be unsympathetic to "unruly" or "disobedient" women and are less likely than the modern courts to convict men for wife beating. Rape is also common and is regarded by many men as a minor offense, while women are inhibited from reporting such crimes by a sense of shame and helplessness, especially where incest is involved. Even in the modern courts, sentences frequently amount to no more than several months in jail, a fine, or both. The Legal Code provides some legal protection from sexual harassment, but its provisions are vague and largely ineffective. Several NGO's provide support for victims of abuse or discrimination.

Women occupy a subordinate role in society. In both civil and traditional marriages, wives are treated as minors legally, although those who marry under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally requires her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, take a job. Unmarried women require a close male relative's permission to obtain a passport (see Section 2.d). Despite the 1980 Employment Act that required equal pay for equal work, men's average wage rates by skill category usually exceed those of women.

The dualistic nature of the legal system complicates the issue of women's rights. Since traditional marriage is governed by uncodified law and custom, women's rights often are unclear and change according to where and by whom they are interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules applies to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes is ignored. Traditional marriages consider children to belong to the father and to his family if the couple divorces. Children born out of wedlock are viewed as belonging to the mother. Under the 1992 Citizenship Act, a woman does not pass citizenship automatically to her children. Inheritances are passed through male children only.

Changing socioeconomic conditions, urbanization, and the increasing prominence of female leaders in government and civic organizations are breaking down barriers to equality. Women routinely execute contracts and enter into a variety of transactions in their own names. The Government has committed itself to various women's initiatives, and the Ministry of Home Affairs coordinates women's issues. For example, the Government established a task force to address domestic gender issues and has held workshops for journalists in 1998 on gender sensitivity, while the Ministry of Education has launched an initiative to promote gender sensitization of school curriculums.

Children.—The Government is concerned with the rights and welfare of children, and a number of laws directly address children's issues. The Government does not provide free, compulsory education for children. The Government pays teachers' salaries while student fees pay for books and the buildings' fund. Supplemental money sometimes must be raised for building upkeep, including teachers' housing. However, the country has a 99 percent primary school enrollment rate. A government task force educates the public on children's issues.

Child abuse is a problem. Children convicted of crimes sometimes are caned as punishment. Female children sometimes suffer sexual abuse, including by family members. There is a growing number of street children in Mbabane and Manzini.

People With Disabilities.—The Ministry of Home Affairs has called for equal treatment of the disabled; however, there are no laws that protect the rights of the disabled or that mandate accessibility for the disabled to buildings, transportation, or government services. A government task force was established in 1997 to address issues affecting persons with disabilities, and in December 1998 the Minister of Health and Social Welfare announced that a bill giving preferential treatment to disabled persons for building access and other needs was in the final stages of preparation for submission to the Parliament. The bill has yet to be introduced in Par-

liament; however, all new government buildings under construction include improvements for the disabled, including accessibility ramps.

Section 6. Worker Rights

a. *The Right of Association.*—The 1996 IRA permits workers in all elements of the economy, including the public sector, to join unions and allows unions to associate freely in the context of traditional trade union concerns. However, it imposes criminal penalties for union activity outside core union concerns, specifically on social or political issues, and provides that the Government may suspend or close down unions that focus too much on such noncore labor matters. It prohibits trade union federations (but not individual unions) or their officers from engaging in any act that "causes or incites" the slowdown or cessation of work or economic activity, or from acting in any way that might be construed as a "restraint of trade," with 5 years" imprisonment the maximum penalty for such violations. Employers face equivalent penalties for unauthorized lockouts.

The 1996 IRA confines unions and employer organizations to single industries, and does not permit organization across economic and industrial sectors, contrary to ILO Convention 87.

The main trade union federation is the Swaziland Federation of Trade Unions (SFTU). A second trade union federation is the Swaziland Federation of Labor, which broke away from the SFTU in 1993 and gained formal recognition from the Government in 1994.

Unions are free to draw up their own constitutions within the framework of the 1996 IRA. The act specifies a number of provisions, which must be addressed in a constitution, including the election of officers by secret ballot. The Labor Commissioner must approve the union constitution, and can strike out or amend provisions that violate the law. The Government may dissolve unions that fail to maintain proper registration with the Labor Commissioner without recourse to judicial review. There is no collusion between the Government and business in relation to worker rights.

The 1996 IRA details the steps to be followed when disputes arise, including what determines a legal or illegal strike. The act empowers the Government to mediate employment disputes and grievances and to enjoin a union from striking. When disputes arise, the Government often intervenes to try to reduce the chances of a strike, which may not be called legally until all avenues of negotiation have been exhausted, and a secret ballot of union members has been conducted. The law prohibits strikes in "essential" services, which include electricity, water, fire fighting, health, sanitation, telephone, telegraph, and broadcasting, as well as many civil service positions.

In recent years, there have been a number of strikes, usually over wages and benefits, or the dismissal of fellow workers. Although the Government maintained that all outstanding issues already had been addressed, the SFTU continued to press for action on the 27 demands it presented in 1994, including calls for fundamental political change. These demands addressed a wide range of issues, including recognition of affirmative action, a national uniform minimum wage, an end to discrimination against women, the provision of better housing for workers, inclusion of worker representatives in constitutional discussions, and the lifting of the 1973 Decree that suspended the Constitution and outlawed political parties.

The ILO Committee of Experts (COE) has noted discrepancies between the 1996 IRA and ILO Convention 87 on Freedom of Association and ILO Convention 98 on the Right to Organize and Bargain Collectively. The COE concerns include the powers accorded government officials to control union activity and the strictures on the ability of workers to form unions and associate with other unions at home and abroad. With ILO assistance, a tripartite drafting committee that included government, labor, and business representatives reached agreement on a comprehensive revision of the 1996 IRA designed to bring labor law into full conformity with international conventions. In July 1998, the Cabinet approved the draft bill, and in December the Parliament formally passed the bill and forwarded it to the King to sign into law. The draft IRA, if signed into law by the King, would bring the country into substantial conformity with international labor conventions.

b. *The Right to Organize and Bargain Collectively.*—The 1996 IRA provides for the right to organize and bargain collectively and outlaws antiunion discrimination. Collective bargaining is widespread; approximately 80 percent of the formal private sector is unionized. The law obliges employers to recognize a union when it achieves over 50 percent membership among employees. Employers must allow representatives of legally recognized unions to conduct union activities on company time. The Industrial Court may refuse to register collective bargaining agreements in the event of nonobservance of any requirement of the 1996 IRA. The 1996 IRA prohibits

trade union federations or their officers, but not individual unions, from inciting any slowdown of work or economic activity or acting in any way that might be construed as a restraint of trade. It provides equivalent penalties to employers in the case of unauthorized lockouts.

Disputes are referred to the Labor Commissioner and the Industrial Court, if necessary. Although many employers resist recognition and force the issue to the Industrial Court, the Court generally rules in favor of the unions in these cases. In the case of unfair dismissal, the Court may order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that management in various industries dismissed workers for union activity. The Government sometimes instigates such dismissals.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, including by children; however, there were reports that persons, particularly women and girls, were trafficked from Mozambique (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The 1980 Employment Act prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases where only family members are employed in the firm, or in technical schools where children are working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours that can be worked on schooldays, and limits children's work-hours overall to 6 per day or 33 per week. Employment of children in the formal sector is not customary; however, children below the minimum age frequently are employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also are employed as domestic workers, and as herd boys in rural areas. The Ministry of Labor is responsible for enforcement, but its effectiveness is limited by personnel shortages.

The law prohibits forced labor, including by children; however, there were reports that children, particularly girls, were trafficked from Mozambique (see Section 6.f.).

e. *Acceptable Conditions of Work.*—There is a legally mandated sliding scale of minimum wages depending on the type of work performed. These minimum wages generally provide a worker and family with a decent standard of living. The minimum monthly wage for a domestic worker is approximately $30 (180 emalangeni), for an unskilled worker $47 (280 emalangeni), and for a skilled worker $75 (450 emalangeni).

Labor, management, and government representatives have negotiated a maximum 48-hour workweek in the industrial sector, except for security guards who work up to six 12-hour shifts per week. The Employment Act and the Wages Act entitle all workers to 1 day of rest per week. Most workers receive a minimum of 12 days annual leave. The Labor Commissioner enforces standards in the formal sector. There are extensive provisions allowing workers to seek redress for alleged wrongful dismissal; these provisions frequently are brought into play. There also are penalties for employers who conduct unauthorized lockouts.

Extensive legislation protects worker health and safety. The Government sets safety standards for industrial operations, and it encourages private companies to develop accident prevention programs. Recent growth in industrial production has necessitated more government action on safety issues. However, the Labor Commissioner's office has conducted few safety inspections in recent years because of staffing deficiencies. Workers have no formal statutory rights to remove themselves from dangerous work places without jeopardizing their jobs; nor do any collective bargaining agreements address the matter.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons, and, although not well documented, there were reports from Mozambique that persons, specifically women and children, were trafficked from Mozambique to Swaziland. The country apparently offers economic opportunities that attract poor women and children, who sometimes are victimized by traffickers.

TANZANIA

The United Republic of Tanzania amended its Constitution in 1992 to become a multiparty state. In 1995 the nation conducted its first multiparty general elections for president and parliament in more than 30 years. The ruling party, Chama Cha Mapinduzi (CCM), continued to control the Union Government, winning 186 of the 232 elective seats in Parliament. The CCM presidential candidate, Benjamin Mkapa, won a four-way race with 61.8 percent of the vote. The islands of Zanzibar are integrated into the United Republic's governmental and party structure; however, the Zanzibar Government, which has its own president and parliament, exer-

cises considerable autonomy. Elections for the President and Parliament of Zanzibar also were held in 1995. International observers noted serious discrepancies during the vote-counting process, calling into question the reelection of CCM incumbent Dr. Salmin Amour Juma as Zanzibar's President. In the period since that election, the Zanzibari authorities met calls for new elections by opposition parties with reprisals. In response, most donors halted economic aid to Zanzibar. The national judiciary is formally independent but suffers from corruption, inefficiency, and executive interference.

The police have primary responsibility for maintaining law and order. They formerly were supported by citizens' anticrime groups and patrols known as "Sungusungu." The Sungusungu remain active in rural areas, but have virtually disappeared from urban areas. There are also Sungusungu groups composed of refugees in most refugee camps that act as quasi-official security forces. The military is composed of the Tanzanian People's Defense Force (TPDF). The People's Militia Field Force is a division of the TPDF. Security forces regularly committed human rights abuses.

Agriculture provides 85 percent of employment. Cotton, coffee, sisal, tea, and gemstones account for most export earnings. The industrial sector is small. Economic reforms undertaken since 1986, including liberalization of agricultural policy, the privatization of state-owned enterprises, the rescheduling of foreign debt payments, and the freeing of the currency exchange rate, helped to stimulate economic growth, as has the decline in the rate of inflation. In 1999 the gross domestic product (GDP) was $8019 million. The GDP growth rate was 4 percent and per capita GDP equaled $252. While the Government has attempted to improve its fiscal management, pervasive corruption constrains economic progress.

The Government's human rights record was poor, and there continued to be serious problems. Although the 1995 multiparty elections represented an important development, citizens' right to change their government in Zanzibar is circumscribed severely by abuses of and limitations on civil liberties. Although new opposition parties on the mainland and Zanzibar were competitive in many races in 1995 and in by-elections since that time, winning in various constituencies, police often harassed and intimidated members and supporters of the political opposition. Police committed extrajudicial killings and beat and otherwise mistreated suspects. Soldiers attacked civilians, police in Zanzibar beat citizens, and there were reports that police in Zanzibar used torture, including floggings. Police also beat demonstrators. Throughout the country, prison conditions remained harsh and life threatening. Arbitrary arrest and detention, and prolonged detention remained problems. The inefficient and corrupt judicial system often did not provide expeditious and fair trials. Pervasive corruption, which was documented in the Warioba Commission's 1997 report, continued to have a broad impact on human rights. The Government infringed on citizens' privacy rights and limited freedom of speech and of the press, and freedom of assembly, association, and movement. Significant resentment and hostility led to attacks on some refugees. The Government obstructed the formation of domestic human rights groups. Violence and discrimination against women remained serious problems. Abuse of children, female genital mutilation, and child prostitution were problems. The Government continued to infringe on workers' rights and child labor persisted. There were some instances of forced labor, and there were reports of trafficking in children. Mob justice remained severe and widespread.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, authorities were responsible for a number of extrajudicial killings. In February two police and two paramilitary soldiers were accused of beating a prisoner in detention to death. The police were not able to explain his death. No information was available on whether an investigation was conducted or any action taken against those responsible.

In October in retaliation for a theft, TPDF soldiers in Dodoma attached a village, killing one civilian. No information was available on whether an investigation was conducted or any action taken against those responsible.

In February members of the quasiofficial citizens' anticrime group known as Sungusungu killed five persons accused of murdering witches in Shinyanga. At year's end, the case still was under investigation by local authorities.

Several prisoners died during the year as a result of harsh prison conditions including inadequate nutrition, medical care, and sanitation (see Section l.c.).

In 1998 riots broke out in Mwembechai when police attempted to disperse a crowd of Muslims protesting the arrest of a popular Muslim leader. The police opened fire

on the protesters, killing three persons and wounding several others. Subsequently, 23 Members of Parliament (M.P.'s) demanded parliamentary discussion of police brutality in connection with the incident, but the National Assembly Speaker denied the request, saying that it was an internal police matter. No further action was taken in connection with the matter during the year.

Police have not yet explained the deaths of six detainees in the town of Morogoro who were electrocuted at the end of 1997. Police buried the bodies in two graves instead of returning them to their families.

There were no developments in the 1993 police killing of a member of the opposition party Civic United Front (CUF) on the island of Pemba. After a lengthy investigation, authorities charged the policeman who fired the shots with involuntary manslaughter; the officer remains free on bail. CUF leaders complained that in 1996 the President and Attorney General of Zanzibar blocked the prosecution of the police officer. Nearly 7 years after the event, a trial still is pending.

Instances of mob justice against suspected criminals continued to claim dozens of lives. Throughout the year, the media reported numerous incidents in which mobs killed suspected thieves, who were stoned, lynched, beaten to death, or doused with gasoline and set on fire. Such events are so common that they often are grouped together in newspapers with reporting on car accidents and other mishaps. Many instances never are reported. The widespread belief in witchcraft has led, in some instances, to the killing of alleged witches by their "victims," aggrieved relatives, or mobs. The Government estimated in 1998 that in the Mwanza region alone at least 50 persons are killed every year by those who believe them to be witches. Government officials criticized these practices and some arrests were made; however, most perpetrators of witch killing or mob justice elude arrest, and the Government has not taken preventive measures.

There is a growing concern over violence allegedly perpetrated by some Burundian and Rwandan refugees (see Section 1.c.). Local officials complained that refugees committed killings and robberies. In a well-publicized case, Burundian refugees were accused of killing a local schoolteacher in May.

On August 7, 1998, terrorists bombed the U.S. Embassy in Dar Es Salaam, killing 11 persons and injuring more than 85 others. The Government cooperated with international efforts to apprehend the suspects; one suspect had been arrested by year's end.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture and inhuman or degrading treatment; however, the police regularly threaten, mistreat, or occasionally beat suspected criminals during and after their apprehension and interrogation. Police also use the same means to obtain information about suspects from family members not in custody (see Section 1.f.). There were reports that police in Zanzibar use torture. Although government officials usually criticize these practices, the Government seldom prosecutes police for such abuses. In October the Inspector General of Police, for a period of 1 week, ordered the whipping of bus drivers and conductors for rampant violations of traffic laws, a punishment similar to one ordered in 1998.

In June a relief worker accused a local government official of raping her. The Government investigated the incident, but found that there was insufficient evidence to prosecute the accused official.

Repeated reports indicate that the police used torture, including beatings and floggings, in Zanzibar, notably on Pemba island. Both the Zanzibar and Union Governments have denied these charges. In April the Chief of Defense Forces, General Robert Mboma, fired 18 members of the Tanzanian People's Defense Force for beating civilians in Zanzibar.

There were reports of numerous incidents in which soldiers attacked civilians, prompting the Chief of the Defense Forces to remind troops that their role was to defend, and not harass, civilians. No other action was taken against those responsible for abuses.

In April more than 200 members of the opposition party NCCR-Maguezi staged a peaceful demonstration to protest police actions (see Sections 2.b. and 3). As they assembled, field force unit officers clubbed demonstrators and injured some. In July Muslims staged a peaceful demonstration protesting a government ban on Muslim school uniforms in public schools; they were dispersed with tear gas and clubs (see Section 2.b.). The rioters were charged later with unlawful demonstration and threatening the peace. Vice President Omar Ali Juma said publicly that the force used to combat the demonstrators was excessive and disproportional.

Pervasive corruption is a serious problem in the police force (see section 1.d.). In June the Inspector General of Police fired 150 police officials, the majority for corruption.

The People's Militia Laws, as amended by Parliament in 1989, bestow quasilegal status on the traditional Sungusungu neighborhood and village anticrime groups. Participation in these groups was compulsory prior to the 1995 election. In the past, these groups were criticized for using excessive force with criminal suspects. While largely moribund since 1995, the Sungusungu still exist, particularly in rural areas. As a result of the President's 1997 initiative to have government law enforcement officials work cooperatively with Sungusungu, members of Sungusungu were given additional benefits on a par with those given to members of the People's Militia, including the right to arrest persons. In return members of Sungusungu were to be held accountable for any abuses; however, none were held accountable for abuses during the year.

As a result of increased criminal activity allegedly perpetrated by some Burundian refugees, there is significant hostility and resentment against Burundian refugees. In May in Kasulu, approximately 50 Burundian refugee women collecting firewood allegedly were attacked and raped by villagers in reprisal for the killing of a local teacher (see Section 1.a.). Eleven men were arrested for the rape and the trial was ongoing at year's end.

There is growing concern over violence allegedly perpetrated by some armed Burundian and Rwandan refugees. Local officials reported incidents of banditry, armed robbery, and violent crime, perpetrated by refugees in the areas surrounding refugee camps. Women and girls in refugee camps suffered a high level of rape and gender abuse perpetrated by other refugees. There were also reports that some refugees engage in vigilante justice within camps, beating and torturing other refugees (see section 2.d.).

Prison conditions remained harsh and life threatening. Government officials acknowledged that prisons are overcrowded and living conditions are poor. The prisons were designed to hold 21,000 persons, but the actual prison population is estimated at 43,000 persons. The Government is expanding prisons, but its efforts have not kept pace with the growing number of prisoners. Some prisoners are paroled or receive suspended sentences as a means of relieving overcrowding. The Government did not release statistics on the prison expansion program or on the exact extent of the overcrowding during the year. The daily amount of food allotted to prisoners is insufficient to meet their nutritional needs, and even this amount is not always provided. In 1998 the Commissioner of Prisons stated that his department received inadequate funds for medicine and medical supplies. Prison dispensaries only offer limited treatment, and friends and family members of prisoners generally must provide medication or the funds with which to purchase it. Serious diseases, such as dysentery, malaria, and cholera, are common and result in numerous deaths. In January a prisoner who was denied medical treatment for almost a month died en route to a hospital. Another person died at a bus stop within minutes of being released from Segerea prison. Convicted prisoners are not allowed to receive food from the outside and often are moved to different prisons without notification to their families. There are credible reports that guards beat and abuse prisoners.

The Warioba Commission reported that wardens give favorable treatment to certain prisoners at the expense of others. In May 56 detainees in a Dar Es Salaam prison refused to attend court proceedings in protest of harassment by police officials. They said that the police demanded bribes for visitation rights and demanded sexual favors from female prisoners. Pretrial detainees are held together with those serving sentences but are allowed to receive food from the outside.

Women sent to remand prison report being forced to sleep naked and being subjected to sexual abuse by wardens.

In April the Tanzania Prisons Service, in cooperation with the University of Dar Es Salaam and the Raul Wallenberg Institute, held a 5-day seminar in Arusha to address the problem of prison overcrowding. No action was taken on the seminar's resolutions during the year.

The International Committee of the Red Cross (ICRC) has been permitted to monitor prison conditions. The Government also granted permission to a local nongovernmental organization (NGO) to visit prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are problems. The Criminal Procedure Code, amended in 1985, requires that a person arrested for a crime, other than a national security charge under the Preventive Detention Act, be charged before a magistrate within 24 hours; however, in practice the police often fail to comply. The 1985 amendments also restricted the right to bail and imposed strict conditions on freedom of movement and association when bail is granted. Because of backlogs, an average case takes 2 to 3 years or longer to come to trial. Observers estimate that only about 5 percent of persons held in remand ultimately are convicted, and in many cases, those convicted already had served their full sentences before their trial was held.

The code provides for a right to defense counsel. The Chief Justice assigns lawyers to indigent defendants charged with serious crimes such as murder, manslaughter, and armed robbery. There are only a few hundred practicing lawyers in the country and most indigent defendants charged with lesser crimes do not have legal counsel. In many cases, accused persons are denied the right to contact a lawyer or talk with family members. Bribes often determine whether bail is granted or even whether a case is judged as a civil or criminal matter. There are reports of prisoners waiting several years for trial because they could not pay bribes to police and court officials. Authorities acknowledge that some cases have been pending for several years.

Under the Preventive Detention Act, the President may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. This act, as amended in 1985, requires that the Government release detainees within 15 days of detention or inform them of the reason for their detention. A detainee also is allowed to challenge the grounds for detention at 90-day intervals. The Preventive Detention Act has not been used for many years; however, despite a landmark ruling by the Court of Appeal in 1991 that the Preventive Detention Act could not be used to deny bail to persons not considered dangerous to society, the Government still has not introduced corrective legislation. The Law Reform Commission recommended that the act be repealed; however, the President said that repeal was unnecessary if the law was not being used. In October a court charged a popular Muslim leader arrested for allegedly inciting violence against Christians with seditious intention and denied him bail because it reportedly feared that he might commit the same crime again. The Government has additional broad detention powers under the Regions and Regional Commissioners Act and Area Commissioners Act of 1962. These acts permit regional and district commissioners to arrest and detain for 48 hours, persons who may "disturb public tranquillity."

Police continued to make arbitrary arrests, although less frequently than in the previous year. The police occasionally arrest relatives of criminal suspects and hold them in custody without charge for as long as several years in an attempt to force suspects to surrender. Such detainees who manage to get their cases before a judge usually are set free; however, some were rearrested immediately when they left the courtroom.

According to the Warioba Commission report, police arrest innocent persons, accuse them of fictitious crimes, and withdraw or reduce the charges upon payment of bribes. There have been several complaints that police regularly hide their badge numbers while on duty so that complainants cannot report abuses. During the year, the Government dismissed over a dozen police officers from the force for abuse of power, and some police officers have been charged and prosecuted; however, the impact of these efforts was limited.

In June a journalist with the Daily Mail was detained at the central police station in Dar Es Salaam for 2 hours for questioning (see Section 2.a.). Two journalists were arrested during the year on charges of sedition; one was held without bail for approximately 1 week (see Section 2.a.). In October authorities arrested and detained opposition leader Augustine Mrema for making derogatory statements about President Mkapa's wife and the NGO she operates. Mrema was also charged with sedition for statements he made about former President Julius Nyerere. In November authorities arrested opposition leader Reverend Christopher Mtikila and a boy for distributing audiocassettes which contained derogatory statements about Nyerere. The boy was released on bail, but Mtikila remained in detention pending a trial at year's end. In December authorities arrested and detained the regional chairman of the Chadema party and a Chadema candidate after their party held a rally challenging the results of a local by-election. They were charged with inciting the public to violence, blocking the road, and burning tires.

In September police arrested a popular Muslim leader charged with preaching in violation of a law prohibiting incitement against other religions (see Section 2.c.). Soon after, the police banned a rally scheduled by Muslims to protest his arrest (see Sections 2.b. and 2.c.).

In April 160 demonstrators with the opposition party NCCR-Maguezi were arrested and charged with holding an unlawful demonstration (see Sections 1.c., 2.b. and 3).

Since the 1995 election, police in Zanzibar, particularly on Pemba, regularly have detained, arrested, or harassed CUF members and suspected supporters. Despite orders from the Union Government's Inspector General of Police, officers in Zanzibar continued these activities. In 1997 and 1998, police arrested 18 CUF officials, including M.P.'s, and charged them in June with treason for attempting to overthrow the Zanzibar Government. Several sources, including the detainees themselves, report that they do not receive adequate medical care, including basic malaria prophy-

laxis; however, the ICRC visited the 18 officials and reported that they were being treated adequately. Their hearing was postponed repeatedly by government prosecutors, and the trial was pending at year's end. The Government continued to arrest opposition politicians for acts that it regarded as seditious (see Sections 2.b. and 3).

The Government does not used forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it suffers from executive interference, corruption, and inefficiency. Nevertheless, the higher courts increasingly have demonstrated independence from the Government. Senior police or government officials no longer pressure or reassign judges who make unpopular rulings. For example, in June the Chief Justice of the Court of Appeal denied the Government's appeal against an injunction granted to the National Women's Council, thereby permitting the Council's continued operation. However, independent observers continued to criticize the judiciary, especially at lower levels, as corrupt and inefficient, and questioned the system's ability to provide a defendant with an expeditious and fair trial. The Warioba Commission found that pervasive corruption affected the judiciary from clerks to magistrates. Clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. Magistrates often accepted bribes to determine guilt or innocence, pass sentences, withdraw charges, or decide appeals. The Government initiated efforts as early as 1991 to highlight judicial corruption, and the Chief Justice continued a campaign against corruption in the judiciary. During the year, several magistrates resigned after the Chief Justice was presented with credible evidence of their corruption.

The legal system is based on the British model, with modifications to accommodate customary and Islamic law in civil cases. Christians are governed by customary or statutory law in both civil and criminal matters. Muslims may apply either customary law or Islamic law in civil matters. The court system consists of primary courts, district courts, the High Court, and the Court of Appeal. Advocates defend clients in all courts, except in the primary courts. There is no trial by jury. In addition to judges, there are district (or resident) magistrates. The law also provides for commercial courts, land tribunals, housing tribunals, and military tribunals. Military courts do not try civilians, and there are no security courts. Defendants in civil and military courts may appeal decisions to the High Court and Court of Appeal.

Zanzibar's court system generally parallels that of the mainland but retains Islamic courts to adjudicate Muslim family cases such as divorce, child custody, and inheritance. Islamic courts only adjudicate cases involving Muslims. Cases concerning Zanzibar constitutional issues are heard only in Zanzibar's courts. All other cases may be appealed to the national Court of Appeal.

Criminal trials are open to the public and to the press; courts must give reasons on the record for holding secret proceedings. Criminal defendants have the right of appeal.

Bail is set on a discretionary basis by judges based on the merits of each case. However, there is no bail in murder or armed robbery cases. In October a popular Muslim leader charged with sedition was denied bail (see Section 2.c.). The presiding magistrate stated that this was done for the Muslim leader's protection. In November the High Court in Dar Es Salaam ordered the release on bail of two journalists who previously had been denied bail on the grounds that their life would be in danger if released (see Sections 1.d. and 2.a.).

While juvenile courts have existed in principle since 1964, there was not a separate facility for young offenders until 1997; however, the court is underutilized and many juvenile offenders still are tried in adult courts. In 1998 a magistrate ordered prosecutors to stop prosecuting juveniles in adult courts; however, because of the huge backlog in the country's only juvenile court, some cases continue to be sent through the traditional court system where they are processed faster.

There were no reports of political prisoners on the mainland. At year's end, there were 18 political prisoners in Zanzibar.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution generally provides for these rights; however the Government continued to interfere with these rights. During the years in which Tanzania was a one-party state, the CCM penetrated all levels of society through local cells, varying in size from single family homes to large apartment buildings and containing from 10 to 200 persons. Unpaid party officials served as 10-cell leaders with authority to resolve problems at the grassroots level and to report to authorities any suspicious behavior, event, or noncompliance with compulsory night patrol service in the neighborhood. In 1993 elections were held for new grassroots leaders to replace the CCM 10-cell leaders in nonparty business. Few voters participated in these elections, which were boycotted by the opposition, and the 10-cell leaders retained nearly all of their power and influence, particularly in rural areas. However, since the 1993

elections the role of the cells has diminished considerably, particularly in areas where opposition parties are strong. While in the past CCM membership was necessary for advancement in political and other areas, CCM membership is now voluntary. Nonetheless, some government employees, particularly in Zanzibar, who supported opposition candidates have lost their jobs, and some students have been expelled from school because of their families' political affiliation (see Section 3).

A political agreement between the CCM and the main opposition party, the CUF, was signed in June to make the political process in Zanzibar fairer (see Section 3); however, at year's end, nothing had been done to redress the situation.

The Criminal Procedures Act of 1985 authorizes police officials, including the civilian anticrime groups, to issue search warrants; however, the act also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence connected with an offense or if circumstances are serious and urgent. In practice police and members of other security services rarely requested warrants, and often searched private homes and business establishments at will.

The security services reportedly monitor telephones and correspondence of some citizens and foreign residents.

The police threaten, mistreat and occasionally beat, and arrest relatives of criminal suspects and detain them without charge in an effort to force suspects to surrender (see Sections 1.c. and 1.d.).

National employment directives stipulating the nature of employment and location of residence give authorities the right to transfer citizens to another area to ensure their productive employment (see Section 2.d.).

In July Muslims protested a government ban on Muslim school uniforms in public schools (see Sections 1.c., 2.b. and 2.c.)

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice. Various laws, such as the Newspaper Act and the Broadcasting Act, limit the media's ability to function effectively. Government ministers and the Registrar of Newspapers pressure journalists to practice self-censorship. The Government also denied political opponents unrestricted access to the media. In January the Government lifted the ban on two newspapers, Majira and Mtanzania; however, in July the Government again banned Majira for 1 week for publishing information on proposed salaries for government ministers and Members of Parliament. In 1998 the Government banned the printing, publication, and circulation of the Chombeza, Arusha Leo, and Kasheshe newspapers for publishing abusive cartoons. When two new tabloids took their place, the Government also closed them.

In June a journalist with the Daily Mail was detained at the central police station in Dar Es Salaam for 2 hours for questioning after he published a report on overcrowding at the central police station. Two journalists were arrested during the year on charges of sedition; one of the journalists was sentenced upon first appearing in court, but the second, who was indicted for not revealing a source, was held without bail for approximately 1 week. In December a Magistrate's Court sentenced the Reverend Christopher Mtikila to 1 year in prison for allegedly seditious comments he made in 1997.

Except in Zanzibar, citizens generally enjoyed the right to discuss political alternatives freely. Opposition political party members and others openly criticize the Government and ruling party in public forums; however, persons using "abusive language" against the country's leadership may be subject to arrest, and the Government used this provision to detain some opposition figures.

On Zanzibar the Government controls radio and television, and also implements a restrictive policy with regard to print media. In 1998 a Zanzibar government minister threatened three newspapers because of their allegedly negative reporting. Soon thereafter, amendments to the Zanzibar News Act further circumscribed journalists' freedom of action, by giving authorities greater protection for the harassment, detention, and interrogation of journalists. In March the Zanzibar Director of Information Services reportedly banned a local freelance journalist from working on the island, allegedly because he invented stories about the Government. Private mainland newspapers are widely available, and many residents can receive mainland television.

The press on the mainland is, on the whole, lively and outspoken. Even the government-owned newspaper occasionally reports events that portray the Government in an unflattering light. There are 9 daily newspapers and 15 other newspapers in English and Kiswahili, along with another dozen periodicals, some of which are owned or influenced by political parties, both the CCM and the opposition. The ris-

ing cost of newsprint resulted in the closure of 15 newspapers in 1996. There is no official censorship, but throughout the year the Government continued to pressure newspapers to suppress or change articles unfavorable to it. In October the Government revoked the registration of 291 publications that had not published during the last 3 years.

Private radio and television stations broadcast in Dar Es Salaam and in a few other urban areas, although their activities may be circumscribed. The Government reportedly does not censor news reports, but attempts to influence their content. Some journalists, such as those in Zanzibar, exercise self-censorship on sensitive issues. Journalists who report arrests can be charged with obstructing police activity under the 1964 Police Act. The authorities occasionally prevent television cameramen from filming the swearing in of an opposition Member of Parliament.

The Union Government sought to maintain some control over the private media with the establishment in 1997 of a code of conduct for journalists and a media council. With the leadership of the local chapter of the Media Council for Southern Africa and the Association of Journalists and Media Workers, journalists forced the Government to agree to a voluntary code of ethics and establishment of a Media Council intended to preserve and expand media freedom. The Council was inaugurated formally on August 16, 1997, although it began operating in 1995. Thus far, it has proved ineffectual except as a sounding board for complaints against the media.

Academic freedom largely is respected in practice. Academics, increasingly outspoken in their criticism of the Government, stepped up their calls for reform during the year.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, the Government limits this right in practice. Political parties that seek to hold rallies must give the police 48 hours' advance notice. Police have the authority to deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party. Authorities arrested citizens for assembling without the appropriate permit. In September police banned a rally scheduled by Muslims to protest the arrest in September of a popular Muslim leader (see Sections 1.d and 2.c.).

Opposition parties generally are able to hold rallies; however, CUF meetings on Zanzibar have been restricted far more than other parties, although since the signing of a political agreement between the CUF and the CCM (see Section 3), the CUF successfully held several rallies. In February police dispersed an opposition procession. In April field force unit officers used clubs to disperse a peaceful demonstration by members of the opposition party NCCR-Maguezi, injuring several persons (see Section 1.c). Later, 160 demonstrators were arrested and charged with holding an unlawful demonstration (see Section 1.d.). In July police used tear gas and clubs to disperse a peaceful demonstration by Muslims protesting a government ban on Muslim school uniforms in public schools (see Section 1.c.). The rioters were charged later with unlawful demonstration and threatening the peace. Also in July the Government threatened to take disciplinary action against the CUF for demonstrating with a coffin marked with President Mkapa's name; however, no action was taken against them by year's end. In December authorities arrested and detained the regional chairman of the Chadema party and a Chadema candidate after their party held a rally challenging the results of a local by-election (see Section 1.d.).

Police continue to break up meetings attended by persons thought to be opposed to the Zanzibar Government. In Pemba security forces broke up gatherings and intimidated opposition party officials.

The Government continued to arrest opposition politicians for holding meetings, distributing information, and other acts that it regarded as seditious (see Sections 1.d. and 3).

The Constitution provides for freedom of association; however, the Government limits this right in practice. The Registrar of Political Parties has sole authority to approve or deny the registration of any political party and is responsible for enforcing strict regulations on registered or provisionally registered parties. The Constitution and other legal acts stipulate that citizens cannot establish new political parties; candidates must be members of 1 of the 13 registered political parties. The Electoral Law prohibits independent candidates; requires all standing M.P.'s to resign if they join another party; requires all political parties to support the union with Zanzibar; and forbids parties based on ethnic, regional, or religious affiliation. Parties granted provisional registration may hold public meetings and recruit members. They have 6 months to submit lists of at least 200 members in 10 of the country's 25 regions, including 2 regions in Zanzibar, in order to secure full registration and to be eligible to field candidates for election. Unregistered parties are prohibited from holding meetings, recruiting members, or fielding candidates. In October the

Registrar of Political Parties called the registration provisions too restrictive, stating that if the letter of the law was adhered to, not a single party would fulfill its registration requirements. Therefore, given the difficulties that all parties faced, it would be unfair to deregister any one party; no party was deregistered during the year.

The most prominent unregistered party is the Reverend Christopher Mtikila's Democratic Party, which advocates the dissolution of the union and the expulsion of minorities from the mainland. Despite his party's lack of government recognition, Mtikila was able to publicize his views through his legally registered church and through ongoing lawsuits against the Government.

Under the Societies Ordinance, the Ministry of Home Affairs must approve any new association. Several NGO's have been formed in the last few years to address the concerns of families, the disabled, women, and children. The Government suspended registration of new NGO's in 1997, pending the enactment of new NGO legislation, which was scheduled for late 1997; however, such legislation was not introduced and details of the proposed legislation (which is viewed as restrictive) still were being discussed within the Government, with some input from NGO's, at year's end. The result of this delay is that new registrations have been suspended. The Government continued to harass the National Women's Council for allegedly engaging in political activity contrary to its charter. In June the Chief Justice of the Court of Appeal ruled against the Government's appeal on an injunction, thereby permitting the Council's continued operation (see Section 1.e.).

A number of professional, business, legal, and medical associations only have begun to address political topics. The Government withheld registration from an NGO called Defenders of Human Rights in Tanzania (see Section 4) for more than 3 years before finally denying it registration in during the year. A youth group also has been denied registration on the grounds that there already was a youth organization affiliated with the CCM. The Government continued to refuse registration of the African Human Rights and Justice Protection Network on the grounds that it was politically oriented (see Section 4). Opposition leaders complain that the Zanzibar Government is even more restrictive in registering societies than the Union Government.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion and the Government generally respects this right in practice, subject to measures that it claims are necessary to ensure public order and safety. The Government does not penalize or discriminate against any individual on the basis of religious beliefs or practices; however, individual government officials are alleged to favor persons who share the same religion in the conduct of business.

The Government requires that religious organizations register with the Registrar of Societies at the Home Affairs Ministry. In order to register, religious organizations must have at least 10 followers and must provide a constitution, the resumes of their leaders, and a letter of recommendation from their District Commissioner. Christian groups also must provide letters of recommendation from the leaders of three registered Christian churches or from a Christian Council of a similar denomination. Muslim groups also must have letters from the leaders of three registered mosques. These additional requirements apply to other religious organizations in the same manner. There were no reports that the Government refused to register any religious groups that met these criteria. Registered religious organizations do not pay taxes.

The law prohibits preaching if it incites persons against other religions. Following riots in Mwembechi in 1998 (see Section 1.c.), the Government charged that some religious leaders were inciting their adherents to violence. The Prime Minister stated that the Government would further restrict individuals and organizations that were so involved. The Vice President also stated that the Government would ensure that religion was not used to destabilize the country. The Ministry of Home Affairs subsequently sent 22 religious organizations a letter demanding that they show cause why they should not be deregistered and expelled from the country. The Ministry had not acted to deregister these organizations by year's end, although the threat to do so remained. In September police arrested a popular Muslim leader for inciting his followers against other religions. A week later, the police canceled a planned Muslim demonstration to protest his arrest. In October the Muslim leader was charged with seditious intent and denied bail (see Section 1.e.).

In July police used tear gas and clubs to disperse a peaceful demonstration by Muslims protesting a government ban on Muslim school uniforms in public schools (see Section 1.c.).

The Government failed to respond to growing tensions between the Muslim and Christian communities. The Government appears to recognize that a problem exists, but it chose not to take action. The Government cancelled two meetings with Mus-

lim and Christian leaders aimed at improving relations between the two communities. Even senior Muslim officials in the Government appear unwilling to address the problem, aside from general criticism of those who would foment religious conflict.

National and regional parole boards, constituted in 1998, were dissolved when it was found that they did not include Muslim members, and the Government named new boards in January. It was disclosed in February that the Government was investigating reports that the National Muslim Council of Tanzania was receiving millions of dollars from unknown sources in the Middle East and was considered a possible "security risk."

Christians are governed by customary or statutory law in both civil and criminal matters. Muslims may apply either customary law or Islamic law in civil matters. Zanzibar's court system generally parallels the mainland's legal system but retains Islamic courts to adjudicate cases of Muslim family law, such as divorce, child custody, and inheritance.

The Government has banned religious organizations from involvement in politics.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government imposes some limits on these rights. Short-term domestic travel is not restricted, but citizens must follow the Human Resources Deployment Act of 1983, which requires local governments to ensure that every resident within their area of jurisdiction is engaged in productive and lawful employment. Those not employed were subject to transfer to another area where employment was available. The National Employment Service Act, implemented in April, repealed the Human Resources Deployment Act of 1983. The new act provides for training of youths to be self-employed, without having to be moved to other areas. In October the Dar Es Salaam regional commissioner publicly called for renewed efforts to round up beggars and send them out of the city.

Passports for foreign travel may be difficult to obtain, mostly due to bureaucratic inefficiency and officials' demands for bribes. Citizens can return without difficulty.

Mainlanders are required to show identification to travel to Zanzibar; however, Zanzibaris need no special identification to travel to the mainland. Mainlanders are not allowed to own land in the islands, except in partnership with foreign investors. There is no prohibition against mainlanders working in the islands; however, in practice, few mainlanders are hired.

The law includes provisions for the granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees. The Government traditionally has maintained a generous open border policy both with regard to neighboring countries' refugees and to persons seeking political asylum. However, following an influx of Rwandan refugees in early 1995, the Government temporarily closed its borders with Rwanda and Burundi. Nevertheless, tens of thousands of asylum seekers were able to enter the country. In 1998 Rwandans again were allowed to seek asylum in Tanzania. During the year, a relatively small number of Rwandans who feared for their safety were granted asylum by the Government and appeals by others who petitioned for asylum are pending. The Government continues to offer first asylum to over 400,000 refugees from Burundi and the Democratic Republic of Congo.

The UNHCR facilitated the voluntary repatriation of Burundi refugees until August when efforts were abandoned due to growing insecurity in Burundi.

Refugee camps in the west were plagued by food shortages, overcrowding, and malaria outbreaks during the year. Women and girls in refugee camps suffered a high level of rape and gender abuse perpetrated by other refugees. There were reports that some refugees engage in vigilante justice within camps, beating and torturing other refugees.

Significant resentment and hostility against Burundian refugees is a problem (see Section 1.c.). In May in Kasulu, approximately 50 Burundian refugee women collecting firewood allegedly were attacked and raped by villagers in reprisal (see Sections 1.a. and 1.c.).

There is a growing concern over violence allegedly perpetrated by some armed Burundian and Rwandan refugees. Local officials reported incidents of killings, banditry, armed robbery, and violent crime, perpetrated by refugees in the areas surrounding refugee camps (see Sections 1.a. and 1.c.).

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

A multiparty political system was introduced officially in 1992, and in 1995 for the first time in more than 30 years, citizens exercised their right to change their government through national elections for president and parliament. The CCM,

with huge advantages over opposition parties in membership and access to resources, including its own daily Kiswahili language newspaper, retained 186 of 232 elective seats in Parliament and won the presidency. Despite the Government's tactics to restrict or delay the activities of its opponents, the opposition achieved occasional success in judicial challenges and received about 38 percent of the vote. In late 1996, following its loss in a by-election, the Government issued new directives limiting political activity and fund raising on the grounds of maintaining order. On the mainland, the seven by-elections that were held during the year were marred on occasion by violence. Tight security was employed at polling places. Opposition candidates did not win any of the seven by-elections held during the year.

The Government continued to harass its opponents and arrested opposition politicians for holding meetings, distributing information, and other acts that it regarded as seditious (see Sections 1.d. and 2.b.). In advance of a Dar Es Salaam by-election in July, government officials harassed opposition supporters, and some violent incidents took place after the election, when opposition supporters accused the CCM of rigging the voting. In April members of the opposition party NCCR-Maguezi held a peaceful demonstration at the U.N. offices in Dar Es Salaam to protest what they believed were antiopposition activities by the police force. Field force unit officers used clubs to disperse the demonstration, injuring several persons (see Sections 1.c and 2.b.). A total of 160 demonstrators were arrested and charged with holding an unlawful demonstration (see Sections 1.d. and 2.b.). In December authorities arrested and detained the regional chairman of the Chadema party and a Chadema candidate after their party held a rally challenging the results of a local by-election (see Section 1.d.).

In May popular opposition leader and M.P. Augustine Mrema was prohibited from running for reelection by a High Court injunction that stated that he was ineligible to run because he had changed political parties, and had not yet been designated formally as chairman of his new party.

The Constitution of Zanzibar provides citizens with the right to change their government peacefully; however, this right has been circumscribed severely. The 1995 presidential election in Zanzibar was flawed seriously. Government-owned broadcast media in Zanzibar were biased in favor of the CCM incumbent President Salmin Amour Juma. The government party intimidated and harassed the opposition and did not permit opposition rallies until 2 months prior to the election. In addition, registration was limited to persons who had maintained the same residence for 5 years, which disenfranchised many voters. CUF Party members also were detained by police when they attempted to campaign in rural areas. Election observers in Zanzibar were denied access to the tabulation of votes from polling stations. After 4 days, the Zanzibar Electoral Commission, appointed by the Amour government, announced that Amour had won by 0.5 percent of the vote. Figures tabulated by the CUF showed a similarly close victory for its candidate. After efforts by the international community to reconcile discrepancies in the vote counting, observers concluded that the official results may have been inaccurate. The Zanzibar and Union Governments both rejected calls to overturn the result and conduct a new election for the presidency of Zanzibar.

In the 4 years since the election, government security forces and CCM gangs harassed and intimidated CUF members on both main Zanzibar islands, Pemba and Ugunja. Because the CUF won all 20 seats on Pemba, Pembans living on Ugunja were regarded as CUF supporters and as a result were harassed. The CUF accused police of detaining dozens of its members including several local leaders. Many CUF supporters left Ugunja for Pemba or the mainland; however, citizens' safety is not assured in Pemba, where security forces dispersed gatherings and intimidated persons. Some Zanzibar government employees who voted for the opposition in a late 1997 by-election lost their jobs, and students on Pemba report expulsions from school because of their families' political affiliations. Almost all international donors have suspended direct assistance to Zanzibar in response to the authorities' human rights abuses. Under pressure from the international community, the ruling CCM party and the main opposition party, the CUF, signed a political agreement in June to make the political process in Zanzibar fairer; however, the provisions of the agreement were not fully implemented by year's end and observers believe that the Government did not act in good faith in the period following the signing of the agreement.

There are no legal restrictions in law on the participation of women in politics and government; however, in practice women are underrepresented in government and politics. Eight of 232 elected members of the Union Parliament are women. In addition, 37 female members of the CCM and opposition parties were appointed to Parliament to seats reserved for women in order to meet the legal requirement that at least 15 percent of Members of Parliament be women. The President has set a

goal that women constitute 30 percent of parliamentarians elected in 2000. Three of the Cabinet's 27 ministers are women.

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

The Government has obstructed the formation of local human rights groups. Persons seeking to register human rights NGO's, such as the Defenders of Human Rights in Tanzania and the Tanzania Human Rights Education Society, complained that the Ministry of Home Affairs continued to delay action on their applications (see Section 2.b.). This hampered their access and efforts to monitor violations of human rights. The Government continued to refuse registration of the African Human Rights and Justice Protection Network on the grounds that it was politically oriented. The Government had withheld registration from the NGO Defenders of Human Rights in Tanzania for more than 3 years before finally denying it registration in during the year. In June the Government reinstated the National Women's Council, an NGO that it had deregistered in 1997 (see Section 2.b.).

Government officials have said that international human rights groups are welcome to visit the country. Amnesty International visited during the year. There were discussions, both within the Government and among NGO's, concerning the formation of a human rights commission; however, there are sharp differences on how independent it should be. There had been no action on this matter by year's end.

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

The Constitution prohibits discrimination based on nationality, tribe, origin, political affiliation, color, or religion. Discrimination based on sex, age, or disability is not prohibited specifically by law but is discouraged publicly in official statements. Discrimination against women and religious and ethnic minorities persisted.

Women.—Violence against women remained widespread. Legal remedies exist in the form of assault provisions under the Criminal Code; however, in practice these provisions are difficult to enforce. The Marriage Act of 1971 makes a declaration against spousal battery, but does not prohibit it or provide for any punishment. Traditional customs that subordinate women remain strong in both urban and rural areas and local magistrates often upheld such practices. Women may be punished by their husbands for not bearing children. It is accepted for a husband to treat his wife as he wishes, and wife beating occurs at all levels of society. Cultural, family, and social pressures prevent many women from reporting abuses to the authorities. Nonetheless, in 1998 the Ministry of Home Affairs noted that an average of 10,000 cases of wife beating are reported annually. In 1998 the Ruvuma regional crime officer noted that a large number of women are killed by their husbands or commit suicide as a result of domestic battery. Women in refugee camps suffered a high level of rape and gender abuse perpetrated by other refugees (see section 2.d.). Government officials frequently make public statements criticizing such abuses, but action rarely is taken against perpetrators. In 1998 in response to intensified concern about violence against women, Parliament passed into law the Sexual Offenses Special Provisions Bill which, among other things, provides for life imprisonment for persons convicted of rape and child molestation. Several persons were prosecuted for rape and battery under this law during the year.

Several NGO's provide counseling and education programs on women's rights problems, particularly sexual harassment and molestation. In June the Government reinstated the National Women's Council, an NGO it had deregistered in 1997 (see Section 2.b.).

Although the Government advocates equal rights for women in the workplace, it does not ensure these rights in practice. In the public sector, which employs 80 percent of the salaried labor force, certain statutes restrict women's access to some jobs or hours of employment. For example, in general, women may not be employed between 10 p.m. and 6 a.m. (see Section 6.e.). While progress on women's rights has been more noticeable in urban areas, strong traditional norms still divide labor along gender lines and place women in a subordinate position. Discrimination against women is most acute in rural areas, where women are relegated to farming and raising children, and have almost no opportunity for wage employment. Custom and tradition often hinder women from owning property such as land, and may override laws that provide for equal treatment. Male colleagues sometimes harass women seeking higher education, and authorities largely have ignored the practice.

The overall situation for women is less favorable in Zanzibar, which has a majority Muslim population. Women there, and on many parts of the mainland, face discriminatory restrictions on inheritance and ownership of property because of conces-

sions by the Government and courts to customary and Islamic law. While provisions of the Marriage Act provide for certain inheritance and property rights for women, the application of customary, Islamic, or statutory law depends on the lifestyle and stated intentions of the male head of household. Thus far, the courts have upheld discriminatory inheritance claims, primarily in rural areas. Under Zanzibari law, unmarried women under the age of 21 who become pregnant are subject to 2 years' imprisonment.

Children.—Government funding of programs for children's welfare remained miniscule. The Government has made some constructive efforts to address children's welfare, including working closely with the U.N. Children's Fund and other international and local organizations to improve the well being of orphans and neglected children. Child labor is a problem (see Section 6.d.). A 1998 study funded by the International Labor Organization (ILO) reported a growth in child prostitution, including forced prostitution (see Sections 6.c. and 6.f.).

The law provides for 7 years of compulsory education through the age of 15; however, it is no longer free. Fees are charged for books, enrollment, and uniforms, with the result that some children have been denied an education. The primary school dropout rate is between 30 and 40 percent. The literacy rate is approximately 70 percent; however, for girls it is only 57 percent compared with 80 percent for boys. In the past, girls who became pregnant were expelled from school. Despite a 1996 law to permit pregnant girls to continue their education following maternity absences, the practice of forcing pregnant girls out of school remains in effect. The rate of girls' enrollment in school is lower than that of boys, and generally declines with each additional year of schooling. In some districts, there was a decline in attendance as the result of early marriage, often at the behest of parents. Nevertheless, there have been across the board increases in the rate of girls' participation since 1990.

Although the Government officially discourages female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, it still is performed at an early age in approximately 20 of the country's 130 main ethnic groups. According to a 1996 health survey conducted by the Bureau of Statistics, FGM affects 18 percent of the female population. In some ethnic groups, FGM is compulsory, and in others, a woman who has not undergone the ritual may not be able to marry. Government data show this to be a problem that varies by region, with the most affected regions being Arusha (81 percent of women), Dodoma (68 percent), Mara (44 percent), Kilimanjaro (37 percent), Iringa (27 percent), Tanga/Singida (25 percent), and Morogoro (20 percent). FGM is almost nonexistent in the rest of the country. Government officials have called for changes in practices that adversely affect women, and in 1998 Parliament passed into law the Sexual Offenses Special Provisions Bill, under which several persons were prosecuted for FGM during the year. Some local government officials have begun to combat the practice and convicted and imprisoned some persons who performed FGM on young girls. Seminars sponsored by various governmental organizations and NGO's are held regularly in an attempt to educate the public on the dangers of FGM and other traditional practices. These practices include the tradition of inherited wives, which critics contend contributes to the spread of HIV/AIDS, and child marriages, which are sanctioned with parental consent under the Marriage Act of 1971 for girls 12 years of age or older. While some authorities believe that FGM is declining, a 1996 government report has suggested that it is on the rise, especially in the central region. In 1998 the Dodoma Traditional Practices and Beliefs Committee, supported by a World Health Organization grant, began a program to eliminate FGM in the Dodoma region.

People with Disabilities.—The Government does not mandate access to public buildings, transportation, or government services for the disabled. Although there is no official discrimination against the disabled, in practice the physically disabled effectively are restricted in their access to education, employment, and provision of other state services due to physical barriers. The Government provides only limited funding for special facilities and programs.

Religious Minorities.—Muslim-Christian relations are fragile and, particularly since the Mwembechi riots in 1998, Muslims are sensitive to perceived discrimination. Mainland Tanzania is 60 percent Christian and 40 percent Muslim, whereas Zanzibar is 97 percent Muslim. The Muslim community claims to be disadvantaged in terms of its representation in the civil service, government, and parastatals, in part because both colonial and early post-independence administrations refused to recognize the credentials of traditional Muslim schools. As a result, there is broad Muslim resentment of certain advantages that Christians are perceived to enjoy in employment and educational opportunities. Muslim leaders have complained that the number of Muslim students invited to enroll in government-run schools still was

not equal to the number of Christians. In turn, Christians criticize what they perceive as lingering effects of undue favoritism accorded to Muslims in appointments, jobs, and scholarships by former President Ali Hassan Mwinyi, a Muslim. Despite these perceptions, there does not appear to be a serious widespread problem of religious discrimination in access to employment or educational opportunities.

A few leaders in the Christian and Muslim communities appear to be fomenting religious tension between their groups. A small Christian group, Biblia ni jibu, attempted to promote Christianity by confronting Muslims at public gatherings, which often resulted in localized violence. There is a growing division between secular and extremist Muslims. For example, Muslims who drink, or who marry Christians are criticized sharply by extremist Muslims. Members of the extremist Muslim community also accused secular Muslims in the Government of supporting a Christian regime rather than protecting Muslim interests.

National/Racial/Ethnic Minorities.—In the past, the Government discriminated against the Barabaig and other nomadic persons in the north. These ethnic groups continued to complain of past government discrimination because of efforts to make them adopt a more modern lifestyle and to restrict their access to pastoral land that was turned into large government wheat farms.

The Asian community, which is viewed unfavorably by many African citizens, has declined by 50 percent in the past decade to about 50,000 persons. There are no laws or official policies that discriminate against Asians; however, as the Government places greater emphasis on market-oriented policies and privatization, public concern regarding the Asian minority's economic role has increased. This has led to demands for policies of "indigenization" to ensure that privatization does not increase the Asian community's economic predominance at the expense of the country's African population.

Section 6. Worker Rights

a. *The Right of Association.*—Both the Constitution and the 1955 Trade Union Ordinance refer to the right of association for workers; however, workers do not have the right to form or join organizations of their choice. The 1991 Organization of Tanzania Trade Unions Act created the Organization of Tanzania Trade Unions (OTTU), renamed the Tanzania Federation of Trade Unions (TFTU) in 1995, as the only trade union organization. Although it still has not been registered formally, the TFTU acts in all but juridical proceedings under its new name. The TFTU has little influence on labor policy. The TFTU consists of 11 independent trade unions that have the right to leave the TFTU and to collect their own dues, 5 percent of which are contributed to the federation. Only 1 of these 11 independent unions, the Tanzanian Teacher's Union, is registered. Unions exist in the workplace, but the absence of registration makes relations with employers difficult.

Overall, only about 10 to 15 percent of the country's 2 million wage earners are organized. Although the TFTU nominally represents 60 percent of workers in industry and government, in some sectors it deducts dues from workers' pay whether or not they are members. All workers, including those classified as "essential" service workers, are permitted to join unions, but essential workers are not permitted to strike.

There are no laws prohibiting retribution against legal strikers; however, workers have the legal right to strike only after complicated and protracted mediation and conciliation procedures leading ultimately to the Industrial Court, which receives direction from the Minister of Labor and Youth Development. If the TFTU is not satisfied with the decision of the Industrial Court, it may then conduct a legal strike. The mediation and conciliation procedures can prolong a dispute by months without resolving it. Pending a resolution, frustrated workers have staged impromptu, illegal wildcat strikes and walkouts. The last major strike took place in 1998 at Muhimbili Medical Center when more than 70 percent of the doctors and nurses went on strike for higher pay and better working conditions. In 1998 the Zanzibar Government pledged to review the island's labor laws in an effort to improve industrial relations and minimize labor disputes; however, at year's end, there was no progress on this issue.

In 1998 the regional ILO representative called on the Government to ratify conventions on freedom of association, minimum working age, equal opportunity, and freedom from discrimination. The Government still had not responded to the ILO at year's end.

The TFTU expanded upon its forerunner's membership in regional and pan-Africanist trade union organizations by joining the International Confederation of Free Trade Unions in 1996.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law but does not apply to the public sector. The Government sets wages

for employees of the Government and state-owned organizations administratively, although privatization and reductions in public sector employment have reduced such employees to about 5 percent of the work force.

Although the TFTU negotiates on behalf of most private sector employees with the Association of Tanzanian Employers, collective agreements must be submitted to the Industrial Court for approval. The ILO has observed that these provisions are not in conformity with ILO Convention 98 on Collective Bargaining and the Right to Organize. The Security of Employment Act of 1964 prohibits discriminatory activities by an employer against union members. Employers found guilty of antiunion activities are required under the law to reinstate workers. The Warioba Commission found that bribes may determine whether a worker dismissed from his job actually is reinstated.

There are no export processing zones (EPZ's) on the mainland, but there are three in Zanzibar. Working conditions are comparable to those in other areas. Labor law protections apply to EPZ workers.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, which also applies to children (although such labor by children is not prohibited specifically); however, such practices occur. In some rural areas, villagers still are obligated to work in the village community gardens or on small construction projects, such as repairing roads. There were reports of children forced into prostitution by parents or guardians in need of extra income, and children reportedly are trafficked to work in mines and other businesses (see Section 6.f.). The Government is working with NGO's to establish a specific prohibition against child labor. In 1999 the Government drafted a National Child Labor Elimination policy designed to bring national law into compliance with international conventions, and in December the Government invited labor organizations and NGO's to comment on the draft law.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—By law children under the age of 12 are prohibited from working in the formal wage sector in both urban and rural areas, and the Government enforces this prohibition; however, the provision does not apply to children working on family farms or herding domestic livestock. Children between the ages of 12 and 15 may be employed on a daily wage and on a day-to-day basis, but they must have parental permission and return to the residence of their guardian at night. Approximately 250,000 children engage in child labor.

The minimum age for work of a contractual nature in approved occupations is set at 15 years. The law prohibits a young person from employment in any occupation that is injurious to health and that is dangerous or otherwise unsuitable. Young persons between the ages of 12 and 15 may be employed in industrial work but only between the hours of 6 a.m. and 6 p.m., with some exceptions. The Ministry of Labor and Social Welfare and Youth Development is responsible for enforcement, but the number of inspectors is inadequate. The effectiveness of government enforcement reportedly has declined with increased privatization.

Approximately 3,000 to 5,000 children engage in seasonal employment on sisal, tea, tobacco, and coffee plantations. Children working on plantations generally receive lower wages than their adult counterparts, although they may be in comparable jobs. Work on sisal and tobacco plantations is particularly hazardous and detrimental to children. From 1,500 to 3,000 children work in unregulated gemstone mines. Girls often are employed as domestic servants, mostly in urban households under abusive and exploitative conditions. In the informal sector, children assist their parents in unregulated piecework manufacturing.

The Constitution does not specifically prohibit forced or bonded child labor, and there were reports of children forced into prostitution by their parents or their guardians, and children reportedly are trafficked to work in mines and other businesses (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work.*—There is a legal minimum wage for employment in the formal sector. The TFTU often negotiates higher minimum wages with individual employers, depending on the financial status of the business. The legal minimum wage is approximately $21 (17,500 shillings) per month. Even when supplemented with various benefits such as housing, transport allowances, and food subsidies, the minimum rate may not always be sufficient to provide a decent standard of living for a worker and family, and workers must depend on their extended family or on a second or third job. Despite the minimum wage, many workers, especially in the small but growing informal sector, are paid less.

There is no standard legal workweek; however, a 5-day, 40-hour workweek is in effect for government workers. Most private employers retain a 6-day, 44- to 48-hour workweek. In general, women may not be employed between 10 p.m. and 6 a.m. Several laws regulate safety in the workplace. An occupational health and safety

factory inspection system, set up with the assistance of the ILO, is managed by the Ministry of Labor and Social Welfare and Youth Development; however, its effectiveness is limited. Labor standards are not enforced in the informal sector.

TFTU officials have claimed that enforcement of labor standards is effective in the formal sector, but no verification studies have been performed. Workers may sue an employer through their TFTU branch if their working conditions do not comply with the Ministry of Labor's health and environmental standards. Workers who make such complaints have not lost their jobs; however, workers do not have the right to remove themselves from dangerous situations without jeopardizing their employment.

f. *Trafficking in Persons.*—The law does not prohibit trafficking, and there were reports that children are trafficked away from their families to work in mines and other business entities. Reportedly senior government officials are involved in the practice. There were also reports of children forced into prostitution by parents or guardians in need of extra income.

TOGO

Togo is a republic dominated by President General Gnassingbe Eyadema, who has ruled since 1967, when he came to power in a military coup. Although opposition political parties were legalized following widespread protests in 1991, Eyadema and his Rally of the Togolese People (RPT), strongly backed by the armed forces, have continued to dominate the exercise of political power. Eyadema used his entrenched position to repress genuine opposition and to secure another 5-year term in an election held in June 1998, which, like previous multiparty elections, was marred by systematic fraud. Serious irregularities in the Government's conduct of the election strongly favored the incumbent and appear to have affected the outcome materially. Despite the Government's professed intention to move from authoritarian rule to democracy, institutions recently established ostensibly to accomplish this transition, did not do so in practice. For example, when the recently created independent National Electoral Commission effectively disbanded without declaring the winner of the June 1998 election, the new Constitutional Court did not challenge the Interior Ministry's announcement that Eyadema had been reelected, even though the Court ruled that the Ministry had usurped the Commission's exclusive legal authority to validate election results. Eyadema and his supporters maintain firm control over all facets and levels of the country's highly centralized government and have perpetuated the dominance of northern ethnic groups, including Eyadema's Kabye ethnic minority, throughout the public sector, especially in the military. In the March legislative elections, which were boycotted by the opposition, the President's Rally for the Togolese People (RPT) won all but 2 of the 81 seats in the National Assembly; moreover, the elections were marred by procedural problems and significant fraud, particularly misrepresentation of voter turnout. The executive branch continues to influence the judiciary.

The security forces comprise the army (including the elite Presidential Guard), navy, air force, the Surete Nationale (including the national police), and the Gendarmerie. Approximately 90 percent of the army's officers and 70 percent of its soldiers come from the Kabye ethnic minority. Although the Minister of the Interior is in charge of the national police, and the Defense Minister has authority over most other security forces, all security forces effectively are controlled by President Eyadema. Members of the security forces continued to commit serious human rights abuses.

About 80 percent of the country's estimated population of 4.25 million is engaged in subsistence agriculture, but there is also an active commercial sector. The main exports are phosphates, cotton, and cocoa, which are the leading sources of foreign exchange. Per capita gross domestic product remains less than $400 a year. Economic growth continues to lag behind population growth. The economy is impeded by a large and inefficient state-owned sector, high (albeit declining) spending on the security forces, widespread corruption, and lack of government budget and fiscal discipline. Most major bilateral donors have suspended their aid due to the Government's weak democratization efforts and poor human rights record. Some international financial institutions have also halted budgetary assistance to the Government.

The Government's human rights record continued to be poor; while there were some improvements in a few areas, serious problems remain. Legislative elections did not reflect the will of the electorate and once again the government thwarted citizens' right to change their government. Security forces were responsible for

extrajudicial killings, but there were fewer than in the previous year. Security forces also used beatings, and arbitrary arrests and detentions. The Government did not, in general, investigate or punish effectively those who committed such abuses, nor did it prosecute openly those persons responsible for extrajudicial killings and disappearances in recent years. Prison conditions remained very harsh, and prolonged pretrial detention was common. The Government continued to influence the judiciary, which is understaffed and overburdened, and did not ensure defendants' rights to fair and expeditious trials. Some detainees wait years to be judged. Security forces infringed on citizens' privacy rights. The Government and the security forces restricted freedom of speech and of the press, often using investigative detention to harass journalists and political opponents. The Government maintained an overbearing security presence and restricted freedom of assembly, association, and movement. The National Commission for Human Rights (CNDH) continued to be dominated by supporters of the President, and the Government restricted and impeded the work of independent human rights groups. Violence and societal discrimination against women and female genital mutilation (FGM) among some ethnic groups are problems. Discrimination against the disabled persists. Although there is a 1998 law that prohibits female genital mutilation, the Government has not enforced it. Discrimination based on ethnicity remains a problem. The Government limits workers' rights to collective bargaining. Trafficking in women for the purpose of forced prostitution and trafficking in children for forced labor remained problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Members of the security forces committed fewer extrajudicial killings than in the previous year.

On January 10, gendarmes raided the Akodessewa-Kpota shantytown neighborhood in Lome and set fires that reportedly killed two children. The gendarmes reportedly were searching for arms caches and rebel hideouts on the eve of a major national holiday parade (see Section 1.f.).

An Amnesty International (AI) report issued in May stated that hundreds of bodies—presumably many members of the opposition—were thrown into the sea around the time of the June 1998 Presidential election (see Sections 1.b. and 4).

Several cases of extrajudicial killings from previous years remained unresolved. There was no development in the August 1998 killing of Liman Doumongue, deputy secretary general of the National Association of Independent Unions of Togo (UNSIT), a pro-opposition labor federation. In May UNSIT wrote a letter to President Eyadema requesting an independent investigation into the killing. The September 1998 killing of Koffi Mathieu Kegbe, a local activist in the opposition Action for Renewal Committee (CAR) party, was still under investigation. There were no new developments in the 1998 killings of the Togolese Human Rights League founding member Dr. Tona Pierre Adigo, and businessman Malou Borozi. There has been no public investigation into the June 1998 killing of the child, Ayele Akakpo. The Government claims that the August 1998 attack on UFC Secretary General Fabre's residence was carried out by coup plotters from Ghana. There were no new developments in the 1997 deaths in detention of Dosseh Danklou and Agbodjinshie Yakanou, and the 1997 killing in Ghana of former Togolese diplomat and dissident Ferdinand Romuard also remained unsolved. There was also no progress in the cases of the 1996 deaths of Captain Philippe Azote, Anthony Dogbo, Woenagno, Amouzou Adjakly, and Komlavi Yebesse. Nor were there further developments in the 1995 killing in Ghana of former government official Felix Amegan and opposition leader Lieutenant Vincent Tokofai, the 1994 killing of National Assembly Member Gaston Edeh, or the 1992 killings of the Transitional Parliament Members Marc Atidepe and Tavio Amorin.

The January 9 arrest by the Gendarmerie of an army warrant officer, Amy Kpeto, came after he allegedly told the newspaper, Tingo-Tingo, about a mass grave for "military democrats" at the Agoueve shooting range and about hit men within the army. There has been no independent verification of such a mass grave, and Kpeto reportedly confessed to lying to Tingo-Tingo (see Section 3).

b. *Disappearance.*—There were no specific reports of politically motivated disappearances during the year. However, an Amnesty International report issued in May reported that hundreds of bodies—presumably those of opposition members—were thrown into the sea around the time of the June 1998 presidential election (see Section 4). According to AI, the corpses were found and buried by Beninese fishermen. The Government strongly denied the accusations and initiated legal proceedings against AI. The independent Benin Human Rights League reported that bodies were dropped along the coastal waters by military aircraft, although other

official sources in Benin denied that this event happened. In July the Government agreed to an independent international investigation, but no steps were taken by year's end.

AI also reported that on August 20, 1998 two young men, Komlan Edoh and Kodjo Kouni, were beaten and arrested by security forces in a northwest suburb of Lome, then taken to a nearby military camp, after which they disappeared. Their arrest occurred just days after what the Government claims was a border incursion from Ghana; AI suspects the arrests and disappearances to be politically motivated.

There was no investigation into the mass burials of 1997 and 1998 reportedly in the vicinity of Lome.

There were no developments in the 1994 disappearance of David Bruce, a high-level foreign ministry employee sympathetic to the opposition, or in the disappearance of Afougnilede Essiba, Adanou Igbe, Kobono Kowouvi, and another companion, all four of whom were arrested by soldiers at an armed security checkpoint in Adetikope in 1994. In 1994 the Government began an investigation of the Bruce disappearance but has not reported any results.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and physical abuse of prisoners and detainees; however, security forces often beat detainees immediately after arresting them. Some suspects have claimed credibly to have been beaten, burned, or denied access to food and medical attention. Security forces used tear gas and batons to disperse demonstrators (see Section 2.b.).

Security forces reportedly tortured a human rights monitor (see Section 4).

Security forces harassed, intimidated, and beat journalists (see Section 2.a.). On April 19, the Gendarmerie arrested Romain Koudjodji Attisso, publisher of the newspaper, Reporter des Temps Nouveaux. Authorities charged him with falsely accusing the Gendarmerie unit in Aneho of torturing Victor Mensah, an Action for Renewal Party (CAR) activist (see Section 2.a.).

On March 16, security forces in Lome beat university student Gerard Amedjro and a female friend allegedly after the latter refused to undress for them.

Between May 19 and May 27, security forces allegedly beat and tortured Ameen Ayodele, a member of the Nigerian section of AI (see Section 4). Border police first suspected Ayodele of drug trafficking, but when he produced an AI identification card, they accused him of spying for the human rights organization. According to AI, Ayodele was confined to a cell, stripped of his clothing and deprived of food. During his incarceration, his jailers allegedly took him to the beach and threatened to execute him and dump his body in the sea.

Five young men who traveled from Lome to Kara in late August to hold discussions on the Lome Framework Agreement (see Section 3) said that they were detained and beaten on two occasions by police, gendarmes, and military personnel in Kara. Authorities maintained that their wounds resulted when they resisted arrest.

Impunity remains a problem, and the Government did not publicly prosecute any officials for these abuses.

Prison conditions reportedly remained very harsh, with serious overcrowding, poor sanitation, and unhealthy food. Lome's central prison, built for 350 prisoners, housed 850 or more at any one point during the year, according to a reliable witness. Medical facilities are inadequate, and disease and drug abuse are widespread. Despite these problems, for the third consecutive year there were no reported deaths of prisoners due to disease or inadequate medical facilities. Prison guards in the overcrowded civil prison of Lome charge prisoners a small fee to shower, use the toilet, or have a place to sleep. Prisoners reportedly have to pay $2.50 (1,500 CFA francs) to guards before being allowed to visit the infirmary if sick. The children of convicted adults often are incarcerated with the female inmates, who are housed separately.

Although international and local private organizations have access to prisons for monitoring purposes, the ICRC did not visit the prisons during the year. At year's end, the Government was studying an ICRC proposal for a prisons visit.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remain problems. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. In practice detainees can be, and often are, detained without bail for lengthy periods with or without the approval of a judge. Family members and attorneys officially have access to a detainee after the initial 48- or 96-hour detention period; however, authorities often delay, and sometimes deny, access.

Judges or senior police officials issue warrants. Although detainees have the right to be informed of the charges against them, police sometimes ignore this right. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail. However, a shortage of judges and other

qualified personnel, plus official inaction, have resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have had to serve if they had been tried and convicted. For example, Kokou Alowou and Dela Atidepe were arrested in 1993, charged with armed robbery and manslaughter, and are still awaiting trial. An estimated 50 percent of the prison population are pretrial detainees. The Government continued to use brief investigative detentions of less than 48 hours—but much more in the case of Roland Comlan Kpagli, who was arrested for violation of the Press Code on December 23—to harass and intimidate opposition activists and journalists for alleged defamation of government officials (see Section 2.a.). The Government at times has resorted to false charges of common crimes to arrest, detain, and intimidate opponents.

Members of the security forces arrested and detained journalists without charging them with any offense (see Section 2.a.).

Members of the security forces also detained human rights monitors and activists (see Sections 2.b. and 4).

On April 26, security forces detained Union of Forces for Change (UFC) activist Abevi Abbey for distributing leaflets that urged the public to participate in UFC-sponsored Independence Day demonstrations.

On May 3, Apedo Mensa Tengue, Francois Gayibor, and Brice Santana of the Togolese Association for the Defense and Promotion of Human Rights (ATDPDH) were arrested on suspicion of having supplied AI with politically motivated accusations of widespread extrajudicial killings committed in 1998 (see Sections 1.a. and 1.b.). A local representative of AI, Koffi Nadjombe, subsequently was arrested on the same charge. All four men were released in mid-June (see Section 4).

On June 15, the authorities released five persons who had been detained since November 1997 following riots in Sokode in the wake of the sudden death under suspicious circumstances of Djobo Boukari, a former U.N. official and potential presidential candidate. On July 2, the authorities freed 10 other persons, including pharmacist Bozoura Gandi, a cofounder with Boukari of the Togolese Association for the Struggle Against the Manipulation of Conscience (ATLMC). These 15 persons, who included 3 school-age children and a police officer, were never granted a hearing or trial or formally sentenced. Gandi was transferred from the Sokode prison to the Kara prison in 1998. He had been charged with killing two persons suspected of poisoning Boukari. Gandi's supporters in Sokode and many opposition politicians regarded him as a political detainee.

Following the release of Gandi, Tengue, Gayibor, and Nadjombe (see Section 1.d), journalist Roland Comlan Kpagli was the only political detainee at year's end. He was being held on a charge under the Press Code of publishing false information about a raid on December 7 by security forces on a student demonstration. He remained in jail at year's end.

The Constitution prohibits exile, and the Government respects this prohibition.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the executive branch continued to exert control over the judiciary. A majority of the members of the Supreme Council for the Magistrature are supporters of President Eyadema. Judges who belong to the pro-Eyadema Professional Association of Togo Magistrates (APMT) reportedly receive the most prestigious assignments, while judges who advocate an independent judiciary and belong to the National Association of Magistrates (ANM) are marginalized. In December 1998, APMT member Abdoulaye Yaya was named to succeed Awa Nana as President of the Appeals Court, and consequently, as Chairperson of the National Electoral Commission.

The Constitutional Court stands at the apex of the court system. The civil judiciary system includes the Supreme Court, Sessions (Court of Assizes), and Appeals Courts. A military tribunal exists for crimes committed by security forces, but its proceedings are closed. In June when President Eyadema named a new cabinet, he appointed former Interior Minister General Seyi Memene to replace a civilian justice minister.

The court system remained overburdened and understaffed (see Section 1.d.). Magistrates, like most government employees, are not always paid on time. The judicial system employs both traditional law as well as the Napoleonic Code in trying criminal and civil cases. Trials are open to the public, and judicial procedures generally are respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses, present evidence, and enjoy a presumption of innocence. In rural areas, the village chief or council of elders may try minor criminal and civil cases. Those who reject the traditional ruling may take their cases to the regular court system, which is the starting point for cases in urban areas.

Impunity for those who commit abuses, particularly those close to Eyadema, remains a problem. In early October, the President's son, Emmanuel Gnassingbe, who was arrested in late August for the shooting death of the occupant of a taxi following a roadside quarrel, was released without trial. The court released him because the family of the victim reportedly refused to press charges.

There were no reports of political prisoners.

There have been no reported developments in the case of members of the radical opposition group MO5, who were convicted and sentenced to prison for the 1994 attack on a state-owned electrical station. Although the crime appeared to have been politically motivated, the state prosecutor did not apply the December 1994 general amnesty law to this case; at last report, they remained in prison.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the sanctity of residences, the secrecy of correspondence and telecommunications, and prohibits searches and seizures not prescribed by law; however, security forces often infringed on these rights. In criminal cases, a judge or senior police official may authorize searches of private residences. In political and national security cases, the security forces need no prior authorization. Police conducted searches without warrants, searching for arms caches as well as for criminals, often under the guise of searching for identity cards. Armed security checkpoints exist throughout the country, and security forces regularly search vehicles, baggage, and individuals in the name of security.

On January 10, gendarmes raided the Akodessewa-Kpota shantytown neighborhood in Lome and set fires. The gendarmes were reportedly searching for arms caches and rebel hideouts. The neighborhood is inhabited mainly by recently arrived immigrants, many from Ghana, and economic migrants from within the country (see Sections 1.a. and 1.c.).

On May 14, police ransacked the home of Koffi Nadjombe, a member of AI's Togo chapter, searching for evidence that Nadjombe had collaborated in the preparation of a report alleging gross human rights violations by security forces (see Sections 1.d. and 4). Similarly, they searched the house of Apedo Tengue on May 3.

Citizens believe that the Government monitors telephones and correspondence, although no proof of this has been produced. The police and Gendarmerie perform domestic intelligence functions. The Government maintains a system of informers on the university campus (see Section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricts these rights in practice. The Government repeatedly harassed and intimidated print media journalists through threats, detentions, and criminal libel prosecutions. Police and gendarmes occasionally harassed newspaper vendors. Advertisers reportedly often were intimidated as well. Few opposition newspapers are distributed outside the Lome area, particularly not in areas known to be ruling party strongholds.

However, despite government interference, there is a lively press, most of which is heavily politicized and some of which is often highly critical of President Eyadema. About 16 privately owned newspapers published with some regularity. The only daily newspaper, Togo-Presse, is government-owned and controlled. A private Lome-based newspaper, Crocodile, was published daily during part of the year, before changing to a twice a week schedule.

A Press and Communication Code was adopted by the National Assembly in January 1998. Article 1 declares that the media are free; most of the remaining 108 articles, some of them the subject of strenuous objections by opposition legislators, restrict media freedom. Article 62 makes the intentional publication of false information a criminal offense, punishable by fines of $900 to $1,800 (500,000 to 1 million CFA francs). Articles 90 to 98 make defamation of state institutions or any member of certain classes of persons, including government officials, a crime punishable by imprisonment for up to 3 months and fines of up to $4,000 (2 million CFA francs). Article 89 makes it a crime, punishable by up to 3 months in prison for a second offense, to "offend the honor, dignity or esteem" of the President and other government leaders. The law also provides that editors and publishers, including legislators with parliamentary immunity, are liable for crimes committed through the press.

There is no prepublication censorship of print media in law or practice. However, security forces frequently threatened or detained print media journalists and interfered with the distribution of newspapers.

On April 12, security forces seized copies of the pro-opposition newspaper, Le Combat du Peuple. The newspaper's editor, Messan Lucien, reported that the Minister of Communication and Civic Education, Koffi Panou, ordered the police to seize

the publication out of concern that an article might be insulting to President Eyadema.

On April 14, a police officer invaded the offices of the newspaper Tingo-Tingo, beat the employees, damaged a computer, and seized a photocopier and a computer. Two of the journalists were admitted to a hospital. This violence apparently was in retaliation for an unflattering reference to the officer in the newspaper. President Eyadema reportedly paid for the damages to this newspaper.

On April 19, the Gendarmerie arrested Romain Koudjodji Attisso, publisher of the newspaper Reporter des Temps Nouveaux. Authorities charged him with falsely accusing the Gendarmerie unit in Aneho of torturing Victor Mensah, an Action for Renewal Party (CAR) activist (see Section 1.c.). The photograph published in the newspaper showed Mensah with casts on both arms. Koudjodji was jailed at the central prison from April 20 until June 29. While in jail, Koudjodji wrote a letter to President Eyadema asking for forgiveness. At his June 14 trial, his attorneys argued that the Gendarmerie arrested and tortured Mensah, who required hospital treatment for his injuries. Koudjodji was sentenced to 2 months in jail and ordered to pay $1,600 (1 million CFA francs). Unable to pay the fine, Koudjodji closed his paper; subsequently he started another newspaper (L'Evenement).

On April 21, the Government issued a communique warning journalists against capitalizing on misinformation as a means of earning their living. The communique stated that photomontages and defamatory and insulting articles on peaceful citizens, national and international officials, as well as established institutions, all served to undermine President Eyadema's efforts to restore peace in the subregion.

On April 28, two journalists of the very short lived, private newspaper, Le Nouveau Combat, who had been detained since August 1998 on charges of publishing false information, were found guilty, fined $1,600 (approximately 1 million CFA francs), and given a 3-month suspended sentence. Elias Hounkanly and Agbeko Amewoubo were accused of slandering the President and his wife. They published reports alleging that the widow of the late Zairean President Mobutu Sesi Seko had accused the Togolese First Lady, Badagnaki Eyadema, of stealing trunks of jewelry in Lome while Mobutu was heading into exile in 1997. In the same issue, the journalists wrote that President Eyadema begged for a congratulatory message from French President Jacques Chirac on his controversial June 1998 election victory. In October Elias Hounkanly founded a new proopposition weekly, L'Exile.

Since newspapers and television are relatively expensive, radio is the most important medium of mass communication. In addition to two government-owned stations including Radio Lome, there are 11 private radio stations in the country. Two of these, radio Avenir and Galaxy FM, are associated with the ruling RPT party.

Prior to the adoption of the 1998 Press Code, the Government did not permit private radio stations to broadcast news programming. Some private radio stations recently have begun to broadcast some domestic news, but they offered little of the political commentary and criticism of the Government that is widespread in the print media. However, Radio France International is heard 24 hours a day through an FM repeater and Africa Numero-1 also has an FM repeater in Lome. During the year, a private station, Kanal FM, became a Voice of America affiliate and carries several hours of news, music, and commentary daily.

The government-owned and controlled Television Togo is the only television station in Lome and in most of the country. A small private television station has begun local broadcasts in Aneho with limited programming.

The Constitution mandates equal access to state media; however, the official media, consisting of two radio stations, the nation's one television station, and its one daily newspaper, heavily slanted their content in favor of the President and the Government. The High Authority for Audio-Visual and Communications (HAAC) is charged with providing the equal access to the state media mandated by the Constitution. Although it is nominally independent, in practice it operates as an arm of the Government. It is dominated by Eyadema supporters and has not increased opposition access to the government-controlled media. A new organization, the Togolese Media Observatory (OTM) was established in November and will seek both to protect press freedom and to improve the professionalism of journalists. OTM's board and membership include both government and private journalists.

The January 9 arrest by the Gendarmerie of an army warrant officer, Ame Kpeto, who had made critical statements about government officials at a military assembly months earlier, illustrated the military's lack of tolerance for political dissent within its ranks. The Minister of Defense said that Warrant Officer Kpeto had refused a transfer and was considered a deserter. Kpeto's arrest came after he allegedly told the newspaper Tingo-Tingo about a mass grave for "military democrats" at the Agoueve shooting range, and about hit men within the army. There has been no independent verification of such a mass grave, and Kpeto reportedly confessed to

lying to Tingo-Tingo. Charged with slandering the honor of the army, Kpeto reportedly was transferred to the civil prison of Lome where he awaited a civil trial at year's end.

The Government was not known to restrict access to the Internet. There were about 15 Internet service providers in the country at year's end. Most Internet users are businesses rather than households. Access to the Internet and fax machines also is possible through many small stores and cafes in Lome and other cities.

At the country's sole university, academic freedom is constrained by concern among professors about potential harassment by the Government or antiopposition militants and the lack of a faculty-elected rector. Opposition student groups reportedly are intimidated by an informer system that has led in the past to government persecution. The only officially tolerated student groups, HACAME and UGESTO, are pro-Eyadema. However, an independent student organization (CEUB) has had longstanding unofficial recognition and its elected representatives have participated on university committees. In contrast to prior years, security forces did not violently restrict freedom of assembly on the university campus.

b. *Freedom of Peaceful Assembly and Association.*—Under the Constitution, citizens are free to assemble; however, the Government restricts this right in practice. Although opposition political parties were able to hold public meetings in Lome, authorities systematically interfered with the freedom of political opponents attempting to assemble in the central and northern regions. Government officials prohibited and security forces forcibly dispersed some public demonstrations critical of the Government.

In March security forces reportedly broke up UFC rallies and warned activists in Blitta, Vo, Ave, and Zio prefectures against boycotting the legislative elections. In late August, in Kara, authorization was denied to organizers of an information meeting on the July 29 Framework Agreement on Democratic Transition in Togo; moreover, the organizers were arrested (see Section 1.c).

Nonetheless, most opposition rallies and protest marches were well attended and incident-free including an April 27 UFC independence day rally, a May 22 march through Lome for the liberation of human rights activists arrested in the wake of the AI report, the August 14 UFC rallies in Lome led by Gilchrist Olympio, and a November 8 march by teachers and students protesting delayed salary payments.

During the March legislative election campaign, a temporary "mobile security force" of gendarmes, police, and prefectorial police were deployed and functioned effectively. In July and August, they also protected UFC leader Gilchrist Olympio during his brief visits to Lome from his self-imposed exile in Ghana.

Under the Constitution, citizens have the right to organize associations and political parties; however, the Government restricted this right in practice.

Few opposition party offices and no pro-opposition newspapers operate in most towns in the central and northern regions.

Political parties are able to elect officers and register. There are many nongovernmental organizations (NGO's); they are required to register with the Government.

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

New religious organizations are required to register with the Ministry of Interior, and scores of applications await adjudication; however, these groups appear to practice their faiths without hindrance. In January the Catholic Church declined an invitation to participate in a "day of national liberation" service, organized by the Government. The Government criticized the Church for "not contributing to national reconciliation," but it took no further action.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricts these rights in practice. Armed security checkpoints and arbitrary searches of vehicles and individuals are common. The lack of discipline of some soldiers manning roadblocks and their actions, such as frequent demands for bribes before allowing citizens to pass, impede free movement within the country.

The Government continued to employ strict documentation requirements for citizens who apply for a new passport or a renewal. Beyond the normal identity papers, applicants were asked to provide an airline ticket, business documents, an invitation letter, a parental authorization letter (even for adults), proof of study grant for students, and a husband's permission for a married woman (see Section 5). In 1997 the Government transferred the Passport Office from the police to the Gendarmerie, which falls under the Defense Ministry. The Government maintains that its intent was to take passport issuance away from corrupt police officials. The strict passport application requirements and a shortage of blank passports (in anticipation of a new bar-coded passport scheduled to be issued in 2000) prevented or significantly hindered some citizens travel abroad. However, a national identity card can be used

for travel to other member countries of the Economic Community of West African States (ECOWAS).

The Government provides first asylum. There is no law that provides for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, and routinely accepts the decision of the UNHCR office located in Lome in determining refugee status. The Government hosts roughly 12,000 refugees, mainly Kokomba and Bassari from Ghana.

The UNHCR estimates that approximately 6,000 Togolese refugees still remained outside the country at year's end.

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

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

The Constitution provides for the right of citizens peacefully to change their government; however, the Government restricts this right in practice. In the June 1998 presidential election, as in virtually all previous elections since Eyadema seized power in 1967, the Government prevented citizens from exercising this right effectively. The Interior Ministry declared Eyadema the winner with 52 percent of the vote; however, serious irregularities in the Government's conduct of the election strongly favored the incumbent and appear to have affected the outcome materially.

Although the Government did not obstruct the functioning of political opponents openly, the President used the strength of the military and his government allies to intimidate and harass citizens and opposition groups. The Government and the State remained highly centralized: President Eyadema's national government appointed the officials and controlled the budgets of all subnational government entities including prefectures and municipalities, and influenced the selection of traditional chiefs.

What were to have been the second multiparty legislative elections of Eyadema's 32-year-long rule were held on March 21. However, the opposition boycotted the election, in which the ruling party won all but 2 of the 81 seats in the National Assembly. Those two seats went to little-known Independent Party candidates. The legislative elections were marred by procedural problems and significant fraud, particularly misrepresentation of voter turnout.

The opposition set several conditions before it would take part in the legislative elections. Chief among them was a settlement of the dispute over the seriously flawed June 1998 presidential election in which the vote count was stopped and President Eyadema declared the winner by the Interior Minister.

Under international pressure, the Government began preliminary discussions with the opposition which, according to an agreement reached on Christmas eve 1998, were to be followed by formal negotiations, in the presence of international facilitators. When the parties disagreed over UFC insistence that formal negotiations occur outside of the country, the Government scheduled a first round of legislative elections on March 7 and a runoff on March 21. The Government argued that the mandate of the outgoing legislature expired in March and that elections had to be held to avoid a constitutional vacuum. When the opposition did not register candidates, the Government proposed a 2-week postponement; however, the opposition parties maintained their position in favor of a boycott. The elections proceeded and virtually the only candidates to run were those from the RPT.

In February the Council of Ministers passed a decree requiring security forces to vote 3 days before the general population. The Government explained that it wanted the security forces to monitor polling places on election day; however, the opposition viewed the decision as a ploy to influence civilian voting, boost voter turnout, and identify opposition elements within the security forces. Some 15,000 military, gendarmes, police, customs officials, and firemen voted on March 18. Opposition party members of the National Electoral Commission stated that the special voting procedures for security forces violated the Electoral Code because it occurred before the end of campaigning, and that the vote count occurred 72 hours after the vote instead of immediately afterwards. With the opposition boycott, voter participation became the main issue. According to the Government, about 65 percent of the population participated while the opposition stated that the figure could not be more than 10 percent. The rump progovernment National Electoral Commission, absent the commission's opposition party members (who also boycotted the process), reported that turnout reached about 37 percent in the opposition stronghold of Ave, and as much as 95 percent in Kozah prefecture in the north, where the ruling party

has greater support. The opposition took no part in the revision of voter rolls, the distribution of voter cards, the monitoring of the vote, and the counting of the ballots. National election observer organizations did not participate, and international observation was sporadic.

The Government invited a few international observers to comment on the organization and management of the election. There were no independent observers present when the military voted on March 18. Even though RPT candidates ran unopposed in most districts, there were reports of intimidation and evidence of fraud to boost statistics on voter participation in what were essentially one-party elections. In Tchaoudjo, where voting started at 6 a.m., polling place officials did not allow delegates of an independent party to participate in the supervision work until 9 a.m. These delegates watched ballot boxes being stuffed. In Agou independent party delegates claimed that they saw individuals voting more than 10 times.

Foreign diplomats observed voting at close to 200 polling stations, mainly in and around Lome, but also in Yoto prefecture. Turnout was below the levels reflected in official results for most of these locations.

Although the Constitution provides for universal suffrage and secret ballot, there was clear evidence of stuffed ballot boxes and doctored voter registers. At one polling station in the town of Tabligbo, for example, 46 voters were reported by polling officials to have voted by 10:40 a.m. However, the same officials, when questioned about the number of envelopes in the ballot box, admitted that it contained 145 ballots. The officials explained that the extra 99 ballots were "absentee ballots," but they could produce no documentation for these absentee voters. Elsewhere in Yoto prefecture, diplomats observed 11 transparent ballot boxes in as many polling stations that had clear evidence of stacked ballots.

On April 9, the Constitutional Court confirmed that the RPT had swept virtually all the National Assembly seats. The official tally showed that the elections had attracted 107 candidates for 81 seats. Of the 2,412,027 registered voters, 1,592,661 voted, according to the Court, for a turnout of 66 percent. The Court rejected a dozen complaints and annulled the results in two districts. However, new elections were never held in these districts.

The National Assembly has little power or influence on President Eyadema and has limited influence on the Government. Aside from controlling its own programs and activities and the ability to request amendments, the National Assembly largely acts as a rubber stamp for the President and the Government.

After the election, the Government announced that it would continue to pursue dialog with the opposition. On May 21, 2 months after the election, President Eyadema nominated a new prime minister, Eugene Koffi Adoboli, a former U.N. official who is not a member of the ruling party. In June the RPT and opposition parties met in Paris, in the presence of facilitators representing France, Germany, the European Union, and La Francophonie, to agree on security measures for formal negotiations in Lome. On July 19, the long-awaited dialog between the Government and the opposition commenced. After 10 days, all sides signed an accord called the "Lome Framework Agreement." The accord included a pledge by President Eyadema that he would respect the Constitution and not seek another term as President after his current one expires in 2003. The President also agreed to dissolve the National Assembly in March 2000 and hold new legislative elections to be supervised by an independent national election commission. The legislative elections are to use the single-ballot method to protect against some of the abuses of past elections. The accord also provided for the status of former heads of state, political leaders, and the opposition. In addition, the accord addressed the rights and duties of political parties and the media, the safe return of refugees, and the security of all citizens. The accord also contained a provision for a compensation plan for victims of political violence.

As called for in the Lome Framework Agreement, a joint implementation committee (JIC) began meeting on August 10 to implement the agreement's provisions. However, when the UFC, CAR, and CDPA opposition parties left the JIC to protest an effort by the RPT to accord a weaker role to the new independent election commission (CENI) vis-a-vis the Constitutional Court, its work virtually came to a halt between August 26 and October 4. On October 4, an agreement was reached with the RPT whereby the CENI would monitor, collect, tally, and announce the results of the next legislative elections. The Constitutional Court would resolve district-level election disputes that the CENI itself cannot resolve by consensus. In December the JIC sent new electoral code legislation to the Government establishing the new CENI. At year's end, the Government had approved the bill and sent it to the National Assembly.

In 1998 the National Assembly voted on a decentralization plan, but the plan's implementation has been slow. The country is divided into 5 economic and adminis-

trative regions, 30 prefectures, and 4 subprefectures. Administratively, the prefect, nominated by the Interior Minister, is the primary representative of the central government in each prefecture. Some government agencies have regional representatives. Within the prefecture, a council elected from the districts advises the prefect and manages programs. Each city has a mayor elected by a municipal council. The last mayoral elections were held before 1990. Throughout the country the terms of mayors have expired; however, they remain in office and continue to serve without a new mandate.

There are no legal restrictions on the participation of women or members of ethnic minorities in politics or government. However, both women and members of southern ethnic groups were underrepresented in government. Although many women are members of political parties, there were only 2 female ministers in the Government and 5 female members of the currently 79-member National Assembly. No ethnic group, including the President's, was overrepresented conspicuously in the Cabinet.

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

There are several local private human rights groups, including the Togolese Human Rights League (LTDH), the Center of Observation and Promotion of the Rule of Law (COPED), the African Center for Democracy, Human Rights, and Protection of Detainees (CADEPROD), and the new Togolese Association for the Defense and Protection of Human Rights (ATDPDH), which was formed in January. In general the Government allows groups to investigate alleged violations of human rights; however, the Government occasionally threatens or hinders the activities of human rights activists, and is inconsistent about following up on investigations of abuses. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights monitors to end their public activities. A Minister for the Promotion of Democracy and Rule of Law was appointed in 1998, and he has promoted initiatives to establish a human rights resource center and develop a civic education curriculum for schools.

In May Amnesty International (AI) issued a report on political violence in Togo entitled "Togo: Reign of Terror." According to the report, the security forces during and after the June 1998 presidential election campaign killed hundreds of persons, including members of the opposition and members of the army. Corpses, some handcuffed and some in military uniform, washed up on the beaches of Togo and Benin for days afterwards, according to the report. The report was based on an AI delegation's interviews with Beninese and Togolese fishermen, as well as Togolese coastal farmers. Those questioned told of unusual movements of planes and helicopters flying out to sea. The report also said that under President Eyadema, "scores of civilians and military personnel have been detained for months, even years, without charge or trial."

The Government vigorously disputed the report's findings and threatened to sue AI. In criticizing AI, the Government also noted that no journalist or foreign observer who monitored the June 1998 election reported bodies washing ashore. (The Togolese newspaper L'Aurore in its August 13, 1998 edition, mentioned some bodies washing up on the Togolese and Beninese shores.) The Government stated that the UFC and CDPA opposition parties directed the AI report, a charge denied by those groups and by AI. The Government stated that those groups and AI timed the report to appear in May while international facilitators were in Lome to prepare for the national reconciliation talks. The Defense Minister, Brigadier General Assani Tidjani, met with an AI delegation in November 1998 to discuss the allegations, but he said that AI distorted the information that it obtained. The AI report elicited mixed reactions in Benin. The government-appointed Beninese Human Rights Commission stated that, according to its investigations, there were no Togolese corpses thrown along the beaches in Benin. The independent Benin Human Rights League affirmed the contrary, that dead bodies were dropped along the coastal waters by military aircraft.

The Government alleged that the ATDPDH collaborated with AI. The president of the ATDPDH, Apedo Mensa Tengue, and a member of the organization, Francois Gayibor, were arrested on May 3 and charged with complicity with an international organization in the defamation of the country. On May 14, police arrested Koffi Nadjombe, a member of AI's Togo chapter, and his wife, and searched their residence (see Section 1.f.). The Government accused Nadjombe of collaborating in preparing the report. AI demanded the release of Tengue (a member of the CDPA party), Gayibor, and Nadjombe. On May 28, a delegation of the National Human Rights Commission (CNDH, an official government body) called on Justice Minister Bitokotipou Yagninim to ensure that the detainees received proper treatment and

that they were given due process. A member of the CNDH ensured by his frequent presence that the detainees were not mistreated while in custody.

On May 21, the authorities refused entry to AI's executive director, Pierre Sane, 2 hours after he attempted to enter Togo from Ghana. Sane was seeking to visit with government officials. The Secretary of State for Security, General Sizing Walla, said the report had agitated many persons, and that the country could not tolerate the situation further degenerating. On May 22, more than 1,000 opposition activists peacefully demonstrated for the release of Tengue, Gayibor, and Nadjombe.

AI reported on June 9 that a member of its Nigerian section, Ameen Ayodele, was detained, tortured, and threatened with execution by security forces between May 19 and 27 (see Section 1.c.). Ayodele, who was traveling from Ghana to Nigeria via Togo, was suspected of drug trafficking. During an initial interrogation, he presented his AI membership card as a means of identification because he said that his other documents had been stolen. The border police arrested him on suspicion of spying for AI in advance of Pierre Sane's visit. Ayodele spent 9 days in a confined cell, naked and deprived of food. Ayodele says that he was beaten and tortured, while his jailers interrogated him about his involvement with AI. One morning, according to his account, he was taken to a beach where his guards threatened to execute him and dump his body in the sea.

The Government admits to holding Ayodele on suspicion of drug trafficking and detaining him for more than a week to determine if he had swallowed any drugs. He was released on May 27. It stated that the June 9 AI accusation was timed to derail sensitive discussions between the ruling party and the opposition in Paris. On June 18, the human rights activists arrested in the AI affair were released, pending the outcome of further investigation into the charge (against three of them) of incitement to civil unrest. On July 21, on the eve of French President Chirac's visit, the Government consented to the establishment of an international, independent investigation commission to examine AI's allegations; however, at year's end, no action had been taken to establish such a commission.

During the year, the International Committee of the Red Cross, which withdrew its permanent representative in 1997, conducted seminars on international humanitarian law for senior officers of the armed forces and senior members of the Government.

In April the Ministry for the Promotion of Democracy and the Rule of Law, headed by Harry Octavianus Olympio, a cousin of Gilchrist Olympio, opened an information and documentation center on human rights. The National Assembly voted in 1996 to enact a ministerial decree to reorganize the government-sponsored and government-funded National Human Rights Commission (CNDH). The majority of commissioners are supporters of the President. In a report issued in July on its activities, the CNDH recognized that violations of human rights by government employees were common, and attributed them to ignorance of the law and of officials' responsibilities to the public, as well as to the country's poverty.

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

The Constitution prohibits discrimination on the basis of ethnic group, regional or family origin, sex, religion, social or economic status, or personal, political, or other convictions. However, the Government does not provide effective redress for discrimination complaints. Members of President Eyadema's Kabye ethnic group and other northern ethnic groups dominate much of the public sector, especially the military.

Women.—Violence against women continues to be a problem. Although mechanisms for redress exist within both the traditional extended family and formal judicial structures, the police rarely intervene in domestic violence cases. Wife beating has been estimated to affect an estimated 10 percent of married women. There is some trafficking in young women for the purpose of forced prostitution or for forced labor as domestic servants (see Section 6.f.), but the Government reportedly exercised more vigilance at border crossings to counter such trafficking.

Despite a constitutional declaration of equality under the law, women continue to experience discrimination, especially in education, pension benefits, inheritance, and as a consequence of traditional law. A husband legally may restrict his wife's freedom to work or control her earnings. The Government requires a married woman to get her husband's permission to apply for a passport (see Section 2.d.). In urban areas, women and girls dominate market activities and commerce. However, harsh economic conditions in rural areas, where most of the population lives, leave women with little time for activities other than domestic and agricultural fieldwork. Under traditional law, which applies to the vast majority of women, a wife has no mainte-

nance rights in the event of divorce or separation and no inheritance rights on the death of her husband.

There is a Ministry of Feminine Promotion and Social Protection, which, along with independent women's groups and related NGO's, campaigns actively to inform women of their rights.

Children.—Although the Constitution and family code laws provide for the protection of children's rights, in practice government programs often suffer from a lack of money, materials, and enforcement. The Government provides free education in state schools. School attendance is mandatory for both boys and girls until the age of 15. There are social programs to provide free health care for poor children.

Although the law protects children, there are many practices that point to a pattern of discrimination against children, especially girls. In education, about 61 percent of children 6 to 15 years of age attend school, mostly boys. Of the total 6 to 15 age group, about 89 percent of the boys and 66 percent of the girls start primary school; about 39 percent of the boys and 13 percent of the girls reach secondary school; about 3 percent of the boys and 0.6 percent of the girls reach university level. Literacy rates are 57 percent for adult men and 31 percent for adult women. About one-third of the national budget is spent on education.

Orphans and other needy children receive some aid from extended families or private organizations but less from the State. There are few juvenile courts, and children are jailed with adults. In rural areas, traditionally the best food is reserved for adults, principally the father.

There are confirmed reports of international trafficking in children, particularly girls, for the purpose of forced labor, which amounts at times to slavery (see Section 6.f.).

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, continues to be practiced. Approximately 12 percent of all girls and women have undergone FGM. Most of the larger ethnic groups do not practice FGM. However, among the practicing groups rates range from 40 to 98 percent. In theory women and girls are protected by the Constitution from FGM, and in 1998 the Government enacted a law prohibiting the practice. However, by year's end, the Government had not brought any cases to court. Traditional customs often supersede the legal systems among certain ethnic groups. The Government continued to sponsor seminars to educate and campaign against FGM.

People with Disabilities.—The Government does not mandate accessibility to public or private facilities for the disabled. Although the Constitution nominally obliges the Government to aid disabled persons and shelter them from social injustice, the Government provides only limited assistance in practice. There is no overt state discrimination against disabled persons and some hold responsible government positions. However, the disabled have no meaningful recourse against private sector discrimination.

National/Racial/Ethnic Minorities.—The country's population of more than four million includes members of some 40 ethnic groups that generally speak distinct primary languages and are concentrated regionally in rural areas. Major ethnic groups include the Ewe (between 20 and 25 percent of the population), the Kabye (between 10 and 15 percent), the Kotokoli (between 10 and 15 percent), the Moba (between 10 to 15 percent), and the Mina (about 5 percent). The Ewe and Mini are the largest ethnic groups in the southern region, where abundant rainfall and access to the sea have been conducive to farming and trade; the Kabye are the largest group in the drier, landlocked, less populous, and less prosperous northern region.

Although prohibited by law, societal discrimination on the basis of ethnicity is practiced routinely by members of all ethnic groups. In particular, discrimination against southerners by northerners and against northerners by southerners is evident in private sector hiring and buying patterns, in patterns of de facto ethnic segregation in urban neighborhoods, and in the relative paucity of marriages across the north-south ethnic divide. There are no effective impediments to the extension of such discrimination into the public sector, where the centralization of the State allows little scope for regional or ethnic autonomy, except through the circumscribed authority of traditional rulers and dispute resolution systems.

The relative predominance in private sector commerce and professions by members of southern ethnic groups, and the relative predominance of the public sector and especially the security forces by members of President Eyadema's Kabye group and other northern groups, are sources of political tension. Political parties tend to have readily identifiable ethnic and regional bases: The ruling RPT party is much stronger among northern ethnic groups than among southern groups, while the reverse is true of the UFC and CAR opposition parties.

In previous years, north-south tensions repeatedly have erupted into violence of a clearly interethnic character. Majority ethnic group members in each region have harassed and attacked members of ethnic groups originating from the other region, forcing them back to their home region. In recent years, during times of crisis, many Lome residents sent family members to their native villages for security reasons. Some also sent family members to neighboring Ghana and Benin. In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics had the potential to carry ethnic and regional overtones (see Section 3).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides most workers with the right to join unions and the right to strike. Security forces, including firemen and policemen, do not have these rights; government health care workers may join unions but may not strike. The work force in the formal (wage) sector is small, involving about 20 percent of the total work force, of whom from 60 to 70 percent are union members or supporters.

The Constitution also prohibits discrimination against workers for reasons of sex, origin, beliefs, or opinions. There is no specific law prohibiting retribution against strikers.

There are several major trade union federations. These include the National Confederation of Togolese Workers (CNTT)—which is closely associated with the Government, the Labor Federation of Togolese Workers (CSTT), the National Union of Independent Syndicates (UNSIT), and the Union of Free Trade Unions.

Federations and unions are free to associate with international labor groups. The CNTT and the UNSIT are affiliates of the International Confederation of Free Trade Unions. The CSTT is an affiliate of the World Labor Confederation.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code nominally provides workers with the right to organize and bargain collectively. All formal sector employees are covered by a collective bargaining agreement; however, the Government limits collective bargaining to producing a single nationwide agreement that must be negotiated and endorsed by representatives of the Government as well as of labor unions and employers. This agreement sets nationwide wage standards for all formal sector employees. The Government participates in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolize many sectors of the formal economy. Individual groups in the formal sector can attempt through sector-specific or firm-specific collective bargaining to negotiate agreements more favorable to labor, but this option rarely is used.

The Labor Code prohibits antiunion discrimination. The Ministry of Labor is charged with resolving labor-related complaints, but does not always do so effectively.

A 1989 law allows the establishment of export processing zones (EPZ's). Many companies have EPZ status, and more than 30 are in operation. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms do not enjoy the same protection against antiunion discrimination as do other workers.

c. *Prohibition of Forced or Compulsory Labor.*—The law does not specifically address the question of forced or bonded labor, including that performed by children, and children sometimes are subjected to forced labor, primarily as domestic servants. The Government has acknowledged the international trafficking of children, particularly girls, who are sold into various forms of indentured and exploitative servitude, which amounts at times to slavery (see Section 6.f). This traffic often results in the children being taken to other West and Central African countries, especially Gabon and Nigeria, to the Middle East, or to Asia. In rural areas, parents sometimes put young children into domestic work in other households in exchange for sums as low as the equivalent of $25 to $35 (CFA 15,000 to 20,000). Children sometimes are trafficked abroad by parents misled into allowing them to depart under false pretenses (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits the employment of children under the age of 14 in any enterprise. Some types of industrial and technical employment require a minimum age of 18. Inspectors from the Ministry of Labor enforce these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and petty trading, very young children traditionally assist in their families' work. Under the Constitution, school is mandatory for both sexes until the age of 15, but this requirement is not enforced strictly (see Section 5). However, the law

does not prohibit forced and bonded labor by children, and it is a significant problem (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Government sets minimum wages for different categories, ranging from unskilled labor through professional positions. Less than the official minimum wage often is paid in practice, mostly to less-skilled workers. Official monthly minimum wages range from approximately $25 to $39 (14,700 to 23,100 CFA francs) per month. A 5 percent wage increase in 1996 was the first since 1987, despite a 50 percent currency devaluation in 1994. There has been no wage increase since 1996. Many workers cannot maintain a decent standard of living for themselves and their families at the official minimum wages, and many must supplement their incomes through second jobs or subsistence farming. The Ministry of Labor is ostensibly responsible for enforcement of the minimum wage system but does not enforce the law in practice. The Labor Code, which regulates labor practices, requires equal pay for equal work, regardless of sex. However, this provision generally is observed only in the formal sector.

Working hours of all employees in any enterprise, except for those in the agricultural sector, normally must not exceed 72 hours per week; at least one 24-hour rest period per week is compulsory, and workers must receive 30 days of paid leave each year. The law requires overtime compensation, and there are restrictions on excessive overtime work. However, the Ministry of Labor's enforcement is weak, and employers often ignore these provisions.

A technical consulting committee in the Ministry of Labor sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees ostensibly have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice the Ministry's enforcement of the various provisions of the Labor Code is limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempt to respect occupational health and safety rules, but smaller firms often do not.

Workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs. However, in practice some reportedly cannot do so.

f. *Trafficking in Persons.*—While trafficking in women for the purpose of forced prostitution or nonconsensual labor as domestic servants exists, the majority of trafficking is of children. During the year, 750 children were intercepted and 21 traffickers were arrested at the borders. In June police arrested three groups of child traffickers at border crossings. A local NGO focusing on trafficking issues estimated that 85 percent of traffickers in the country are women. In one case, two Ghanaian women were taking six children, ages 6 to 14, from the town of Tsevie to Cote d'Ivoire where they were to be resold for $350 to $530 ((CFA 225,000 to 350,000)) to work on plantations or as house servants. Police caught Beninese traffickers who were taking 39 children, including some as young as 2 years old, from Benin to Cote d'Ivoire. In January 31 children were returned from Gabon due to the efforts of an association of Togolese Muslims residing in Gabon.

In countries such as Cote d'Ivoire or Gabon, these children are extensively exploited. They are fed poorly, crudely clothed, and inadequately cared for, and are neither educated nor permitted to learn a trade.

The Government has conducted public awareness campaigns, with the help of the U.N. Children's Fund and NGO's, such as WAO-Afrique. In March the prefect of Bassar criticized child trafficking as a "new form of slavery" and warned his constituents that child traffickers and parents who turn their children over to traffickers could face prison sentences of between 1 and 10 years. In May the Interior Ministry and the NGO Plan International conducted a workshop for border police and other law enforcement officers on child trafficking trends and judicial remedies.

UGANDA

President Yoweri Museveni, elected to a 5-year term in 1996 under the 1995 Constitution, continued to dominate the Government. He has ruled since 1986 through the National Resistance Movement (NRM), legislatively reorganized and renamed as "The Movement" in 1995. The Constitution provides for a 276-member unicameral parliament and an autonomous, independently elected president. The Constitution formally extended the one-party movement form of government for 5 years and severely restricted political activities. A national referendum on the role of multiple political parties is scheduled for 2000, following a 1-year campaign period. The Parliament acted with increasing independence and assertiveness during the year, although Movement supporters remained in control of the legislative branch. Parlia-

mentarians were elected to 5-year terms in 1996. The 1996 presidential and parliamentary elections were peaceful and orderly, but election conditions, including restrictions on political party activities, led to a flawed election process. The judiciary generally is independent, but is understaffed and weak; the President has extensive legal and extralegal powers.

The Uganda People's Defense Force (UPDF) is the key security force. The Constitution provides for civilian control of the UPDF, with the President designated as commander in chief. The UPDF was more active, in part due to the continued instability in the north and west but mostly because of the country's involvement in the conflict in the neighboring Democratic Republic of Congo (DROC). UPDF soldiers and members of local defense units (LDU's) assist the police in rural areas, although the LDU's continued to operate without a legal mandate. The Internal Security Organization (ISO) remained under the direct authority of the President. Although the ISO primarily is an intelligence-gathering body, its operatives occasionally detained civilians. The Directorate of Military Intelligence (DMI), under UPDF control, also detained civilians suspected of rebel activity. The police are organized as a national force under the authority of the Ministry of Internal Affairs. The UPDF, police, LDU's, and the DMI all committed serious human rights abuses.

The economy grew at a rate of approximately 7 percent during the year. Annual gross domestic product is $330 per capita; foreign economic assistance provides approximately 48 percent of government revenues. The agriculturally based economy continued to rely on coffee as its chief export. Foreign investment slowed amid growing corruption, a troubled macroeconomic reform process, and concerns about regional security in the wake of the country's intervention in the DROC. The privatization process slowed significantly, following a series of mismanagement and corruption scandals that led to parliamentary investigations and to the resignation of the Minister of State in charge of the process in late 1998. The financial sector was shaken badly by mismanagement that led to the closure of several banks and a general loss of depositor confidence. The stock exchange remained severely underutilized.

The Government's human rights record was poor, and there continued to be numerous, serious problems; however, its record improved in a few areas. Movement domination of the political process limited the right of citizens to change their government. Security forces used excessive force, at times resulting in death. Government forces committed or failed to prevent some extrajudicial killings of suspected rebels and civilians. Police, UPDF, LDU, and DMI forces regularly beat and sometimes tortured suspects, often to force confessions. A highly publicized judicial commission of inquiry into police corruption uncovered numerous serious abuses committed by senior officers, resulting in the arrest of several officers on charges of extortion. Prison conditions remained harsh and life-threatening. Members of the security forces sometimes arbitrarily arrested and detained civilians. There were a number of cases in which the Government detained and charged UPDF and LDU members for human rights abuses. Authorities used incommunicado detention and detention in unregistered and unofficial places of remand without notification to family members. Despite measures to improve the discipline and training of security forces, and despite the punishment of some security force officials guilty of abuses, abuses by the security forces remained a problem throughout the country. Prolonged pretrial detention remained a problem. Poor judicial administration, lack of resources, a large case backlog, and lengthy trial delays circumscribed due process and the right to a fair trial. The UPDF at times infringed on citizens' privacy rights; it often invaded citizens' homes without warrants. The Government demonstrated continued respect for freedom of speech and of the press; however, there were some instances in which restrictions continued. The Government restricted freedom of assembly and association, and the constitutional restrictions on political activity effectively limit these rights further. Security forces continued to harass Muslims. There were some limits on freedom of movement. The Movement Secretariat, supported with government funds, oversaw internal organizational activity, strategy, and mobilization, and the Government continued its Movement political education courses. Domestic violence against women, rape, and abuse of children remained serious problems. Discrimination against women, the disabled, and ethnic minorities persisted.

The Government worked with NGO's to combat the practice of female genital mutilation (FGM), which occurred on a limited basis. Violence against ethnic minorities was a problem. There were some limits on worker rights. Forced labor, including by children, occurred, and child labor was common, mostly in the informal sector. There have been reports of trafficking in persons. Vigilante justice also was a problem.

Insurgent forces committed numerous serious abuses, although on a significantly reduced scale. The Allied Democratic Forces (ADF), a rebel group active in the west, killed, tortured, maimed, and abducted many persons, including children. The Lord's Resistance Army (LRA), led by Joseph Kony and supported by the Government of Sudan, operated in the north from bases in southern Sudan. The LRA continued to kill and abduct civilians, including children, although such abuses decreased considerably from the previous year. Rwandan Hutu rebels, the Uganda National Rescue Front-II (UNRF–II), and the Uganda Salvation Front/Army (USF/A) also claimed responsibility for terrorist attacks that resulted in fatalities.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of politically motivated killings by government forces; however, members of the security forces and the police committed extrajudicial killings. In the course of official operations, police, UPDF, LDU, and DMI personnel sometimes used excessive force, resulting in deaths (see Section 1.g.). In January 15 UPDF soldiers in Kabarole district allegedly killed 5 youths between the ages of 13 and 19. The soldiers were arrested at the end of January, and three of the soldiers appeared in a Kampala court in March on murder charges. Their cases still were pending at year's end, as was an investigation of the other 12 soldiers. In May police shot and killed an unarmed youth after mistaking him for a robber. In July police reportedly beat to death a prisoner in Soroti (see Section 1.c.). There was a report that UPDF soldiers in Kole county, Apac District engaged in murder, torture, and looting in July. The matter was reported to the Minister of Security, but could not be confirmed. In August UPDF soldiers executed two rebel suspects in Lira; a UPDF inquiry is ongoing. On September 9, UPDF troops conducting a pacification campaign in the Karamoja region opened fire on members of two Karamojong clans that were engaged in a gun battle. Reports suggest that hundreds of Karamojong warriors were killed in this incident. There was no investigation into this incident by year's end. On October 10, a man died after having been beaten by the police while in custody the previous day (see Section 1.c.).

Muslim groups complained of extensive mistreatment by security officials in Kampala and in the west. There were unconfirmed reports that some Muslims suspected of being ADF rebel collaborators or involved in terrorist activities died as a result of torture by DMI officials (see Sections 1.c. and 1.d.).

A judicial commission of inquiry into corruption in the police force began operation in May and was ongoing at year's end. During the course of the investigation the commission uncovered incidents of killings, brutality, theft, and robbery by police in general, and by the CID in particular. The commission's proceedings were open to the public and received extensive press coverage. The commission report had not been submitted to the Government by year's end.

Harsh conditions, some intentional mistreatment, and lack of adequate medical treatment caused many deaths in prison (see Section 1.c.).

The LDU commander responsible for the August 1998 death of two civilians in Kyankwanzi while in custody was arrested and remained in detention awaiting trial at year's end.

Police continued investigations into the June 1998 incident in which police fired on students at the Kabalega secondary school, killing one student; into the January 1998 death in police custody after being tortured of a 25-year-old suspect accused of stealing a bicycle in Tororo; and into the August 1998 incident in which a prison official in Masaka beat to death a suspect on remand for defaulting on tax payments. There were no prosecutions in connections with these incidents by year's end. On February 1, the Uganda Human Rights Commission (UHRC) referred for prosecution the case of three police officers accused of killing four robbery suspects in 1998.

Investigations into the 1997 deaths by torture of Paul Kollo and Stephan Baryakaijika were completed, and the government-sponsored UHRC heard the cases. In February the UHRC handed the cases over to the courts for prosecution (see Section 1.c.). A suspect arrested for the 1997 killing of Modesta Kabaranga, a leading organizer for the Democratic Party, still was on remand awaiting trial at year's end. There has not yet been a police investigation in the 1997 killings of Abdullah Buwuula, Mubarek Mawejje, and Amir Sinai at year's end.

The rebel ADF committed at least 350 extrajudicial killings, including that of children (see Section 1.g.). The LRA was responsible for the killing of approximately 30 civilians, including children (see Section 1.g.). Rwandan Hutu rebels were responsible for the killing of 19 persons, including the killings of 9 persons in March in

the Bwindi Impenetrable Forest park (see Section 1.g.). UNRF–II, USF/A, and the Citizens Army for Multiparty Politics (CAMP) may have been responsible for the death of civilians (see Section 1.g.).

Vigilante justice was a problem (see Sections 1.c. and 5). Authorities rarely prosecuted persons engaged in mob violence, which frequently resulted in death. A police official announced in September that vigilante justice was occurring at a rate of two incidents per day. On January 2, four of eight suspected thieves were lynched when a mob broke into the Nyaburara subcounty jail in Kabarole district. On February 2, a UPDF soldier was lynched in Luwero district after being accused of robbery. On May 25, a suspected thief was burned to death by a mob in Mukono, central Buganda. On August 11, a thief was beaten into a coma by a mob in Kampala after grabbing money from a vehicle.

Urban bombings remained a problem. On February 14, two bomb blasts killed 4 persons and injured 35 others in Kabalagala. On April 11, a bomb exploded at Kampala's old taxi park, killing 3 persons and injuring 13 others. On April 24, a bomb blast injured six persons at a bar in Makindye. On May 7, a bomb exploded in a Kampala marketplace, killing one person. On May 30, a bomb blast in a suburb of Kampala killed three persons and injured nine others. The ADF is suspected of involvement in these bombings.

There was a growing number of reports of ritual murders of children. On February 15, a 2-year-old child was murdered after being kidnaped from his home. His body was found burned and coated with a traditional medicine. On July 23, a traditional healer and his assistant were sentenced to death for the April 4 murder and mutilation of a girl in Mukono district.

b. *Disappearance.*—There were no confirmed reports of politically motivated disappearances due to action by government forces; however, a number of Muslims whom the authorities suspected of supporting the ADF insurgency still are missing and it is believed that they were detained by security officials (see Section 1.c.).

ADF, LRA, and UNRF–II rebels abducted civilians. Both the ADF and the LRA abducted civilians for training as guerrillas; most victims were children and young adults. NGO's estimated that the ADF abducted over 800 persons, including children. The LRA abducted approximately 250 persons, including young girls abducted as sex and labor slaves (see Sections 6.c.and 6.f.). Amnesty International reported in 1998 that without child abductions, the LRA would have few combatants. While some later escaped or were rescued, the United Nations Children's Fund (UNICEF) estimated that 4,802 children abducted by the LRA since 1987 remain missing, and approximately 100 children abducted by the ADF remain missing (see Section 1.g.). The UNRF–II abducted 56 persons.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits "any form of torture, cruel, inhuman, or degrading treatment or punishment"; however, security forces commonly beat and sometimes tortured criminal suspects, often to force confessions. On May 17, a former security guard who was charged with terrorist activity told a Kampala court that he was tortured by the police at Kampala's central police station. UPDF forces in the north on occasion beat and abused civilians, although there were significantly fewer reports of such abuse during the year.

In January a UPDF officer in Jinja tortured a photographer who attempted to take a picture after the officer had pointed his gun at a civilian. The officer subsequently was arrested and detained at Makindye barracks. In February family members found the badly mutilated body of Patrick Ocan, who last was seen in UPDF custody. There was an unconfirmed report that in July UPDF soldiers in Kole county, Apac district, engaged in murder, torture, and looting (see Section 1.a.). On October 9, police beat a man while in custody in Buwenge, Jinja District; the man died after being released the following day.

In September antiriot police fired guns to disperse a strike attempt at the Sugar Corporation of Uganda, although there were no reported casualties as a result of police action (see Section 6.a.).

The police occasionally treat criminal suspects in an inhuman and degrading manner. On May 11, a newspaper published a picture of a naked woman being shaved forcefully by a group of men in military uniform. Kandida Lakony subsequently claimed that she was the woman in the picture, and that UPDF soldiers in Gulu were responsible. Kandida was arrested in June and charged with giving false information to the police. In highly publicized testimony in August, Kandida alleged that during her detention she was forced to remain naked in a cell for 2 days. During the trial, army officials from the north stated that women regularly are punished at army facilities by having their heads shaved with blunt razors. In October a court rejected Kandida's claims, found her guilty of giving false information to the police, and sentenced her to 12 months' imprisonment. Her case was under appeal at year's

end. The newspaper's senior editorial staff was charged with sedition for having printed the story (see Section 2.a.).

Muslim groups complained of extensive mistreatment by security officials in Kampala and in the west. There were unconfirmed reports that DMI officials tortured some Muslims detainees (see Section 1.a.).

There continued to be unconfirmed reports that UPDF mobile forces regularly beat civilians and raped women (see Section 1.g.).

During the conflict with the LRA, government forces used threats to compel citizens to leave their homes and move to areas under government protection (see Sections 1.f. and 1.g.).

LDU's, which frequently lack training, often mistreat prisoners and detainees. For example, on February 9, two teenaged girls reportedly were raped by two LDU personnel at Kabujogera police post in Fort Portal. The accused were arrested pending a police investigation. In August an LDU member shot and wounded a businessman in Kisenyi, a suburb of Fort Portal. The LDU member reportedly was apprehended and detained by the UPDF.

The Government investigated some cases of abuse, and tried and punished some offenders. In May the Government launched a Judicial Commission of Inquiry into police corruption, which remained ongoing at year's end (see Section 1.a.). The Commission probed a wide range of police abuses, including abuses committed by senior police officials. The inquiry resulted in the arrests of several police officers on charges of abuse, rape, extortion, and robbery including a police officer accused of raping a 16-year-old girl. In September three police officers were arrested on charges of torturing and extorting money from persons in Mbale.

The police Human Rights Desk, established in 1998 received 620 new complaints, including allegations of excessive force, torture, assault, rape, and murder. Of these, 205 cases were resolved, some resulting in disciplinary actions including reductions in rank, fines, halted promotions, and dismissals. A total of 50 cases were referred to the criminal courts.

In conjunction with the UHRC, the police force continued a training program for police officials to foster respect for internationally recognized human rights standards. The UHRC and NGO's conducted similar programs with UPDF officials throughout the year.

The investigations into the 1997 torture of Corporal Twasha Kaushera and the 1997 deaths by torture of Paul Kollo and Stephan Baryakaijika were completed, and the cases were heard by the UHRC. In February the Commission handed the cases over to the courts for prosecution (see Section 1.a.). On March 10, the UHRC awarded $400 (600,000 shillings) to Mary Iripoit for torture, degradation, and deprivation of her personal liberty at the hands of a former ISO officer in Soroti in August 1998.

The ADF continued to maim civilians, and loot and burn private homes. The LRA engaged in looting and destruction of private property. The ADF and LRA also abducted children to be guerrillas and tortured them by beating them, forcing them to witness atrocities, forcing them to march until collapse, and denying them adequate food, water, or shelter (see Section 1.g.).

There were numerous instances in which mobs attacked suspected thieves and other offenders caught in the commission of crimes (see Section 1.a.). Often motivated by widespread distrust of the justice system, these mobs engaged in stonings, beatings, and other forms of mistreatment, such as tying suspects' wrists and ankles together behind their backs, stripping suspects of their clothes and parading them through the streets, or forcing suspects to hop painfully on the sides of their ankles. Vigilantes also have stripped prostitutes who dress "indecently" or "provocatively."

Urban bombings remained a problem, and resulted in numerous casualties (see Section 1.a.). Bombs were detonated in Iganga, Busia, Ntungamo, Makindye, a new taxi park in Kampala, and a marketplace in Kampala, injuring numerous persons but causing no fatalities. The Uganda Peoples Freedom Movement claimed responsibility for the nonfatal bombing in Iganga, and the USF/A claimed responsibility for the nonfatal bombing in Busia. The ADF is suspected of involvement in the other bombings.

Prison conditions remained harsh and life threatening. Conditions for the estimated 5,000 inmates in local police cells and in the 162 local prisons particularly were bad. Authority over the local prison system, formerly operated by the Ministry of Local Government, was scheduled to be transferred to the state-funded and operated prison system, run by the Ministry of Internal Affairs in 1998. The transfer had not taken place by year's end due to funding problems and lack of enabling legislation. Both civilian and military prisons have high mortality rates from overcrowding, malnutrition, diseases spread by unsanitary conditions, and HIV/AIDS.

No accurate estimates are available on the number of deaths in detention due to the harsh conditions and lack of medical care, although many such deaths have oc-

curred. The UHRC reported severely inadequate medical services, seriously unhygienic conditions, and a situation of "semi-starvation" among prisoners in many prisons. Of a group of 30 persons arrested for treason in 1986 and held in Luzira prison, 29 have died of various diseases including malaria, meningitis, and cholera. In April a court in Masindi heard that five inmates died in detention. There were no reports of the cause of death. On June 28, Matia Kiwanuka Mulama, an inmate of Buikwe prison in the eastern part of the country, reportedly was found dead after having been tortured by the chief warden. A district police official confirmed reports that Mulama's body was left at Kawolo hospital mortuary with its eyes gouged out (see Section 1.a.). A police investigation was ongoing at year's end.

The harsh conditions largely result from the Government's seriously inadequate funding of prison facilities. Most of the prisons grow maize, millet, and vegetables, although the UHRC accused prison farms of overworking inmates. Prisoners received only $.0007 (1 shilling) per day for their labor, a rate established in the early 1960's. Prison conditions come closest to meeting minimum international standards in Kampala, where prisons provide medical care, running water, and sanitation; however, these prisons also are among the most overcrowded. By one estimate, the country's prisons—all of which predate independence in 1962—hold about three times their maximum planned capacity. Human rights groups, including the Uganda Law Reform Commission and the Uganda Prisoners Aid Foundation, continued to call for expanded noncustodial sentencing—an effort generally blocked by strongly punitive attitudes among judges, in part motivated by fear of accusations of corruption if prisoners appear to be treated leniently. Although the law provides for access to prisoners by their families, ignorance of this right and fear of prison authorities often limit family visits. The UHRC reported that it had received allegations that officers in charge of police cells sometimes demanded bribes to allow visits.

Women have segregated wings with female staff in most, but not all prisons. According to human rights advocates, rape generally is not a problem, although female prisoners also suffer from severely substandard conditions. Due to lack of space in juvenile facilities, juveniles often are kept in prisons with adults. The central prison system maintains one juvenile prison and four lower security remand homes. School facilities and health clinics in all five institutions are defunct; prisoners as young as age 12 perform manual labor from dawn until dusk. Severe overcrowding also is a problem at juvenile detention facilities and in women's wings. The remand home in Kampala, designed for 45 inmates, holds 120 children.

The central prison system continued to work with NGO's and the donor community to improve prison buildings, water and sanitation systems, food, and uniforms. Progress has been marginal.

Government agencies have sponsored or participated in numerous conferences on the justice system and prison conditions, and worked closely with international and domestic human rights organizations on prison reform efforts.

Media access to prisons remained limited, but the Government permitted full access to prisons by the International Committee of the Red Cross (ICRC) and local NGO's, principally the UHRC, the Foundation for Human Rights Initiative, and the Uganda Prisoners' Aid Foundation. UHRC access to prison facilities initially was granted in mid-1997; since that time, the organization has carried out numerous prison visits and reported on its findings publicly. Prison authorities require advance notification of visits, a process that often is subject to administrative delays.

d. *Arbitrary Arrest, Detention, or Exile.*—Members of the security forces at times arrested and detained citizens arbitrarily. According to the Constitution, a suspect must be charged within 48 hours of arrest and be brought to trial or released on bail within 120 days (360 days for a capital offense). If the case has been committed to the court before the expiration of this period, the Constitution does not limit pretrial detention. The Constitution also provides that detainees should be informed immediately of the reasons for their detention; however, in practice the authorities enforced none of these procedural protections. Some laws conflict with the Constitution, for example, the Public Order and Security Act of 1967 (the Detention Order), which provides for unlimited detention without charge; however, these laws never have been invoked formally by the Government. Legal and human rights groups, including the UHRC, sharply criticized the excessive length of detention without trial—in many cases amounting to several years—for alleged offenses under other laws, which both violated the constitutional rights of the detainees and contributed substantially to prison overcrowding.

Arbitrary arrest is a problem. In particular, arbitrary mass arrests known as "panda gari" were conducted following bomb scares. On April 28, UPDF soldiers, LDU personnel, and police arrested 200 persons in Fort Portal following an 8-hour security operation. On May 2, a combined UPDF, LDU, and police force detained approximately 500 persons in Mbarara during a security operation. On July 28, ap-

proximately 70 persons were arrested in Kampala in a joint operation mounted by police and LDU's. Most persons arrested were released within 24 hours.

In September President Museveni called for the arrest of homosexual individuals who engaged in "abominable acts", 2 weeks after a rumored "wedding" between two men. Subsequently, the two men were called in by the police for questioning. Police arrested and detained at least one person during the year because of sexual orientation, although the charges eventually were dismissed.

On October 28, approximately 200 people were arrested by police and ISO officers in Kampala in order to prevent a planned strike by taxi drivers (see Section 6.a.). All were released later.

Police at times harassed and detained journalists and opposition politicians (see sections 2.a. and 3). In January officials detained an opposition Member of Parliament, Wasswa Lule, after he made public remarks suggesting that President Museveni should be investigated for corruption. Lule was released the following day without charge. Also in January, police detained for 48 hours three officials from the Foundation for African Development during a seminar in Moyo district. In November police briefly detained a district chair of the Uganda Young Democrats for campaigning against the multiparty referendum. He was released the following day without charges.

Complaints from Muslim groups regarding arrests targeted at young Muslims on suspicion that they supported rebel groups continued during the year. There were reports that most of the 30 to 40 Muslim men believed to be detained at the end of 1998 were released during the year; however, no details were available.

The rearrest of Muslim suspects following either their release on bail or acquittal was a problem. Following their acquittal on murder charges in June, 28 members of the Islamic Tabliq group were rearrested and charged with the same offense. Another group of 53 treason suspects was granted bail in June but later rearrested and detained.

On June 28, opposition politician Karuhanga Chapaa, arrested in 1998 for remarks made at a public seminar, was convicted of sedition and sentenced to a fine of approximately $35 (50,000 shillings) (see Section 2.a.).

Although they have no legal authority to make arrests, LDU's continued to arrest citizens on a regular basis.

Pretrial detainees comprise nearly three-fourths of the prison population. The average time in pretrial detention is from 2 to 3 years. Over 10,000 of the 16,000 persons being held in the central prisons are pretrial detainees, and the problem is particularly serious in the local government-run prisons, which hold a total of 6,649 detainees. A census of the central prison population conducted in March indicated that at least one-sixth of the inmates were being detained beyond constitutional limits. Congestion and delay in the legal system have resulted in an increasing number of detainees each year. In November more than 400 prisoners held without trial since at least 1997 staged a protest at Luzira prison in Kampala. The prisoners refused to return to their cells until they received assurances from the director of public prosecutions that their cases would be brought to court.

In September the Human Rights and Peace Center Prisons Project reported that 31 Congolese and Sudanese refugees arrested in March 1997 on suspicion of aiding West Nile Bank Front (WNBF) rebels still had not been charged with a crime (see Section 2.d.). The UHRC heard several cases during the year brought by prisoners challenging the length of their detention. At least one prisoner was awarded monetary compensation for being detained beyond the constitutional limit.

NGO's monitoring prison conditions reported that, unlike in past years, there were no detentions of civilians in military barracks; however, security forces held civilians in unofficial, unregistered places of remand, mostly on suspicion of collusion with rebel groups and participation in terrorist attacks (see Section 1.c.).

The Constitution does not prohibit forced exile; however, the Government does not use exile as a means of political control. A presidential amnesty for former LRA and WNBF rebels was superceded in December when Parliament enacted an amnesty law covering all current and former rebels. In October 146 former UNRF II rebels were released from prison.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the President has extensive legal and extralegal powers that influence the exercise of this independence. The President nominates, for the approval of Parliament, members of the Judicial Service Commission, which makes recommendations on appointments to the High Court, the Court of Appeal, and the Supreme Court. The courts remained understaffed and weak.

The highest court is the Supreme Court, followed by (in descending order) the Court of Appeal (which also functions as the Constitutional Court for cases of first instance involving constitutional issues), the High Court, the chief magistrate's

court, and local council (LC) level three (subcounty) courts, LC level 2 (parish) courts, and LC level 1 (village) courts. A minimum of six justices may sit on the Supreme Court and the Court of Appeal or Constitutional Court. In addition there are a few specialized courts that deal with industrial and other matters. The Industrial Court (IC), which arbitrates labor disputes, is structurally parallel to the chief magistrate's court. There is also a military court system.

Although once considered a useful innovation, the LC courts often are thought to be sources of injustice due to such factors as bribery and male dominance in rural areas. The LC courts have authority to settle civil disputes, including land ownership and payment of debts, and criminal cases involving children. These courts, often the only ones available to villagers, frequently exceed their authority by hearing criminal cases, including murder and rape. LC court decisions may be appealed to magistrate's courts, but often there are no records made at the village level, and many defendants are not aware of their right to appeal.

The civilian judicial system contains procedural safeguards, including the granting of bail and the right of appeal to higher courts; however, an inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, have circumscribed the right to a fair trial for many years. The courts, like other branches of government, were impaired by a 4-year civil service hiring freeze, which was relaxed only somewhat in 1998. As a result, criminal cases may take 2 or more years to reach the courts. The case backlog remains extremely large, in particular, the backlog of criminal cases in the High Court, which has increased every year since 1993. Attorneys working in the Office of the public prosecutor can be assigned several new cases each day. Some courts continued to observe the constitutionally prescribed limits on pretrial detention, but that practice was not widespread.

Many defendants cannot afford legal representation. The Constitution requires that the Government provide an attorney for indigent defendants accused of capital offenses, but there is rarely enough money to retain adequate counsel. The Uganda Law Society (ULS) operates legal aid clinics in four regional offices. It assists military defendants as well as civilians. The local chapter of Federacion Internacional de Abogadas (FIDA) and the Foundation for Human Rights Initiative also practice public-interest law from offices in Kampala. In March the Law Development Center established a legal aid clinic to address cases involving children and those accused of petty crimes. A public defense service also was established in March, but did not receive any government funding. It relied solely on donor support.

The military court system does not assure the right to a fair trial. Although the accused has the right to retain legal counsel, military defense attorneys often are untrained and may be assigned by the military command, which also appoints the prosecutor and the adjudicating officer. The sentence passed by a military court, which can include the death penalty, may be appealed to the High Command but not to the High or Supreme Courts. A court-martial appeals process was established in 1997.

The Government continued to arrest and charge persons for treason, especially captured rebel fighters, in numbers greater than the judicial system could manage. In the past, numerous human rights abuses were committed in connection with treason cases, including political detention, detention without charge, detention in unregistered and unofficial places of remand, and mistreatment, including torture. There were reports that at times such abuses continued during the year. At the end of the year, prison officials put the number of those on remand on the charge of treason at 309, none of whom were children. Detainees included members of the Islamic Tabliq group suspected of supporting ADF rebels. Between August and December, 892 suspected WNBF members were acquitted of treason charges and released. On October 12, the Government released, without condition, 147 persons detained since 1997 on suspicion of belonging to the rebel UNRF–II. In November more than 400 prisoners held without trial since at least 1997 held a protest at Luzira prison (see Section 1.d.).

The number of political prisoners is unknown but believed to be small. Bright Gabula Africa, whose death sentence for treason was upheld by the Supreme Court in 1995, remains imprisoned pending the outcome of his appeal to the Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body that recommends whether presidential clemency powers should be exercised in a given case.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the protection of privacy, which the Government generally observes; however, there were some exceptions. The law requires that police have search warrants before entering private homes or offices, and the police generally observed this law in practice; however, in its effort to combat rebels in the north,

the UPDF often invaded private homes without warrants. LDU's arrest citizens without authority. The police sometimes searched vehicles without prior warrants. Prison officials routinely censor prisoners' mail.

The Government required that employees in the President's office register their political affiliation in writing (see Section 3).

During the conflict with the LRA, government forces used threats to compel citizens to leave their homes and move to areas under government protection (see Section 1.g.). Hundreds of thousands of persons remain internally displaced as a result of rebel activity (see Section 2.d.).

There were unconfirmed reports in the north that the Sudan People's Liberation Army (SPLA), supported by UPDF forces, forcibly recruited Sudanese refugees for service in Sudan.

Female members of the police force are required to obtain permission from the police Inspector General before getting married. Male police officers are not subject to the same restriction.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Reports of violations of humanitarian law continued to decrease in the north, but remained a problem in the west. In the north, government forces continued their policy of maintaining so-called protected villages with UPDF detachments nearby as a means of protecting civilians and denying support to the LRA. Although substantial NGO and donor community assistance has improved the overall conditions in the villages, conditions still remain poor. This policy of maintaining protected villages continues to be attacked by parliamentarians from the area, although less vehemently than before since many persons have returned to their home villages; however, while the UPDF did not coerce persons to remain in most protected villages, in February two new protected villages, Patika A and Patika B, were created near the Sudanese border and villagers in the surrounding area were forced to evacuate their homes and move to these villages.

The UHRC opened an investigation into a 1998 incident in which UPDF forces, while combating suspected LRA rebels, reportedly killed 30 Acholi children abducted by the LRA in Ogok village, Kitgum district.

In December the Parliament offered a 6-month amnesty to rebel fighters. Under the terms of the amnesty, rebels would have 6 months from the date President Museveni signed the amnesty to give themselves up and turn in their weapons. Museveni's signature was pending at year's end.

In the west and southwest, the ADF continued to attack civilian targets, trading centers, and private homes, resulting in hundreds of deaths and abductions. The ADF killed at least 350 persons and abducted an estimated 200 children, half of whom remain missing (see Sections 1.a. and 1.b.). In May ADF rebels killed four persons in Kibale National Park. On August 24, ADF rebels in Kabarole district killed eight persons and kidnaped one person who remained unaccounted for at year's end. On September 6, ADF rebels killed five persons, including a 2-year-old child, in Kabarole district. In December ADF rebels attacked Katojo prison in the west and abducted or freed 365 prisoners. The rebels killed five persons, including two civilians, during the attack. Subsequently, several dozen inmates returned to the prison; it remains unclear whether the ADF forced some prisoners to leave the prison.

In the north, forces of the LRA, led by Joseph Kony, continued to attack civilian targets, as well as some refugee camps. After a year of few major attacks, the LRA began a series of assaults on civilian targets in late December. Attacks by the LRA during the year caused about 30 deaths and the destruction of homes and property. The LRA abducted about 250 civilians, some of whom later were released. No new incidents of mutilation were reported. The LRA continued to abduct children and, at clandestine bases, terrorized them into virtual slavery as guards, concubines, and soldiers (see Sections 6.c. and 6.f.). In addition to being beaten, raped, and forced to march until exhausted, abducted children were forced to participate in the killing of other children who attempted to escape. UNICEF estimated the number of abducted children still held captive by the LRA at almost 5,000; other estimates vary widely (see Sections 1.b. and 6.f).

In March Rwandan Hutu rebels killed 19 persons, including 9 persons who were killed in an attack in the Bwindi Impenetrable Forest national park. UNRF–II killed 7 persons and abducted 56 civilians, mostly school children, in an attack in Arua district in mid-January. USF/A and CAMP each were responsible for the death of one civilian. There were no reports of new attacks by the WNBF (see Section 1.b.).

At year's end, approximately 560,000 citizens remained displaced internally by violence in the north and west (see Section 2.d.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights; however, there were instances in which the Government infringed on these rights. Police at times harassed journalists by holding them at police stations for several hours of questioning. Three editors of the Monitor newspaper were arrested in May and charged with sedition and publication of false news in connection with a case in which a woman, Kandida Lakony, claimed to have been abused by the UPDF (see Section 1.c.). Their case was pending before the courts at year's end. A correspondent for the Luganda-language edition of the New Vision newspaper was arrested in April after filing a story on corruption in Bugiri district. On June 22, the news editor of privately owned Simba radio was detained and questioned for 4 hours by the police and Internal Security Organization operatives after the station published stories on the murder of three Makerere University students. In November the police detained and questioned the editor of the Monitor and two reporters after the Monitor published a story alleging that Angolan insurgent leader Jonas Savimbi had visited the county.

In January officials detained an opposition Member of Parliament after he made public remarks suggesting that President Museveni should be investigated for corruption (see Section 1.d.). On June 28, opposition politician Karuhanga Chapaa, arrested in 1998 for remarks made at a public seminar, was convicted of sedition and sentenced to a fine of approximately $35 (50,000 shillings—see Section 1.d.). In November police briefly detained a district chair of the Uganda Young Democrats for campaigning against the multiparty referendum (see Section 1.d.)

The New Vision, a government-funded daily newspaper with a daily circulation of 40,000 (and up to 10 readers sharing each copy), and the government-controlled Radio Uganda, continued to play major roles in the media. These news sources were of a fairly high quality and sometimes included reporting critical of the Government.

The media generally are free and outspoken, with widespread availability of privately owned publications. The independent Monitor newspaper, with a daily circulation of 28,000, demonstrated strong and consistent independence. The East African, a Nairobi, Kenya-based weekly publication that provides extensive reporting on the country, continued to circulate without government hindrance.

The editor of the Crusader, an independent newspaper that subsequently went bankrupt, was detained in 1998 and charged with "promoting sectarianism," following the publication of reports critical of some government policies in the President's home tribal area of Ankole. In November the Government withdrew the charges against him.

The cases against journalists Muasazi-Namiti, Hassan Kato, Charles Onyango-Obbo, and Andrew Muanda for disseminating false information were dismissed for lack of evidence.

The Government controls one television station and Radio Uganda, the radio station with the largest audience. At year's end, there were more than 15 radio stations throughout the country. There are four local television stations and more than a dozen private television stations available via satellite. The number of independent media broadcast sources increased during the year. Several independent media outlets broadcast daily political talk shows in several languages, often very critical of the Government and individual officials, including the President. High-ranking officials often participated in these programs and debated issues with political opponents. There was no censorship of these programs.

The Press and Media Law, which took effect in 1995, requires journalists to be licensed and to meet certain standards, including holding a university degree. The law provides for a Media Council that can suspend newspapers and deny access to state information. Government officials do not enforce the law vigorously; 3 years after its enactment, its provisions have not been used against any journalist.

Uncensored Internet access is widely available in major cities through three commercial service providers, although the cost for connectivity is prohibitive for all but the most affluent noninstitutional users. There also are at least three cyber cafes in Kampala and several NGO's offer Internet access.

A considerable degree of academic freedom exists at the two public and six private universities, with no government interference in teaching, research, or publication. Students and faculty have sponsored wide-ranging political debates in open forums on campus.

Political education and military science courses known as "Chaka Mchaka" continued during the year. These courses are criticized as indoctrination in Movement political philosophy. There continued to be reports that the techniques used in some of the courses included intimidation, and physical and mental abuse. There also

were reports that some instructors demanded payment for the courses, and that persons were coerced to take them.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for some degree of freedom of assembly for non-political groups; however, the Government restricts this right in practice. The Constitution bans political parties from holding national conventions, issuing platforms, endorsing candidates, or opening branch offices outside the capital until 2000. The Constitution also forbids other activities that would interfere with the Movement system, an elastic provision that the Government, in the past, has interpreted adversely to political groups' interests. Police interfered with several seminars organized by FAD, including one in January in Moyo district in which three FAD officials were detained for 28 hours (see Section 1.d). On June 5, the Free Movement, a civic organization advocating pluralism, defied police orders not to hold an anti-referendum seminar in Mbarara. Policemen and plainclothes security officials stormed the meeting and ordered the organization to call it off. After a heated exchange, the seminar was allowed to go on.

In November police briefly detained a district chair of the Uganda Young Democrats for campaigning against the multiparty referendum (see Section 1.d.). Nevertheless, on January 11, opposition leaders met without hindrance in Kampala to discuss a common position on the 2000 referendum. On February 20, the Democratic Party National Council held a meeting in Rubaga to elect new officers. On July 31 a faction of the Uganda People's Congress Party held a national delegates conference in Kampala without interference. On September 4, the Uganda Young Democrats held a meeting in Jinja without interference. On November 27, police prevented the Feparty political party from holding a rally in Kampala; however the party was allowed to hold a rally on December 15.

The Constitution provides for freedom of association; however, the Government restricts this right in practice. NGO's are required to register with the Nongovernmental Organizations Board, which includes representation from the Ministry of Internal Affairs as well as other ministries. The Government generally approves NGO registration; however, the Government continues to refuse registration to the Uganda National NGO Forum, a broad consortium of domestic and international NGO's.

c. *Freedom of Religion.*—The Constitution protects freedom of religion, and the Government generally respects this right in practice; however, security forces continued to harass and detain Muslims. There is no state religion. Foreign missionary groups, like foreign nongovernmental organizations, must register with the Government. There were no reports that the Government refused to grant registration to any foreign missionary groups. Permits are necessary for the construction of facilities, including religious facilities. There were no reports that the Government refused to grant such permits to any religious organization. Mosques operate freely, Koranic schools are common, and Muslims occupy positions of authority in local and central government. Prisoners are given the opportunity to pray on the day appropriate to their faith. Muslim prisoners usually are released from work duties during the month of Ramadan.

In 1998 approximately 100 Muslim men were detained and some were tortured, on suspicion that they supported rebel groups. Many of those detained were released, but the whereabouts of some remain unknown (see Sections 1.a., 1.c., and 1.d.). There was no clear indication that religion was the sole factor in their arrests.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice, although there were some limits. Some local officials reportedly demanded payment of fees for permission to change a place of residence. A married woman must obtain her husband's written permission on her passport application if children are traveling on her passport (see Section 5).

During the conflict with the LRA, government forces used threats to compel citizens to leave their homes and move to areas under government protection (see sections 1.f. and 1.g.).

At year's end, approximately 560,000 citizens remained displaced internally by violence in the north and west.

There are no laws that provide for the granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government does grant such status in practice. The Government cooperates with the Office of the U.N. High Commissioner for Refugees (UNHCR) and with other humanitarian organizations in assisting refugees. As it has done repeatedly in past years, the Government continued to provide first asylum as well as land for temporary resettlement to citizens from neighboring countries, extending this practice to approximately 196,000 refugees during the year, including Sudanese, Congolese, Rwandans, and Somalis. The majority of refugees continue to be from southern Sudan, but there are smaller num-

bers from other neighboring countries as well. In early January, UPDF troops in Kisoro district forcibly repatriated several hundred refugees out of a group of approximately 3,000 Congolese Hutu refugees (see Section 1.d.).

The Government maintained security in refugee camps during the year. While there were no reports of large-scale attacks by rebel groups on the camps, there were several instances of attacks and abductions by rebels directed at refugees, causing serious injuries and death. For example, on June 4, suspected LRA rebels abducted 30 refugees from the Mahazi refugee camp in Adjumani district. On June 10, ADF rebels abducted at least 15 Ugandan refugees from Manipopia village in north Kivu, Congo (see Section 1.g.).

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

Movement domination of the Government and the political process, and some restrictive constitutional provisions, limited citizens' effective exercise of the right to change their government. The President dominates the Government, and Movement supporters remained in control of the Parliament, although the legislature conducted business in a more independent and assertive manner during the year. The 1996 presidential and parliamentary elections were peaceful and orderly, but election conditions, including restrictions on political party activities, led to a flawed election process.

The Government maintained, at government expense, the Movement Secretariat, an organization that roughly parallels government institutions and is limited to those professing support for the Movement. Political education classes called Chaka Mchaka continued to be offered to the public (see Section 2.a.). The Government prohibited all non-Movement political gatherings, required that employees in the President's office register their political affiliation in writing (see Section 1.f.), and attempted to break up political meetings not sanctioned by the Movement (see Section 2.b.). The Constitution bans political parties from holding national conventions, issuing platforms, endorsing candidates, or opening offices outside of the capital. A referendum is scheduled to be held in 2000 to consider lifting these restrictions.

Authorities at times harassed and arrested opposition politicians. In January officials detained an opposition Member of Parliament after he made public remarks suggesting that President Museveni should be investigated for corruption (see Section 1.d.). On June 28, opposition politician Karuhanga Chapaa, arrested in 1998 for remarks made at a public seminar, was convicted of sedition (see Section 1.d.). In November police briefly detained a district chair of the Uganda Young Democrats for campaigning against the multiparty referendum (see Section 1.d.)

Universal suffrage is accorded to adults 18 years of age and older. Contrary to the Constitution, the right to vote was denied to prisoners in the 1998 local government elections. Ten seats in Parliament are reserved for members of the UPDF.

The Constitution provides for five seats in Parliament for representatives of persons with disabilities, as well as five seats for youth representatives, and three seats for representatives of organized labor (see Section 5). Individual parliamentarians who claim non-Movement party affiliation fully participate in the legislature.

Women play a visible role in national affairs; however, they are underrepresented in government and politics. The Government used quotas in an aggressive effort to place women in positions of authority. Women continued to make stronger contributions in Parliament and inside the Movement. The Vice President is a woman, as are 5 ministers and 11 junior ministers in the President's 60-member Cabinet. In addition, 39 of the nation's 45 districts selected a woman to fill a National Assembly seat reserved for women by the provisions of the Constitution. By-elections for female parliamentarians have not yet been held in six new districts created in 1997. Women additionally won 6 nonreserved seats for the 276-member Parliament in the 1996 election.

Five seats are reserved in Parliament for the disabled.

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

Numerous human rights groups are active. Among them are: The Foundation for Human Rights Initiative; a chapter of FIDA; the Prisoners' Aid Foundation, which monitors prison conditions; the National Organization for Civic Education and Election Monitoring, which deals with problems related to civil society and political rights; Human Rights Focus, based in the northern town of Gulu; the National Association of Women's Organizations of Uganda (NAWOU), an umbrella group; the International Federation of Human Rights; and the Human Rights and Peace Center, based at Makerere University. These groups operate without government restriction, investigating and publishing their findings on human rights cases.

Hurinet, a human rights network and an umbrella organization for nine human rights organizations active in the country, also continued to be active.

The Government continued to refuse registration to the Uganda National NGO Forum, a broad consortium of domestic and international NGO's (see Section 2.b.).

The Government allowed visits by international human rights NGO's, including Amnesty International and the ICRC. The Government also cooperated with the UNHCR.

Government officials generally were cooperative and responsive to NGO views. They frequently attended conferences and seminars hosted by NGO's on social problems. The Government continued to cooperate with NGO's on legal and prison reforms.

The Constitution established the UHRC as a permanent independent body with quasijudicial powers. Under the Constitution, the UHRC may subpoena information and order the release of detainees and the payment of compensation for abuses. The UHRC Human Rights Court continued to function, and received 1260 complaints during the year, including ones in which the accused were senior government leaders and military and police officials. Of these complaints, 913 were resolved; 276 were referred to the criminal courts; 400 were referred to other bodies, such as the Inspector General of Government; 171 were dismissed because they occurred before 1995; 22 were found not to be human rights violations; and 44 were resolved through mediation and intervention. At year's end, 100 cases were under review and 122 still were pending at year's end. On March 10, the UHRC awarded $400 (600,000 shillings) to Mary Iripoit for torture, degradation, and deprivation of her personal liberty at the hands of a former ISO officer in Soroti in August 1998. The UHRC does not have the power to intervene in cases pending before a court. The UHRC inspected numerous detention facilities and publicly reported on its findings. The UHRC's 1998 report was submitted as required by law to the Speaker of Parliament; however, it did not release it publicly by year's end. The President appoints the UHRC's eight-member board.

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

The Constitution prohibits discrimination based on these factors; however, the Government does not enforce the law effectively in matters of locally or culturally accepted discrimination against women, children, people with disabilities, or certain ethnic groups. Race was not a factor in national politics. The continued instability in the north led to violations of the rights of some Acholi, an ethnic group that comprises a significant part of the population. Most violations of Acholi rights resulted from LRA actions.

Women.—Violence against women, including rape, remained common. There are no laws that specifically protect women from battery, although there is a general law concerning assault. The Government continued to implement the Children's Statute, which provides extensive protection for families and children; however, implementation proved exceedingly difficult due to manpower and judicial constraints, and in reality, little was done to enforce the statute's provisions. Law enforcement officials, reflecting general public opinion, continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence. Women remained more likely to sue for divorce than to file assault charges against their husbands. These problems received growing public attention. Numerous women's rights NGO's sponsored conferences, empowerment sessions, and training programs throughout the country. In a prominent 1997 case in which an Asian woman, Renu Joshi, allegedly was murdered by her relatives, including her husband, court proceedings had not concluded by year's end. Her husband (the principal defendant), remained on remand awaiting trial at year's end. Public protests were instrumental in keeping him in remand. Delays in bringing capital offense cases to trial in situations where a husband killed his wife remained common (see Section 1.d.).

Traditional and widespread societal discrimination against women continued, especially in rural areas, despite constitutional provisions to the contrary. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. In most areas, women may not own or inherit property, nor retain custody of their children under local customary law. Divorce law sets stricter evidentiary standards for women to prove adultery. Polygyny is legal under both customary and Islamic law, and a wife has no legal status to prevent her husband from marrying another woman. Men also may "inherit" the widows of their deceased brothers. Women do most of the agricultural work but own only 7 percent of the agricultural land. There are limits on a married woman's ability to travel abroad with her children (see Section 2.d.).

Unlike their male counterparts, female members of the police force are required to obtain permission from the police Inspector General before getting married (see Section 1.f.).

There are active women's rights groups, including FIDA, Action for Development, the National Association of Women Judges (NAWJ), Akina Mama Wa Afrika, the Forum for Women in Democracy, and NAWOU, which promote greater awareness of the rights of women and children. FIDA is in the 2nd year of a 3-year project to draft proposed reforms of outdated and discriminatory laws, and the NAWJ continued to disseminate its guidebook on women's rights and options concerning domestic violence to women throughout the country.

An undetermined number of women were victims of abduction and rape by rebel forces (see Sections 1.c. and 1.g.).

Children.—Although it has devoted only limited funds to children's welfare, the Government demonstrated a commitment to improving children's welfare. The Universal Primary Education (UPE) program continued to expand its reach. The program is intended to provide free education through seventh grade for a maximum of four children per family. The UPE program remains only partially implemented due to strained finances, instability in some areas, infrastructure problems, and inadequate teacher training. Although the UPE program makes education more accessible financially, parents still must pay for books, uniforms, and some school costs. Implementation of the UPE has caused some financial problems for the country's large, often polygynous families. Girls and boys theoretically have equal access to education, and lower grades are divided almost evenly by sex; however, the proportion of girls in higher school grades remains low since families traditionally have favored boys when making financially related educational decisions. Only 53 percent of females are literate compared with 61 percent of males. Parents' inability to afford schooling has correlated highly with the occurrence of child labor in rural areas (see Section 6.d.). About 55 percent of school-age children are in school.

The Government has not yet implemented effectively the 1996 Children's Statute, which outlines broad protection for children. Government efforts to enforce the statute's provisions were hampered by the large proportion of the population that is below 18, manpower and fiscal constraints on the judiciary, and cultural norms. The law stipulates parents' responsibilities and provides extensive protection for children in a wide variety of areas, including financial support, foster care placement, adoption, determination of parentage, and treatment of children charged with offenses. It also includes concise provisions on the rights of the child, including a provision that a child shall not be made to work or take part in any activity, whether for pay or not, that is likely to injure the child's health, education, or mental, physical, or moral development. However, the Government has been unable to enforce prohibitions on child labor, particularly in the informal sector (see Section 6.d.).

Estimates place the number of orphaned children (children missing either parent are considered orphans) at up to 1.7 million. This large number of orphans resulted from previous civil wars, the internal displacement of persons, and HIV/AIDS.

Child abuse remained a serious problem, particularly the rape of young girls (known locally as "defilement"). Only a small fraction of these incidents is reported, especially when the perpetrator is a family member, neighbor, or teacher—as is often the case. Increasing numbers of accusations reach the courts, although neither conviction nor punishment was common. Cases were reported frequently in newspapers, but a payment to the girl's parents often ended the matter. Despite these obstacles, an increasing number of cases are being prosecuted. While defilement carries a maximum sentence of death, that punishment has never been meted out to a convicted rapist. Defilement applies to all cases of sexual contact outside of marriage involving girls younger than 18 years of age, regardless of consent or the age of the perpetrator. The marriage of young girls by parental arrangement is common, especially in rural areas.

Most schools use corporal punishment, although in 1997 the Government banned the beating of secondary school students. On June 27, a 14-year-old student, Peter Masanja of Kakungulu Memorial Islamic Institute, died at Kibuli hospital in Kampala after a beating by the school's director, Hamidulah Llukwago. The case was being investigated at year's end. The Government did not release details of the investigation of a 1996 case in which a teacher in Masaka beat to death a 15-year-old student.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced only by the Sabiny tribe, located in the highly rural Kapchorwa district in the east, whose members number fewer than 10,000. Among the Sabiny, initiation ceremonies involving FGM have been carried out every 2 years for girls between the ages of 14 and 16 years. Such a ceremony was held in 1998. An NGO based in Kapchorwa reg-

istered 965 females who were subjected to FGM in 1998, nearly double the figure that the Government reported in 1996. There is no law against the practice, but government and women's groups working with the U.N. Population Fund continue to carry out a program to combat the practice through education. The program has received strong government support and some support from local Kapchorwa leaders. The program emphasizes close cooperation with traditional authority figures and peer counseling. Significant press attention to these ongoing efforts brought public attention to the problem throughout the year.

The Children's Statute provides that children with disabilities be treated and given necessary special facilities—a provision hampered in execution by inadequate funding.

The legal recruitment age for military service is 18 years; however, in practice, some recruiters have allowed 17-year-olds to enlist.

The ADF and LRA abducted many children, using them as guards, laborers, soldiers, and, in the case of the LRA, for forced sex. (see Sections 1.g., 6.c., and 6.f.).

People with Disabilities.—The Constitution provides that persons with disabilities have "a right to respect and human dignity" and requires that authorities take appropriate measures "to ensure that they realize their full mental and physical potential;" however, despite this provision, there is no statutory requirement for government services or facilities, such as accessibility of buildings for the disabled. Most buildings have one story, but in larger towns with multistory buildings, there often are no elevators; even where they do exist, they rarely are reliable. Widespread discrimination by society and employers limits job and educational opportunities for those with physical disabilities. In 1998 the Government appointed a Minister of State for Disabled Persons. A Department for Disabled Persons also exists under the Ministry of Gender, Labor, and Social Development; however, these bodies and positions have little funding to undertake or support any initiatives.

National/Racial/Ethnic Minorities.—Civil strife in the north led to the violation of the rights of members of the Acholi tribe, which is largely resident in the northern districts of Gulu and Kitgum. Both government forces and the LRA rebels—who themselves largely are Acholi—committed abuses. LRA fighters in particular were implicated in the killing and kidnaping of Acholi tribe members, although the number and severity of their attacks decreased greatly compared with 1998 (see Section 1.g.). Similar abuses were inflicted upon members of the Bakonjo tribe in the west at the hands of ADF rebels, including ethnic Bakonjo.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of every person to join workers' associations or trade unions, and the law allows unionization if a majority of the work force supports it. In practice the Government respects the right to form unions; however, the Government has not responded yet to a 1997 application for registration by the Uganda Allied Teachers' Union. Since 1993 the right to form unions has extended to civil servants; however, many "essential" government employees are not permitted to form unions; these include police, army, permanent secretaries in the ministries, heads of departments and state-owned enterprises, school principals, and other management-level officials. The Government has failed to enforce the rights of some employees to join unions in recently privatized industries and factories. Organized labor has three reserved parliamentary seats.

The National Organization of Trade Unions (NOTU), the largest labor federation, includes 17 unions and is independent of the Government and political parties. Among its members are medical workers, including doctors, and the civil service union. The NOTU's influence on the overall economy remains small, since about 90 percent of the work force are peasant farmers. Even in areas in which cash crops are significant, unionization has remained practically nonexistent. NOTU membership has declined steadily from some 500,000 in the 1970's to about 100,000.

The Constitution confirms the right to strike; however, government policy requires that labor and management make "every effort" to reconcile labor disputes before resorting to strike action. This directive presents unions with a complicated set of restrictions. If reconciliation does not appear to be possible, labor must submit its grievances and notice to strike to the Minister of Labor, who usually delegates the dispute to the Industrial Court. In previous years, in the absence of verdicts from the IC, the Minister of Labor generally did not permit strikes, on the basis that "every effort" had not been exhausted. Frustrated laborers often went on strike anyway, protesting credibly that they were not paid a wage adequate to live on.

There was one particularly notable strike action during the year. On August 18, workers at the Owens Falls dam in Jinja struck over the nonpayment of termination benefits and their employer's refusal to renew the wage structure. In addition, on August 20, a combined force of military police, national police, and Jinja district ad-

ministration police broke up the strike. An attempt in September to organize a strike at the Sugar Corporation of Uganda was unsuccessful due to the intervention of antiriot police who fired guns to disperse strikers, although there were no casualties as a result of police action (see Section 1.c.). Workers organized a brief sitdown strike at UGMA Engineering also in September. On October 28, approximately 200 people were arrested by police and ISO officers in Kampala in order to prevent a planned strike by taxi drivers. All were later released.

Labor unions freely exercised the right to affiliate with and participate in regional and international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, specifying that a workplace may be unionized if a majority of the employees supports doing so; however, true collective bargaining takes place only in the small private sector of the modern economy, a situation that suffered setbacks during the year. In the modern sector, the Government is by far the largest employer (civil service and state-owned enterprises) and it dominates the bargaining process. The Government has adopted a tripartite (government-employers-labor) cooperative approach to setting wages and resolving labor disputes. Both the Government and employers may refer disputes to the IC. The law does not prohibit antiunion discrimination by employers, but there were no reported incidents of government harassment of union officials. Unionization was blocked effectively by some industries, especially in the textile and hotel sectors. Labor organizers complained that laws requiring a minimum of 1,000 persons in order to form a union hindered their activities. The Government took only limited action on organized labor complaints, but pointed out that the refusal to allow unionization is a constitutional violation. In January the Government facilitated consultations that led one of the largest construction firms to agree to allow their employees to form unions. However, in January in conjunction with the International Labor Organization (ILO), the Uganda Textile, Garments, Leather, and Allied Union filed a complaint against the Government for failure to support the attempts of workers in the textile sector to exercise their right to freedom of association.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or bonded labor, including forced or bonded labor by children; however, a lack of resources prevented the Government from enforcing this prohibition effectively. There is strong evidence that prison officials hired out prisoners to work on private farms and construction sites, where they often were overworked. Throughout the country, prison officials routinely augmented their meager pay with crops grown by prisoners on the prison grounds. Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Children in prison perform manual labor, often 12 hours per day (see Section 1.c.). Compensation, when paid, generally was very low, although the law demands that pretrial detainees must receive back pay for all work that they have performed once they are released (see Section 1.c.).

Both the ADF and the LRA abducted civilians for training as guerrillas; most victims were children and young adults, whom the ADF and LRA terrorized into virtual slavery as guards, laborers, soldiers, and, in the case of the LRA, as sex slaves (see Sections 1.b., 1.g., and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employers from hiring workers below the age of 18; however, child labor is common, especially in the informal sector. The Ministry of Social Services is charged with enforcing the law on child labor, but it has limited financial means to do so. Part of the problem is demographic, because half the population is under 18 years of age. School fees have made it impossible for many parents—particularly poor farmers, the majority of the population—to provide their children with an education in spite of the Government's UPE program (see Section 5). As a result, there is an incentive to leave school and go into agricultural or domestic work in order to help meet expenses or perform the work of absent or infirm parents, a common situation throughout the country. The problem is acute particularly among the large orphan population (see Section 5). Nevertheless, according to the Ministry of Education, 93 percent of school age children are in school.

Most working children are employed in the informal sector, often on the subsistence farms of extended family members or as domestic servants. In urban areas, children peddle small items on the streets, are involved in the commercial sex industry (particularly in border towns and in Kampala), or beg for money. Although adults do most tea harvesting, some children were employed in this sector as well.

It is estimated that 60 percent of all land-based trade in the country is informal. Smuggling is one of the larger informal industries, and employs large numbers of child laborers at the borders with Kenya and Tanzania. Children walk back and

forth across the unguarded borders, transporting small amounts of fuel, sugar, coffee, or other commodities.

Government efforts to decrease the incidence of child labor were boosted by a $1.5 million grant in 1998 from the ILO International Program for the Elimination of Child Labor (IPEC).

The IPEC program was launched in July, and at the end of the year it was working with NGO's to formulate action proposals. Government officials acknowledged that for the IPEC to be implemented, continued judicial and law enforcement reform were needed.

The recruitment age for military service is 18 years; however, in practice, some recruiters have allowed 17-year-olds to enlist (see Section 5).

The law prohibits forced and bonded labor by children; however, a lack of resources prevented the Government from enforcing this prohibition effectively (see Section 6.c.). The ADF and LRA abducted children and terrorized them into virtual slavery as guards, laborers, soldiers, and, in the case of the LRA, as sex slaves.

e. *Acceptable Conditions of Work.*—The minimum legal wage remained $4 (6,000 shillings) per month, a rate set in the early 1960's. This wage is insufficient to provide a decent standard of living for a worker and family. Wages continued to be determined through negotiation between individuals and their employers, unions, and proprietors, or through negotiation within the boards of directors at state-owned industries. Salaries usually are augmented by other benefits such as housing and transport allowances, which often are equal to base wages. The Ministry of Labor's salary scale for civil servants starts with unskilled labor at $50 (75,000 shillings) per month, up to supervisors at $400 (600,000 shillings) per month, plus modest increases for years worked. All include provisions for paid overtime. The higher end of this wage scale would provide minimal standards of living for a worker and family, but most civil servants have great difficulty earning enough money to pay their children's school costs. Many civil servants and their dependents work in second jobs, grow their own food, or seek other ways to supplement their incomes. In industries that employ workers on an hourly basis, the normal workweek was 40 hours. Although there was no legal maximum workweek, a time-and-a-half rate was paid for each additional hour worked. Many industries pay workers by piece work, which avoids overtime and circumvents the prohibition on child labor. Many companies employ workers as "casual laborers" or "contract workers" in order to avoid providing benefits.

The condition of employee housing on the tea and sugar plantations at the major state-owned corporations, and within military and police barracks, was substandard. Sanitation and water facilities often are lacking.

Building codes often are not enforced. Some structures have tripled in height above the original foundations, leading local engineers to express reservations about the structural integrity of these workplaces. Factories generally are sound, but machinery almost always lacks safeguards.

Vestiges of occupational health and safety legislation are contained in the outdated Factories Act of 1954, the Workmen's Compensation Act of 1964, and the Employment Decree of 1975. None of these acts addresses present-day work hazards. The Ministry of Labor's Department of Occupational Health is responsible for enforcement of the limited occupational safety regulations; however in practice inspections are rare, due primarily to lack of vehicles and funding for inspection trips. Under the law, the maximum award payable in workers' compensation to a disabled employee, or to the estate of employees killed on the job is $38 (55,000 shillings). Ministry of Labor officials recognized the inadequacy of this amount; however, new legislation to address this problem has yet to be passed. The limited occupational safety regulations do not protect workers who refuse to perform dangerous work from being fired, although strong unions in certain dangerous industries do protect such workers.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons; however, there is strong evidence that prison officials hired out prisoners to work on private farms and construction sites, where they often were overworked.

There were unconfirmed reports that the SPLA, supported by UPDF forces, forcibly recruited Sudanese refugees in northern Uganda for service in Sudan (see Section 1.f.).

Both the ADF and the LRA abducted civilians for training as guerrillas; most victims were children and young adults whom the ADF and LRA terrorized into virtual slavery as guards, laborers, soldiers, and, in the case of the LRA, as sex slaves (see Sections 5 and 6.c.). In addition to being beaten, raped, and forced to march until exhausted, children abducted by the LRA were forced to participate in the killing of other children who attempted to escape. As many as 5,000 Ugandan children abducted by the LRA were held in the southern part of Sudan: The Government of

Sudan actively supports the LRA. In past years, the LRA also reportedly sold and traded some children, mostly girls, or provided them as gifts to arms dealers in Sudan.

In December in Nairobi, Kenya, the Governments of both Sudan and Uganda signed an accord agreeing, among other things, to cease supporting rebel groups and to return abductees; however, it was not clear at year's end if the accord still was in effect due to the LRA excursion into Uganda from Sudan in late December.

ZAMBIA

Zambia is a republic governed by a president and a unicameral national assembly. After two decades of one-party rule, free and fair multiparty elections in November 1991 resulted in the victory of the Movement for Multi-Party Democracy (MMD) and the election of President Frederick J.T. Chiluba, a former trade unionist. In November 1996 elections, President Chiluba was reelected, and his party won 131 of 150 seats in the National Assembly. Constitutional amendments enacted in May 1996 disqualified the former President, Kenneth Kaunda, the main opposition leader, from seeking the presidency, prompting his United National Independence Party (UNIP) to boycott the elections. The MMD's use of government resources, including the state-owned media, put the fairness of the elections into question, although, despite some voting irregularities, there was no evidence of substantial or widespread vote rigging or vote counting fraud. The Constitution mandates an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system is hampered by lack of resources and inefficiency.

The police, divided into regular and paramilitary units operating under the Ministry of Home Affairs, have primary responsibility for maintaining law and order. Police action generally was not politicized. The Zambia Intelligence Security Service, under the Office of the President, is responsible for intelligence and internal security. Police continued to commit numerous, and at times serious, human rights abuses.

The Government continued its free market economic reform program. However, difficulties in privatizing major portions of the parastatal copper mines contributed to negative economic performance, including stagnation and increasing inflation. Balance of payments support by foreign donors resumed as a result of greater government attention to governance issues. Approximately 70 percent of all citizens live in extreme poverty.

The Government's human rights record was generally poor; although the Government took steps to address some human rights problems, serious abuses continued in several areas. Citizens' right to change their government was restricted in the 1996 national elections, the last time national elections were held the police committed extrajudicial killings, and police officers routinely beat and otherwise abused criminal suspects and detainees. A lack of professionalism and discipline in the police force remains a serious problem and officers who commit such abuses do so with impunity. Prison conditions are harsh and life threatening. A government commission of inquiry, established in 1998 to investigate the alleged torture during detention of suspects in a 1997 coup attempt, began work in November. Arbitrary arrests, prolonged detention, and long delays in trials remain problems. Police infringed on citizens' privacy rights. On at least one occasion, the Government infringed on freedom of the press, and it continued to control two of the country's three daily newspapers, contrary to its 1991 campaign promise to privatize government-owned mass media. In rare instances, the Government restricted citizens' right of peaceful assembly and association, and in a few instances limited freedom of movement. Human rights and civic organizations and political parties continued to complain of government harassment. Violence against women remained widespread. Women continued to experience discrimination in both law and fact, including the denial of widows' inheritance rights. Discrimination against the disabled is a problem. Child labor is a problem in rural subsistence occupations and some urban occupations.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There were no reports of political killings by government officials during the year, but police continued to use excessive force that at times resulted in extrajudicial killings. Police committed at least half a dozen extrajudicial killings. For example, in March Khondwani Musukwa died in police custody, apparently as a result of torture. Police reportedly were at-

tempting to obtain information about associates of Musukwa believed to have been involved in a crime. No action was taken against the officers responsible for Musukwa's death. In July Sailas Mabvuto Lungu reportedly was beaten to death by a police constable who suspected him of driving a stolen vehicle. The officer was in detention and awaiting trial at year's end. In August a pregnant woman died in police custody. Police reportedly detained her in an attempt to determine the whereabouts of her husband. The woman is believed to have died as a result of abuse while in police custody; there was no judicial action against the police.

A large number of prison inmates died due to illness and harsh conditions (see Section 1.c.).

In May 1998, seven police officers of Mindolo police station in Kitwe were arrested in connection with the death in custody of Steward Mwantende, who they picked up in connection with suspected housebreaking. During interrogation police reportedly beat and burned Mwantende by lighting a fire under his legs. Mwantende died from his injuries. The police officers were arrested and a trial continued and did not conclude during the year (see Section 1.c.).

In November 1998, police killed eight persons in the aftermath of the murder of former Finance Minister Ronald Penza. Police claimed that the eight were Penza's attackers; however, it was unclear whether Penza's attackers were among those killed by the police. The body of one of the eight showed evidence of torture before death; others were shot during arrest attempts. One police officer was charged with three counts of murder, convicted, and was sentenced in March to 15 years' imprisonment. Two other officers were arrested, but subsequently were released; no displinary action against the officer was reported.

A police officer responsible for the 1998 shooting deaths of Theo Mijoni and Felix and Sydney Chtama was acquitted in November on the grounds that he was performing his duty and had not deliberately killed Mijoni and the Chtamas.

In January the Government decided to compensate the families who had lost houses in 1995 when army recruits destroyed 100 houses and killed 2 persons in a village. Each family was to receive a sum equivalent to about $40 (100,000 kwacha). The recruits reportedly were dispersed to various units without disciplinary or judicial action.

On November 3, four gunmen shot and killed Wezi Kaunda, the son of former President Kenneth Kaunda, in Lusaka. One suspect was arrested; the investigation was ongoing at year's end.

In February a bomb killed a security guard at the Angolan Embassy in Lusaka; 10 other bomb explosions occurred in the capital on the same day.

b. *Disappearance*.—There were no reports of politically motivated disappearances caused by government officials.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Constitution prohibits torture; however, police regularly used excessive force when apprehending, interrogating, and detaining criminal suspects (or their relatives or associates) or illegal aliens. In most such instances, detaining officers beat suspects and generally were not disciplined or arrested for such acts.

In March a young man detained with a group of women from the National Pressure Group was beaten while in police custody at the Woodlands Police Station in Lusaka (see Section 1.d.).

In June Cedrick and Mary Phiri, who were attempting to determine the whereabouts of Phiri's brother-in-law, were taken into custody by police in the Matero district. They were detained overnight, during which time Cedrick was beaten with a monkeywrench on the head and back (see Section 1.d.) and later released without being charged.

In September officers of the Emmasdale police station beat Benson Mwale repeatedly on the buttocks; subsequently, he required medical attention for severe lacerations. The police were attempting to force him to disclose information relating to thefts of car windshields. In September a file on the incident was opened by the Permanent Human Rights Commission (PHRC), which also encouraged Mwale to sue the police officers in their individual capacities. The police command said that it would punish all officers involved in the incident. Later in September, a ″docket of complaint against police″ was opened to investigate the matter. This docket is process through which the public can raise complaints against a police officer in order that legal procedures can be instituted. No police officers were punished by year's end.

In May 1998, seven police officers of Mindolo police station in Kitwe were arrested in connection with the death in custody and torture of Steward Mwantende. A trial continued and did not conclude during the year (see Section 1.a.).

In 1997 the PHRC confirmed that police tortured seven of the persons detained after the October 1997 coup attempt. There were reports that state agents tortured

two of the seven in order to make them falsely implicate former President Kaunda and other politicians in the coup attempt. In March 1998, the HRC urged the Government to hold an inquiry into these incidents of torture. Foreign governments, nongovernmental organizations (NGO's), and other human rights organizations also pressed the Government to investigate these incidents of torture and to bring charges against those responsible. Early in 1998, one of the alleged torturers was promoted.

In May 1998, the Government agreed to initiate an independent inquiry into torture claims by the October 1997 coup attempt detainees, and in August 1998 established a commission of inquiry made up of treason trial judge Japhet Banda and Lusaka principal resident magistrate Gertrude Chawatama. Due to judge Banda's treason trial obligations, the torture inquiry could not begin until the treason trial concluded on September 17. President Chiluba appointed two additional members and a deputy secretary to the commission of inquiry in September. The Commission began work in November through a series of public hearings; such hearings continued through year's end.

The Government further promised to institute measures to monitor continuously and reform police operations to ensure that civil liberties are protected. It further directed the police, prisons, and immigration departments to intensify human rights training among their officers, which has been part of their basic training since 1997. The Government took no action on its statements in 1998 that it would amend the Police Act to provide for the establishment of a police complaints authority to which members of the public could channel complaints pertaining to police harassment and abuse.

In September the Government attempted to exclude the assistant commissioner of police and the Drug Enforcement Commission deputy commissioner from a lawsuit filed by opposition politician Dean Mung'omba for torture while he was detained in the aftermath of the 1997 coup attempt. The Government stated that the two officials should not be included in the suit because they were exercising their normal duties under the direction of the Attorney General; however, a High Court judge ruled that the two could be sued in their individual capacties.

Police corruption is also a problem. There were a handful of unconfirmed reports that police would release prisoners in exchange for a bribe of between $100 and $150 (200,000 to 300,000 kwacha). Citizens in private debt disputes often are detained by police in exchange for a portion of the payment owed (see Section 1.d.). Police sometimes committed extortion at roadblocks (see Section 2.d.) or required document processing "fees" or gas money in order to commence investigations.

The police undertake investigations of instances of police use of excessive force and have disciplined officers found to have committed human rights abuses. Such investigations generally are prolonged, and outcomes are not readily apparent. Middle ranking and senior officers are enrolled in human rights training seminars at the police academy. A number of police officers are the subject of internal investigations and prosecutions. Authorities arrested some police officers on such criminal charges as murder and robbery.

In February the Government removed its reservation and ratified the U.N. Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. At year's end, the Government had not disciplined or prosecuted any of the individuals allegedly involved in the torture of persons detained in connection with the 1997–98 state of emergency.

In March unidentified assailants fired shots at a car belonging to former President Kaunda, who was not in the vehicle.

Prison conditions are harsh and life threatening. According to official statistics, prisons designed to hold 6,000 prisoners held over 12,000. This severe overcrowding, combined with poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery and other diseases, including tuberculosis. In a report submitted to Parliament in 1996, the Commissioner of Prisons said that 975 prisoners had died in prison between January 1991 and December 1995 due to illness and harsh conditions. The death rate of prison inmates remained about the same during the year. The Commissioner of Prisons has submitted no further such reports since 1996.

In March the Commissioner of Prisons attributed the serious overcrowding in prisons to the slow pace at which the courts dispose of cases. The Commissioner noted that some cases have been pending since 1991. According to the Commissioner, one judge had 50 cases pending, while the magistrate courts had 749 cases pending.

The Magistrates and Judges' Association of Zambia expressed its intention in March to undertake efforts to release all eligible detainees on bail in order to reduce

prison congestion. According to the Association, Kamwala Remand Prison in Lusaka contained 636 inmates, although it had been designed to hold only 200.

The PHRC announced in July that it would employ prison inspectors to ensure that inmates are kept in habitable environments.

The Government generally permits prison visits by both domestic and international monitors and by resident diplomats.

d. *Arbitrary Arrest, Detention, or Exile*.—Arbitrary arrest and detention are still problems. Criminal suspects often are arrested on the basis of flimsy evidence or an uncorroborated accusation. Family members or associates of criminal suspects were detained, interrogated, and physically abused by the authorities in attempts to identify or locate suspects. In criminal cases, the law requires that a detainee be charged and brought before a magistrate within 24 hours. Attorneys and family members are allowed access to pretrial detainees. In practice the authorities hold most detainees for more than 1 month from commission of an offense to first appearance before a magistrate. In many cases, an additional period of 6 months elapses before a magistrate commits the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court takes months, or in some cases as long as a year. Once a case reaches the High Court for trial, court proceedings last an average of 6 months.

Pretrial detention often is prolonged. Approximately 2,000 out of 12,000 prisoners are awaiting trial on criminal charges. In some cases defendants have been awaiting trial for as long as 4 years. There was some progress in holding trials; in past years, some defendants had waited for as long as 10 years for their trials. These long delays were a result of inadequate resources, inefficiency, lack of trained personnel, and broad rules of procedure that give wide latitude to prosecutors and defense attorneys to request adjournments. The High Court Commissioner can release detainees if police fail to bring the case to trial, although that did not occur in any case during the year.

Although there is a functioning bail system, overcrowded prisons reflect in part the large number of detainees charged with serious offenses for which bail is not granted. These include treason, murder, aggravated robbery, and violations of narcotics laws. There were no cases of constitutional bail. Indigent detainees and defendants rarely have the means to post bail. The Government's legal aid office is responsible for providing legal aid representation for indigent detainees and defendants in criminal or civil cases. In practice few receive assistance. The office had 14 attorneys and a budget of $110,000 (250,000,000 kwacha) during the year to cover the entire country.

Police stations frequently become "debt collection centers," where police officers acting upon unofficial complaints detain debtors without charge, indefinitely, until they pay the complainants. In return the police receive a percentage of the payments (see Section 1.c.).

A group of 20 women affiliated with the National Pressure Group, a lobbying body, was "arrested" by MMD cadres for holding an unauthorized political meeting in March. The women were gathered in a private home. They were taken into police custody, but were released a day after the arrests. The members of the group were never charged. A young man detained with the group was beaten while in police custody (see Section 1.c.).

In May Donald Phiri was taken into police custody during an unauthorized police search for weapons at his father's home. The search allegedly was intended to locate arms. Phiri's father complained that he was unable to determine his son's whereabouts for several days after he was taken into custody. Phiri was charged with murder in September, and his trial was pending at year's end.

In June Cedrick and Mary Phiri were taken into custody at Matero police station by police trying to determine the whereabouts of Phiri's brother-in-law. The two were detained overnight (see Section 1.c.) and released without being charged.

In August Imasiku Mutangelwa, the leader of a small organization known as the Barotse Patriotic Front (BPF), was sought by police for questioning after he made statements supporting a separatist rebellion in Namibia. Later the same month, Mutangelwa sought asylum in the residence of the South African high commissioner, but his request was denied. Mutangelwa subsequently was arrested and charged with belonging to an unlawful society. Mutangelwa clearly had stated his affiliation with the BPF for several months without any action being taken against him. The case against him was referred by the Magistrate's Court to the High Court, where it remained pending at year's end.

In August the High Court of Ndola awarded damages to a woman who had been detained in 1997 by police trying to determine the whereabouts of her son.

The authorities held in detention pending deportation approximately 300 illegal immigrants, principally from neighboring countries. Because the immigration au-

thorities lack funds for deportation, illegal immigrants sometimes are kept in prison for extended periods.

The state of emergency imposed in October 1997 allowed the Government to detain suspects for 28 days without charge by using a police detention order and to detain them for the remainder of the state of emergency under a presidential detention order. After the lifting of the state of emergency in March 1998, the cases of coup suspects went into normal legal proceedings 7 months after the arrests of most suspects. A total of 7 civilians and about 90 military personnel were detained. By the end of 1998, all civilians detained in connection with the attempted coup and several of the military personnel had been released. Nine of the accused were released in May after charges were dismissed on grounds of insufficient evidence. Eight more were acquitted, 1 sentenced to hard labor, and 59 sentenced to death in September. The death sentences were being appealed at year's end, and the process is expected to last several years.

The Government attempted to introduce a new state security bill in August that would have allowed the Government to hold treason suspects for indefinitely renewable periods of 14 days. Parliamentarians, including two from the MMD, sharply criticized the bill, which was withdrawn by the Government.

In 1996 the now-retired Speaker of the National Assembly ordered the indefinite incarceration of the Post newspaper reporters Fred Mwembe, Bright Mwape, and Lucy Sichone for contempt of the House. The High Court later quashed the sentences, ruling that the Speaker had no authority over private citizens. The Government appealed the case, seeking to reinstate the detentions of the three reporters. The case remains pending, although Mwape and Sichone since have died.

The Government does not use exile for political purposes; however, it has used deportation and the threat of deportation for political purposes against persons whose claims to citizenship it had refused to recognize.

During the year, a number of citizens remained in self-imposed political exile in foreign countries including: Liberal Progressive Front President, Dr. Roger Chongwe, in Australia; Zambia Democratic Congress General Secretary, Azwell Banda, in South Africa; former editor of the defunct newspaper, Confidential, Reverend Steward Mwila, in South Africa; and former President Kaunda's daughter, Catherine Mwanza, in South Africa.

e. *Denial of Fair Public Trial*.—The Government generally respected the independence of the judiciary during the year. However, there have been reported instances in past years in which Parliament overturned Court rulings; the last known attempt to do this occurred in the cases of Mwembe, Mwape, and Sichone in 1996 (see Section 1.d.). The President nominates and the National Assembly confirms the Chief Justice and other members of the Supreme Court. The judicial system is hampered by lack of resources and inefficiency.

The Supreme Court has appellate jurisdiction for all legal and constitutional disputes. The High Court, which holds regular sessions in all nine provincial capitals, has authority to hear criminal and civil cases and appeals from lower courts. Magistrate courts have original jurisdiction in some criminal and civil cases, while local, or customary, courts handle most civil and petty criminal cases in rural areas.

Local courts employ the principles of customary law, which vary widely throughout the country. Lawyers are barred from participating, and there are few formal rules of procedure. Presiding judges, who are usually prominent local citizens, have great power to invoke customary law; render judgments regarding marriages, divorces, inheritances, other civil proceedings; and rule on minor criminal matters. Judgments often are not in accordance with the Penal Code. For example they tend to discriminate against women in matters of inheritance (see Section 5).

Trials in magistrate courts are public, and defendants have the opportunity to confront their accusers and present witnesses. However, many defendants are too poor to retain a lawyer, and the poor state of the Government's legal aid department means that many citizens entitled to legal aid find that it is unavailable. Congestion in the courts and long delays while the accused are in custody can be tantamount to denial of fair trials.

Courts continued to act independently and at times made statements critical of the State. A judge in a habeas corpus hearing for journalists from the Independent Post newspaper criticized the State for failing to produce the accused during an initially scheduled hearing. He further expressed his hope that the State would not detain again immediately the individuals who were about to be released, as had happened in previous cases. In March a Lusaka High Court judge criticized both the prosecution and the defense for excessive delays in an aggravated robbery case that has been in progress since 1995. The judge expressed disappointment that the defense had not applied for constitutional bail on grounds of excessive delay in com-

pleting the trial and noted that the rights of the accused had been abused by this delay.

Repeated delays in presenting a state case against journalists from the Independent Post newspaper raised concerns that the Government was simply delaying the case in order to intimidate the newspaper (see Section 2.a.).

After a short-lived coup attempt on October 28, 1997, the Government detained about 90 military personnel and a total of 7 civilians, including former President Kaunda, in connection with the attempted coup. Charges were filed against these individuals in March 1998. President Kaunda was released after 6 months of detention, when the Government decided not to prosecute his case. By the end of 1998, all civilians detained in connection with the attempted coup had been released. The treason trial concluded in September with 59 of the accused receiving death sentences; these sentences are under appeal.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—The Constitution provides for respect for privacy and the inviolability of the home; however, the authorities did not always respect these rights in practice. The law requires a warrant before police may enter a home, unless a state of emergency is in place. Police routinely ignored this requirement and often arrested alleged criminals at their homes without first having obtained an arrest warrant. The Constitution grants the Drug Enforcement Commission and the Zambian Intelligence Security Service authority to wiretap telephones for possible cause. In 1996 the Inspector General of Police admitted in open court that he had ordered the illegal wiretaps of the telephone at the offices of the Post, an independent daily newspaper. The case still is pending in court.

Police detained and abused relatives and associates of suspects; in August a pregnant woman detained by the police looking for her husband died in custody (see Sections 1.a., 1.c., and 1.d.).

In March police illegally searched the home of the husband of Sylvia Masebo, a political activist, reportedly on suspicion of narcotics activities. Masebo expressed her belief that the search was undertaken solely to defame her.

In May police raided the home of the president of the World Baptist Evangelical Association, Reverend Bwanali Phiri, without a warrant in the early hours of the morning. The police said that they were looking for weapons; they then took Phiri's son Donald and two of Phiri's tenants into custody, reportedly on suspicion of involvement in a murder. Phiri complained that he was unable to determine the whereabouts of his son for several days after he was taken into custody. Phiri's tenants were released, but Phiri was detained for 4 months without charge, then charged with murder. The case was pending at year's end.

Roundups of suspected illegal aliens in the home or workplace continued. According to the Government Commissioner for Refugees, immigration officials are empowered under the law to conduct these roundups without a warrant.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—While the Constitution provides for freedom of expression and of the press, the Penal Code lists various prohibited activities that may be interpreted broadly to restrict these freedoms, and in at least one instance the Government infringed on press freedom. Overall, the Government's record on press freedom was mixed during the year. Over the past several years, in response to headlines and stories of alleged corrupt practices on the part of government officials, the Government, accused officials, and other individuals have brought numerous libel actions against the Post newspaper. There are currently over 80 cases filed over the course of the last 4 years waiting to be adjudicated. The number of pending libel cases did not increase during the year, because the journalist involved in most of them had left the Post.

The law includes provisions for investigative tribunals to call as witnesses journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate with a tribunal may result in charges of contempt punishable by up to 6 months in jail. This is seen by the media as a clear infringement on press freedom and a means for parliamentarians to bypass the clogged court system in dealing with libel suits against the media.

Thirteen members of the editorial staff of the Independent Post newspaper were arrested after the newspaper published a story pointing out deficiencies in the country's military preparedness in relation to neighboring Angola. The Post claimed the information contained in the article was publicly accessible. Twelve of the staff members were charged with espionage, but the trial was delayed several times, raising questions about whether the Government really wanted to prosecute, or simply intimidate, the newspaper. All of the accused remain free on bond. Their trial start-

ed on December 22 with prosecution testimony by an army general. In addition the Attorney General and several members of the MMD applied for an injunction to restrain the Post from publishing articles related to tensions between Angola and Zambia. The injunction was thrown out in August by the High Court deputy registrar, who said that the application had not disclosed a cause for the requested action of prohibiting such articles (see Section 1.e.).

In March the deputy minister for Local Government and Housing locked a journalist in his office when the journalist came to investigate the status of a presidential housing initiative. This incident prompted the Zambia Independent Media Association (ZIMA) to conduct a march for press freedom.

A government appeal of a National Assembly case initiated against three journalists in 1996 remains pending (see Section 1.d.).

A number of privately owned newspapers question government actions and policies, and these circulate without government interference. For the last 3 years, the leading private daily, the Post, has had an Internet home page that has attracted over 15,000 readers per month. The government-controlled Times of Zambia and Zambia Daily Mail, two of the most widely circulated newspapers, also have home pages established in April 1996. The Government owns the sole television station, the Zambia National Broadcasting Corporation (ZNBC). In addition to the government-controlled radio station, there are three church-related stations and one private commercial station.

The Government exercised considerable influence over the government-owned media, which continued to follow the government line on important issues.

In February the only commercial station resumed rebroadcasting Voice of America (VOA) and British Broadcasting Corporation (BBC) items. The station had been pressured by the Government to stop such rebroadcasts in 1997 due to an interpretation of licensing limitations. Multichoice, based in South Africa, provides satellite and analog wireless subscribers with television services. These services provide broadcasts of Cable News Network, BBC World, Sky Television, and South African Broadcasting Corporation Africa News. They also provide three BBC, one Radio France International, and VOA radio news broadcasts. Neither of the services provides local news coverage. A second wireless service, CASAT, began operations in December 1997. In 1998 Trinity Broadcasting Network, a foreign-based church-related television network, began 24-hour transmission from a rented studio at the ZNBC complex.

Contrary to its 1991 campaign promises to privatize government-owned mass media, the Government has declined to privatize the state-owned and government-controlled Times of Zambia, the Zambia Daily Mail, and the ZNBC radio and television stations. Opposition political parties complain that government control of these media bodies effectively limits their access to such means of mass communication.

Academic freedom is respected. University professors are permitted to lecture freely, conduct research, and publish their work. The Government is attempting to pass a university act to give greater power to the Minister of Education to supervise universities. There is concern among the academic community that this act would lead to limitations on their freedom. The act was introduced into the Parliament in September, debated, passed and forwarded to the President for enactment. However, before the President could take action, a group of university professors and students obtained a court injunction blocking presidential action. The bill lapsed at the end of the year and must be resubmitted to the Parliament if it is to be enacted.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for freedom of peaceful assembly; however, the Government restricted this right in practice. The law requires rally organizers to notify the police 7 days in advance of a rally. The police may advise the organizers that the time or venue is inopportune. In practice the police did not interfere with most peaceful rallies whose leaders followed the prior notification rule and that could be described as politically neutral or favorable to the Government or MMD; however, authorities sometimes denied permission to proceed with rallies planned by the political opposition, particularly the United National Independence Party (UNIP).

The Zambia Independent Media Association was allowed to conduct a march for press freedom in March (see Section 2.a.). However, in April UNIP was denied permission to conduct a march protesting a decision of the Ndola High Court that declared former President Kaunda stateless due to his Malawian parentage and his failure to normalize his citizenship status at an appropriate time. The authorities gave no reason for denying the permission for the march, and no reason was apparent.

Two miners were wounded when police fired shots to disperse a meeting of the Mineworkers Union of Zambia (MUZ) in Luanshya in April. The MUZ was given

a permit for the rally on April 12, but the permit subsequently was revoked with the instruction that the meeting must be held in an enclosed place. The MUZ was issued a second permit after changing its meeting venue; however, on the day of the event, police informed MUZ officials that the Inspector General of Police had cancelled the event. The meeting went ahead, prompting the police to disperse the group.

Two opposition political activities were thwarted by private enterprises under suspicious circumstances. A press conference to be conducted by the United Party for National Democrats at a Lusaka nightclub was cancelled by the club the day before the scheduled event. The club stated that it was not authorized to host political activities, although no such restriction was stated during the initial scheduling. A new political party, the Zambia Alliance for Progress, was scheduled to launch its party officially at a sports complex in June. The sports complex cancelled the booking shortly before the date of the event, also stating that it was not authorized to host political activities. Both groups were able to hold subsequent meetings in different locations.

A group of approximately 20 women affiliated with the National Pressure Group was detained by police after a meeting by the group in the private residence of one of the members (see Section 1.d.).

Requests by the University of Zambia's student union to stage a peaceful protest over continued closure of the school were turned down in July. Seven students subsequently were arrested on suspicion of planning to proceed with the protest without permission. The students were released in July.

The Constitution provides for freedom of association; however, at time the Government restricted this right. All organizations must apply formally for registration to the registrar of societies. In most cases, authorities routinely approved these applications. However, the Registrar initially refused to register the Zambia Alliance for Progress, citing incompatibilities between the party's constitution and the national Constitution. The party amended its constitution and subsequently was registered. The Government also denied the application of a group of former servicemen who wanted to form an association. The Government argued that an organization for ex-servicemen already existed. There are currently 34 political parties and dozens of NGO's registered. The Government threatened to take action against those organizations that did not submit annual reports to the registrar of societies. In June the Ministry of Home Affairs deregistered more than 20 NGO's that did not comply with the reporting requirement.

In prior years, the Government has harassed and arrested NGO leaders. In 1996 authorities arrested NGO leaders, Alfred Zulu and Ngande Mwanajiti, and charged them with receiving financing from foreign governments. While the charges have not been dropped, they are not being pursued, and both men remained active and free throughout the year.

The Government pursued passage of a new NGO act during the year. The act would create an oversight committee dominated by government representatives. The proposed act also gives power to the Ministry of Home Affairs to regulate NGO activities without reference to purpose. NGO's have complained that the proposed act ignores a draft policy formulated jointly by the NGO community and the Government. NGO's further protest that the proposed act would restrict their freedom of assembly severely. The act was not taken to a vote in Parliament by year's end.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Although a 1996 amendment to the Constitution declared the country a Christian nation, the Government respects the right of all faiths to worship freely in practice. There are governmental controls that require the registration of religious groups. The Government approves all applications for registration from religious groups without discrimination. There were no reports that the Government rejected any religious groups that attempted to register or obtain licenses.

Some members of the Muslim community have complained that their religion has been discriminated against since the country was declared a Christian nation. They contend that they are unable freely to teach and practice Islam. However, other Muslim organizations state that they have not experienced any restrictions on their actions. There are mosques in the country, and the Government does not appear to hinder Muslim worship or teaching.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to move freely throughout the country, to reside in any part of the country, and to depart and return to the country without restriction; however, there were instances in which authorities limited freedom of movement.

The authorities generally respected these rights during the year, but police roadblocks to control criminal activity continued, and police sometimes extorted money and goods from motorists.

While there is no law specifically addressing the processing of refugees, the Government complies with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The U.N. High Commissioner for Refugees (UNHCR) estimated that there were approximately 220,000 refugees, mainly Angolans, in the country. The Government cooperated with the UNHCR in processing applications for refugee status.

The Government provided first asylum to approximately 25,000 refugees during the year. The majority of these came from the Democratic Republic of Congo in March and April due to ongoing fighting near Zambia's northern and Luapula provinces.

In June the Government detained six Namibians allegedly connected to a separatist movement in Namibia. The UNHCR requested access to the six to determine whether they sought asylum. The Government indicated that it would grant access, but it deported the six in August without providing the UNHCR with the opportunity for an interview. The UNHCR protested to the Government about the handling of these cases without regard to due process; the Government did not respond.

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

Citizens voted in national multiparty elections in November 1996; however, constitutional amendments barred the best known opposition candidate, former president and UNIP leader, Kenneth Kaunda, and his deputy, senior chief Inyambo Yeta, from running for the presidency, thereby restricting the right of citizens to change their government. The amendments enacted in 1996 require both parents of presidential candidates to be citizens by birth and disqualify tribal chiefs from running for the presidency unless they resign their chieftainship.

UNIP boycotted the elections and destroyed many party members' voter registration cards. Eleven political parties contested the presidential and National Assembly elections in 1996. The Government deregistered 14 opposition splinter parties for noncompliance with registration procedures. Approximately 50 percent of eligible voters registered. Of this total, almost 70 percent cast ballots. Although the MMD's use of government resources, including the state-owned media, during campaigns probably did not affect the final outcome, the elections' fairness nevertheless was put into question. The Government's failure to implement a transparent voter registration process raised doubts among opposition parties about the Government's willingness to have an open electoral process.

Local government elections, originally scheduled for 1995, were held in December 1998. While the Government acted within the limits of the law, it gave only 1 month's notice of the election date, which prompted opposition parties to complain that they had insufficient time to prepare campaigns. The short notice also meant that the Electoral Commission was ill prepared to conduct a large-scale operation. As a result, there were reports of administrative problems at polling stations, including voting registrars sent to the wrong polling stations, party symbols mixed up on ballots, and polling stations under-supplied with ballots. Voter turnout was extremely low. However, despite serious irregularities, the elections generally reflected the will of the electorate.

Under the Constitution, the President wields broad authority. The National Assembly ratifies major appointments and theoretically has broad powers, but the overwhelming majority held by the MMD effectively precludes independent action by the legislature and limits its ability to provide a check on executive authority. During the year, Parliament took steps to strengthen itself and to improve responsiveness to citizen concerns. Parliament currently is establishing a system for citizen input to bills before they are voted upon. An MMD backbencher complained in August that the front bench frequently attempted to rush through legislation without allowing adequate time for debate. Criticism by two MMD backbenchers and an opposition parliamentarian prompted the Government to withdraw a controversial state security bill (see Section 1.d.).

The number of women in politics and government is increasing but remains small, and women are underrepresented in Government. There are 15 female members in the 150-seat Parliament; 2 of these are ministers, and 3 are deputy ministers. There are three ethnic Asians in Parliament (one is a minister), and one mixed race (African-European) minister.

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

Human rights and civic rights organizations generally operated without serious government hindrance; however, the Zambian Independent Monitoring Team (ZIMT), Committee for a Clean Campaign (CCC), the African Human Rights Network (AFRONET), and the Foundation for Electoral Processes claimed that official harassment, including blocking their bank accounts continued during the year.

The Government continued to be receptive to criticism from human rights and civic organizations in general, but on occasion government officials accused human rights monitors of abetting crime and thwarting the work of the police through their focus on victims of police brutality.

Some domestic human rights organizations, including the Law Association of Zambia, Women for Change, the Catholic Commission for Justice and Peace, and the Zambia Civic Education Association have continued to press for a transparent democratic electoral system.

The Government generally did not interfere with inquiries or visits by international human rights organizations; however, Human Rights Watch and Amnesty International were not permitted to visit most of the coup detainees during 1998.

In May 1997, the Government established an autonomous Permanent Human Rights Commission, the PHRC. A Supreme Court justice chairs the Commission; other members are drawn from throughout society and include the former head of the Foundation for Democratic Processes and a University of Zambia lecturer on human rights. The Commission interceded on behalf of persons whose rights it believed were denied by the Government. In order to monitor human rights abuses actively at the local level, the Commission established human rights committees in all provincial capitals in 1998. While there were doubts at first about its autonomy and effectiveness, the Commission in 1997 aggressively sought and received access to the coup detainees, exposed the torture of seven of them, and demanded (and obtained) better medical care for them. The Commission spoke out on behalf of other detainees and prisoners, and the Government responded by releasing seriously ill prisoners at the Commission's request. In July the PHRC announced that it would employ prison inspectors to ensure that inmates are kept in habitable environments. The Government further responded to the Commission's recommendation by establishing in 1998 an inquiry to investigate torture claims by detainees. The inquiry is chaired by a High Court justice, and a principal resident magistrate is a member. The inquiry started in November with a series of public meetings (see Section 1.c.).

The Government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR) in detaining and sending to Arusha persons whom the ICTR identified as suspected war criminals.

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

The Constitution prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinion, color, or creed. Constitutional amendments barring native born Zambians of partial or full foreign ancestry from the presidency appear to violate the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs, who are accorded authority and privileges as chiefs, from running for political office unless they resign their chieftainships. A legal challenge to these amendments in 1996 was unsuccessful.

Women.—Violence against women remained a serious problem. Wife beating and rape were widespread. According to official statistics, over 4,700 rape cases were reported to the police between 1991 and 1998. Of these, approximately 30 percent resulted in conviction and 5 percent in acquittal. The remainder either were dismissed or remain unresolved. The courts normally sentence defendants convicted of rape to hard labor. Since many rape cases were not reported to police, the actual number is considered to be much higher. Domestic assault is a criminal offense. Although the police established a Victim Support Unit (VSU) to attend to the problem of domestic assault in 1997, in practice police often are reluctant to pursue reports of wife beating, preferring instead to broker a reconciliation. The Government and NGO's expressed continued concern about violence against women, and the media devoted considerable publicity to it during the year. The VSU handles problems of wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing."

Both the Constitution and the law entitle women to equality with men in most areas; however, in practice women are disadvantaged severely in formal employment and education compared with men. Married women who are employed often suffer from discriminatory conditions of service. Women have little independent access to credit facilities; in most cases, they remain dependent on their husbands,

who are required to co-sign for loans. As a result, few women own their own homes. However, some small financial institutions reportedly are now allowing women to sign independently for loans.

Customary law and practice also place women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legislative protections. Polygyny is permitted if the first wife agrees to it at the time of her wedding. Under the traditional customs prevalent in most ethnic groups, all rights to inherit property rest with the deceased man's family. The 1989 Intestate Succession Act was designed to provide women with a share of the joint estate. Under the act, the children of the deceased man equally share 50 percent; the widow receives 20 percent; the parents receive 20 percent; and other relatives receive 10 percent. A 1996 "reform" of the act places the widow's share at 20 percent, to be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines.

In practice "property grabbing" by the relatives of the deceased man remains rampant, particularly when local customary courts have jurisdiction. These courts often use a different law, the Local Courts Act, to distribute inheritances without reference to the percentages mandated by the Intestate Succession Act. Ignorance of the law on the part of victims is also a problem. As a result, many widows receive little or nothing from the estate. The fines that the Intestate Succession Act mandates for property grabbing are extremely low.

Children.—The Government seeks to improve the welfare of children, but scarce resources and ineffective implementation of social programs continue to affect adversely the welfare of children. Education is neither compulsory nor free. Due to poverty, both rural and urban children often work in the informal sector to help families make ends meet (see Section 6.d.). The number of street children in Lusaka jumped from 35,000 in 1991 to 90,000 in 1998, partly because of the growing number of parents who have died from AIDS. Approximately 75 percent of all households are caring for at least one orphan and, as a result, these children face greater risks of child abuse, sexual abuse, and child labor. Child abuse was believed to be fairly common, but no statistics were available.

People with Disabilities.—Persons with disabilities face significant societal discrimination in employment and education. The Government has taken steps to ameliorate their hardships, including establishing a national trust fund to provide loans to the disabled to help them start businesses, but its efforts are limited by scarce resources. The Government has not legislated or otherwise mandated accessibility to public buildings and services for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of citizens to form trade unions, and approximately 60 percent of the 300,000 formal sector workers are unionized. Eighteen of the country's 19 large national unions, organized by industry or profession, are affiliated with the Zambia Congress of Trade Unions (ZCTU). The ZCTU is operated democratically and, like its constituent unions, is independent of any political party and the Government. The Mineworkers' Union of Zambia and four other unions broke away from the ZCTU and established a rival umbrella organization in 1994. Four of them, including the Mineworkers' Union of Zambia, since have rejoined the ZCTU. The Mineworkers' Union rejoined the ZCTU during the year, leaving only the Zambia Union of Financial and Allied Workers outside the Congress.

The 1993 Industrial and Labor Relations Act (ILRA) reestablished the "one union, one industry" principle. The Bankers Union of Zambia, although registered with the Government in 1993, has been unable to operate because the employers recognize the existing Zambia Union of Financial and Allied Workers. In 1993 the Ndola High Court ordered the Government to register the Secondary School Teachers Union (SSTU) of Zambia. The Government continues to argue that the Zambia National Teachers Union (ZNUT) represents secondary school teachers and has delayed recognition of the new secondary school teachers union administratively. The SSTU sued the Government over its nonregistration, prompting the Government to register it in 1997. However, most teachers still belong to the ZNUT.

All workers have the right to strike, except those engaged in essential services. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the Intelligence Security Service, the ILRA defines as essential services power, medical, water, sewerage, fire fighting, and certain mining occupations essential to safety. It permits strikes only after all other legal recourse has been exhausted. The ILRA prohibits employers from retribution against employees engaged in legal union activities. Workers engaged in illegal strikes do not enjoy this protection.

By a majority vote of its members, a union may decide on affiliation with the ZCTU or with trade unions or organizations outside the country. The ZCTU is a member of the International Confederation of Free Trade Unions. Labor leaders travel without restrictions to international conferences and to visit counterparts abroad.

b. *The Right to Organize and Bargain Collectively.*—Employers and unions in each industry negotiate collective bargaining agreements through joint councils in which there is no government involvement. Civil servants and teachers, as public officials, negotiate directly with the Government. Collective disputes are referred first to conciliation. If conciliation fails to resolve the dispute, the parties may refer the case to the Industrial Relations Court, or, in the case of employees, vote to strike. In practice the industry joint councils function effectively as collective bargaining units.

The ILRA prohibits discrimination by employers against union members and organizers. An employee who believes that he has been penalized for union activities may, after exhausting any existing administrative channels for relief, file a complaint with the Industrial Relations Court. This court has the power to order appropriate redress for the aggrieved worker. The complainant may appeal a judgment of the Industrial Relations Court to the Supreme Court. In practice the Court often orders employers to reinstate workers found to have been victims of discrimination. This court, like other courts, has inadequate resources to address all of the cases before it in a timely manner.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits slavery and involuntary servitude, but it authorizes the Government to call upon citizens to perform labor in specific instances, for example, during national emergencies or disasters. Moreover, the Government can require citizens to perform labor that is associated with traditional civil or communal obligations, as when all members of a village are called upon to assist in preparing for a visit by a traditional leader or other dignitary. In practice bonded labor by adults or children is not permitted, and the labor authorities enforce the legal proscriptions when cases violating the law are brought to their attention (see Section 6.d.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment of children is 16 years. The Labor Commissioner effectively enforces this law in the industrial relations sector although, because of high adult unemployment, there is no demand for child labor in the formal sector. The law is not enforced for those who work in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often are employed. In urban areas, children commonly engage in street vending. There are an estimated 150,000 children in the workforce. At present, acute family poverty levels and economic factors motivate child labor. Forced or bonded labor by children is not permitted, and the authorities enforce legal proscriptions if cases of violations are brought to their attention (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum wage for nonunionized workers is set at $0.05 (70.30 kwacha) per hour. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a worker earning the minimum wage would receive $35 (90,000 kwacha) per month. The minimum wage covers nonunionized workers in categories such as general workers, cleaners, office orderlies, and watchmen. The minimum wage is insufficient to provide a worker and family with a decent standard of living, and most minimum wage earners supplement their incomes through second jobs, subsistence farming, or reliance on the extended family.

With respect to unionized workers, wage scales and maximum workweek limits are established through collective bargaining. In practice almost all unionized workers receive salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment is 40 hours and is, in practice, the normal workweek. The law requires 2 days of annual leave per month of service.

The law also regulates minimum health standards in industry, and the Department of Mines is responsible for enforcement. Factory safety is handled by the Inspector of Factories under the Minister of Labor, but staffing problems chronically limit enforcement effectiveness. There are no legislative provisions to protect a worker who refuses to work on grounds of inadequate safety.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

ZIMBABWE

Zimbabwe is a republic in which President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU–PF) have dominated the executive and legislative branches of the Government and have restricted political choice since independence in 1980. Although the Constitution allows for multiple parties, opposition parties have been subject both to financial restrictions which were relaxed only partially in 198, and to periodic intimidation by the ruling party and government security forces. The judiciary is generally independent, but the Government often refuses to abide by court decisions.

The Zimbabwe Republic Police (ZRP) are responsible for maintaining law and order. The Zimbabwe National Army and Air Force under the Defense Ministry are responsible for external security. The Central Intelligence Organization (CIO) under the Ministry of State Security is responsible for internal and external security but no longer has powers of arrest. Members of the security forces committed serious human rights abuses.

Of a population of perhaps 12 million, nearly half live by subsistence agriculture and about 75 percent rely directly or indirectly on agriculture for their livelihood; however, there are also substantial mining, manufacturing, and service sectors. The country has abundant arable land, minerals, good infrastructure, and educated and disciplined work force, and a strong ecotourism sector. Its chief sources of hard currency were exports of tobacco, gold, ferro-alloys, nickel, tourism, and remittances from citizens working in other countries. The non-farm economy continued to be dominated by state-owned monopolies and to suffer from mismanagement and poor governance including government corruption, and from large fiscal deficits exacerbated by the Government's military operations since 1998 in the Democratic Republic of the Congo (DROC). These conditions continued to contribute to accelerating price inflation, rapid currency depreciation, high real interest rates, and high unemployment. Over half the population relies on subsistence agriculture. The formal sector unemployment rate exceeds 55 percent. In 1998, per capita gross domestic product was approximately $425. During the year, the economy contracted and real per capita income fell. The Government continued to face growing pressure from urban labor groups and rural low-income groups as the standard of living dropped. Widespread strikes and opposition from private businesses as well as labor largely frustrated government efforts to impose new taxes and reimpose price controls. International experts estimated that HIV/AIDS infects one-fourth of the adult population and has killed nearly 600,000 persons and created hundreds of thousands of orphans since the late 1980's.

The Government's overall human rights record worsened significantly and there were serious problems in a growing number of areas. There were incidents of police killings. Security forces tortured, beat and otherwise abused persons. Prison conditions remained harsh, and arbitrary arrest and detention and lengthy pretrial detention remained problems. Executive branch officials repeatedly refused to implement court decisions; after three Supreme Court judges called on the President to require executive branch officials to obey the law, the President publicly suggested that they resign. Infringements on citizens' privacy continued. The Government announced that it would restrict state hiring to ruling party members. The Government intensified its restrictions on press freedom, enforcing restrictive laws against journalists, detaining, torturing and intimidating journalists, and monopolizing domestic radio broadcasting; the President blocked enactment of legislation passed by the Parliament that would have partly relaxed some legal restrictions on various human rights including freedom of the press, and threatened to enact laws that would further restrict press freedom. Journalists also practiced self-censorship. The Government continued to restrict academic freedom. The Government restricted freedom of assembly. Security forces repeatedly used force to disperse nonviolent public meetings and demonstrations. Although the Government generally respected religious freedom, its retention of the colonial-era Witchcraft Suppression Law reportedly was viewed as restrictive by some practitioners of traditional indigenous religions. The Government at times restricted freedom of movement. The political process remained heavily tilted in favor of the ruling party and widespread irregularities, fraud, and intimidation marred urban council elections. The Government effectively frustrated a movement, initiated by a coalition of nongovernmental organizations (NGO's), to reduce the power of the presidency through constitutional reform. The President criticized and threatened NGO's for promoting political liberalization and respect for human rights. Domestic violence against women remained widespread, and traditional, often illegal, discrimination against women continued. Abuse of children and discrimination against the disabled remained problems. There

were increasing reports of ritual murders associated with traditional religious practices. The President and his Government exacerbated widespread resentment of the economically prominent European ethnic minority. The Government increasingly violated labor rights, further restricting the right to strike and expelling a foreign adviser of an independent labor federation; members of the security forces beat a labor leader.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by government security forces, but there were reports of the use of excessive force, which resulted in deaths.

In March police instituted a system of roadblocks to apprehend suspected criminals, known as "Operation Hokoyo." Police killed two persons when they fired at moving vehicles that had attempted to evade the checkpoints. The police stopped using live ammunition during searches at roadblocks after public criticism over the deaths.

On September 23, Notice Zhakata reportedly died at Norton Hospital of injuries inflicted on him by police at the Kadoma police station, where he was detained following an arrest and from which he reportedly was taken, bleeding, to the hospital. According to press reports, a medical postmortem confirmed that Zhakata died of injuries due to an assault. According to press reports, police initially denied responsibility for the death, but in October a police spokesperson announced that police officers were arrested in connection with Zhakata's death.

Harsh prison conditions and a high incidence of HIV/AIDS are widely acknowledged to have contributed to a large number of deaths in prison; however, no current statistics on the exact number of deaths were known to exist. (see Section 1.c.).

In April the Vice President of Rwanda alleged that the armed forces of Zimbabwe had trained ethnic Hutu militias that committed extrajudicial killings and other serious human rights abuses in the DROC and Rwanda; in April the Ministry of Defense denied these reports, and no evidence to support them was reported.

In July the ZRP's Criminal Investigation Division reportedly identified an unnamed official of both the ZANU–PF and the Government as the subject of an investigation into three ritual killings committed in 1997 (see Section 5).

Police killed eight persons during the January 19–22, 1998 food riots. The Government conducted investigations into these cases, and private legal actions were instituted against the police. At year's end, those cases still were proceeding through the courts, and police investigations were ongoing. In March a magistrate court issued an opinion in the case of a 12-year-old girl, Kudzi Ndlovu, who was shot in Gweru during the riot on January 20, 1998, in which he concluded that her death resulted from a collapse in police command and inadequate riot control procedures by the officers on the scene. Due to the confusing and conflicting evidence about the police response in this case, the judge was unable to find any individual officer liable for this death. The magistrate court recommended that further "private investigations" be undertaken to assist the Attorney General in determining liability in the case. At year's end, there were no other developments in the case.

The Attorney General continued to decline to prosecute the mayor of Chitungwiza, Joseph Macheka, for shooting to death one man and wounding two others who allegedly attempted to rob Macheka's liquor store during the January 1998 food riots. Macheka was the successful ruling ZANU–PF party candidate in a contentious mayoral election campaign against an independent. The Attorney General determined that Macheka was acting in self-defense and therefore, that prosecution was not in the public interest. Legal and human rights critics accused the Attorney General of bowing to political pressure and usurping the function of the court.

There were no developments in the gasoline bombing case involving independent Member of Parliament Margaret Dongo, whom ZANU–PF supporters attacked with a gasoline bomb at a by-election in Chitungwiza in February 1998. There also were no new developments in the case of a police officer who fired into a crowd of persons protesting fuel price increases in Mutare in late 1998, killing one woman. The officer has not been prosecuted.

By year's end, the Government still had not responded formally to a report by the Legal Resources Foundation (LRF) and the Catholic Commission for Justice and Peace (CCJP) on atrocities committed during the 1982–87 Matabeleland crisis, despite the release of a shortened version that was made available in local languages. During the July 5 funeral for the former vice president Joshua Nkomo, President Mugabe said that he regretted the ″unfortunate happening″ that took place in

Matabelelanad, in reference to the numerous abuses committed in that region during the 1980's, without assigning blame or responsibility to any government forces.

b. *Disappearance.*—There were no reports of politically motivated disappearances. In November a leader of the Congolese Rally for Democracy, a Congolese insurgent group fighting against units of the Zimbabwean armed forces in the DROC, alleged that Zimbabwean troops kidnaped and held as hostages 17 missionaries of the Church of Jesus Christ on Earth of the Prophet Simon Kimbangu; however, there were no reports of evidence that supported this allegation.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and cruel and inhuman treatment; however, security forces tortured, beat, and otherwise abused persons.

The ZRP showed poor training in criminal apprehension and interrogation; officers used live ammunition at vehicle checkpoints, which resulted in several deaths (see Section 1.a.), and during student protests to disperse demonstrators (see Section 2.a.).

On January 12, the military police detained and subsequently tortured and beat an editor of The Standard newspaper, Mark Chavunduka, at Cranborne barracks following the newspaper's publication of a January 10 story that alleged that 23 army officers had been arrested in connection with an attempted military coup. Chavunduka credibly alleged that government officials subjected him to prolonged interrogations about the sources of the story until January 19, when he was handed over to the civilian police. On that same day, police also arrested a reporter for The Standard, Ray Choto, and took both Chavunduka and Choto to a detention center where, they credibly alleged, police beat them over several hours with planks, electric cords, fists, and booted feet. Chavunduka alleged that police stripped him, placed his head under water, and then handcuffed him and subjected him to electric shocks on his genitals and other parts of his body while continuing to interrogate him about the sources of his coup story. Chavunduka also alleged that one of his eardrums was perforated following beatings to his head during his detention. On January 20, Chavunduka and Choto were seen by an army doctor at Parirenyatwa hospital, who found that both journalists sustained injuries while in custody. The two journalists, charged under the Law and Order Maintenance Act (LOMA) with making a false statement likely to "cause fear, alarm, and despondency" among the public (see Section 2.a.), were released on bail and seen by private doctors on January 21, who concluded that there was no doubt that their injuries were the result of torture. A third doctor examined the journalists on January 23, and also found that they were abused physically while in custody. In March Chavunduka and Choto were treated in London (see Section 2.d.) for physical and psychological injuries that they sustained while in the custody of the military and civilian police in January. Two separate High Court judges issued orders for the release of the journalists in early January, since the military has no authority to arrest civilians. The military refused to release the journalists, claiming defects in the service of the court orders. On January 23, in an interview with the British Broadcasting Corporation (BBC), Minister of Defense Moven Mahachi denied that the journalists were abused. Minister Mahachi subsequently stated that the military had overreacted in the case of the journalists due to anger over the story, which he credibly claimed was incorrect. The Minister then reiterated his denial of any mistreatment by the military. Chavunduka and Choto sued the military, police, Central Intelligence Organization, and several individual officers in the Supreme Court, seeking damages for their abuse while in custody and challenging the LOMA's constitutionality. At year's end, neither the State's case under the LOMA nor the journalists' suit for the alleged mistreatment had been concluded.

On January 20 in Harare, three men, one of whom later was identified as a police officer, reportedly assaulted Isodore Zindoga, deputy secretary general of the Zimbabwe Confederation of Trade Unions (ZCTU). According to Zindoga, the three men beat him unconscious with an iron pole when he asked them why they had been following him by car. The assault followed confrontations between the ZCTU and the Government (see Section 6.a.); in December 1997, the ZCTU's secretary general had been beaten unconscious by seven armed men.

In a televised address to the nation on February 6, President Mugabe, in response to a request from Supreme Court justices that he reaffirm his commitment to the rule of law, defended the actions of the security forces in the case of the Standard journalists and suggested that the justices resign (see Section 1.e.).

Police officials held incommunicado, tortured, and physically abused three American members of the Indiana-based Harvestfield Ministries that had a mission in the DROC, following their arrest on March 7 at Harare International Airport, where officials discovered undeclared weapons in their suitcases as they attempted to board a flight to Europe. They were taken into custody and charged under the

LOMA for illegal possession of arms of war and for violating the Aircraft Offenses Act. The Government initially accused them in court and in the press of espionage and conspiring to commit terrorist acts and implied that they had conspired to assassinate President Mugabe, but ceased making those charges in July without explanation. The three men stated that their jailers applied electric shocks to their genitals, beat their feet with leather straps, submerged their heads under water, and deprived them of sleep during their first few days of interrogation. Reports written by three physicians who examined the three men on March 13, 15 and 18 reportedly confirmed that all three were beaten on the soles of their feet and their findings were in other respects consistent with the abuse alleged by the prisoners. In prison the three men were subjected to harsh conditions, including being forced to sleep naked and shackled with leg irons, and with the lights on 24 hours a day. In response to a court order to improve the conditions of their imprisonment (see Section 1.e.), President Mugabe issued an executive order stating that prison officials (rather than courts) were competent to determine prison conditions (see Section 1.e.). In September the three were found guilty of violations of sections of the LOMA and the Aircraft Offenses Act and were given concurrent sentences of 21 months under the LOMA and 6 months under the Aircraft Offenses Act. The Attorney General, in state-owned media, criticized the court for the leniency of these sentences (see Section 1.e.). The three men were released and deported in early November, after having been incarcerated for 8 months.

On March 16 and 17, the Chitungwiza police arrested and for the following 6 months detained, separately, a married couple, Joyce and Shupikai Karimazondo, in response to allegations by a neighbor that they had killed their young domestic worker for ritual purposes (see Sections 2.c. and 5). Mrs. Karimazondo alleged that she was chained to rafters in the roof, subjected to electric shocks to her body, and was beaten between her legs by members of the criminal investigations division who sought to extract a confession of murder from her. She alleged she was beaten further by other officers over 4 days. Another person the police claimed had participated in the crime, John Mita, also was arrested, and he, too, alleged that the police assaulted him while he was in custody. The Karimazondos and Mita were released, and the murder charge was dropped in September after the domestic worker was located alive and unharmed. The Magistrate Court declined the Karimazondos' defense counsel's application to have the State prosecute the investigating officers for misconduct and unlawful detention. Mita stated that he was suing the Government for unlawful detention. A local organization that treats torture victims, the Amani Trust, is investigating these allegations. At year's end, these investigations and legal challenges still were proceeding.

In September Notice Zhakata reportedly died at Norton Hospital of physical abuse inflicted by police at the Kadoma police station while he was detained there (see Section 1.a.).

Security forces repeatedly used force to disperse nonviolent demonstrations (see Section 2.b.).

In June, CIO officer Richard Mutswiri Mutiti reportedly filed a suit with the High Court alleging that four other CIO officials had beaten and kicked him, doused him with a flammable petroleum distillate, and threatened to burn him, while detaining him without warrant at the Harare Central Police Station from June 25 to June 27, 1998. A CIO disciplinary committee reportedly had recommended the firing of the four officials in 1998, and one reportedly resigned soon thereafter, but three reportedly remained employed by the CIO at year's end.

The Government generally has not pursued actively past allegations of torture and has not prosecuted CIO or ZRP officers for such abuses. The CIO continued to refuse to pay court-ordered damages to a 1990 torture victim (see Section 1.e.). A consortium of human rights lawyers and nongovernmental organizations (NGO's) pursued legal actions in 40 cases on behalf of persons who alleged that they had been injured by state officials during the 1998 food riots (see Section 1.d.). Those cases were proceeding through the legal system at year's end.

In late January, a member of the CIO was sentenced to 8 months' imprisonment, half of which was suspended, for assaulting six journalists in Masvingo. The CIO member had accused the journalists of misrepresenting the security situation in the country.

Prison conditions remained harsh and have improved little since the Catholic Commission for Justice and Peace (CCJP) issued its 1993 report describing extreme overcrowding, shortages of clothing, and poor sanitary conditions. Overcrowding and poor sanitation aggravated outbreaks of cholera, diarrhea, and AIDS-related illnesses. Government prison service authorities reviewed overcrowding in prisons during a 1998 workshop and concluded that exposure to HIV/AIDS was a major cause of a large number of deaths in detention; however, no statistics are available

on the exact number of such deaths, and prison authorities called for more research to address this growing problem, with some arguing for early release of such terminally ill prisoners. There has been a significant increase in the number of women incarcerated, primarily due to harsh economic conditions. There are an estimated 1,000 women in prison, increasingly for crimes of prostitution, embezzlement, fraud, petty theft, and abandonment of infants. Many incarcerated women are obliged to raise their very young children in prison if they have no one to care for them while they are detained. The Government has established a successful community service sentencing program to try to alleviate prison overcrowding. The Legal Resource Foundation, in cooperation with the prison service, has established a human rights training program for prison officials. Officials who mistreat prisoners are punished routinely.

The Government permits international human rights monitors to visit prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, some laws effectively weaken this prohibition and security forces arbitrarily arrested and detained persons repeatedly.

The law requires that police inform an arrested person of the charges against him before he is taken into custody. Warrants of arrest issued by the courts are required except in cases of serious crimes or where there is the risk of evidence disappearing. The Ministry of Home Affairs paid $112,500 (Z$4.5 million) in damages for wrongful arrest cases in 1996, the last year for which statistics were known.

Although a preliminary hearing before a magistrate is required within 48 hours of an arrest (or 96 hours over a weekend), the law often is disregarded if a person does not have legal representation. A 1992 amendment to the Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the Attorney General or his agents. However, in practice, a circular issued by the Attorney General giving a general authority to grant bail has lessened the negative impact of the rule. High Court judges grant bail independently.

Two laws dating from the British colonial era, the Official Secrets Act and the LOMA, grant the Government a wide range of legal powers. LOMA gives extensive powers to the police, the Minister of Home Affairs, and the President to prosecute anyone for political and security crimes that are not clearly defined.

In 1997 the Government proposed new legislation called the Public Order and Security Bill (POSB), to replace the LOMA. The original POSB was less restrictive than the LOMA only in some respects. During the following 2 years, the Parliament significantly amended the POSB to reflect the concerns of human rights and legal organizations, which had protested the Government's original draft as insufficiently liberal. Although even the amended version that the Parliament sent to President Mugabe for his signature was similar to the LOMA in including vague definitions of political and security crimes, harsh penalties for failure to report the acts of others, and restrictions on freedom of assembly, speech, and association, President Mugabe declined to sign it, and returned it to the Parliament in early June for further consultation and possible amendment. Mugabe reportedly wrote to the Speaker of Parliament that he refused to sign the POSB because it was excessively liberal, especially with respect to freedom of the press (see Section 2.a.).

In January military and civilian police detained and physically abused two journalists from The Standard and charged them with violating Section 50 of the LOMA (see Sections 1.c. and 2.a.). Two separate High Court judges issued orders for the release of the journalists in early January, since the military, which originally arrested the journalists, has no authority to arrest civilians. The military initially refused to release the journalists, claiming defects in the service of the court orders, but they were released on bail after being arraigned later the same month (see Section 1.e.).

Police also briefly detained the managing director of The Standard in January (see Section 2.a.).

In February police detained and interrogated four journalists associated with an independent weekly newspaper, The Mirror, and charged two of them with violating Section 50 of the LOMA, in connection with a story published in October 1998 that the Government stated was false (see Section 2.a.).

At year's end, the Government reportedly was holding about 80 foreigners in Harare Remand Prison who had been there for between 2 months and 1 year without having been charged formally. Many of these detainees reportedly were persons from the DROC claiming to fear persecution by the Government of the DROC, which the Government of Zimbabwe was supporting militarily against insurgent forces.

In June a CIO officer filed a suit alleging that other CIO officials had detained him without warrant in June 1998 (see Section 1.c.).

On July 2, the Zimbabwe Human Rights NGO Forum (a coalition of human rights lawyers and NGO's) released a follow-up report to its 1998 report on the January 19–22, 1998 food riots. The report noted that the police claimed that a total of 3,000 persons were arrested during the 3 days of rioting and 2 days of clean-up. The overwhelming majority of those arrested were released within a 2-week period; the Rights Forum concluded that 70 percent of those arrested could not be convicted because of lack of credible charges or flawed arrests by the police and army. Its report also claimed that some persons were victims of uneven justice. For example, those arrested first received harsh sentences or were in remand without trial. Those arrested later were released quickly, as the system was overwhelmed.

There were no developments in the case of the Reverend Ndabaningi Sithole, an opposition M.P. and longtime rival of President Mugabe, was convicted and sentenced in December 1997 to 2 years' imprisonment under the LOMA for conspiring to assassinate President Mugabe in 1995. Sithole was expelled from Parliament following his conviction, which was widely viewed as having been based on scant evidence (see Section 1.e.). In January 1998, Sithole filed an appeal, and the sentencing judge called for a pardon. At year's end the appeal still was pending, and Sithole remained free on bail.

Prolonged pretrial detention remained a problem. According to government reports, 6,000 prisoners were pretrial detainees. In 1991 (the last year for which statistics were available), detainees spent an average of 6 months incarcerated before their trials because of a critical shortage of magistrates and court interpreters.

The Constitution prohibits exile, and the Government does not use exile as a means of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and in practice the judiciary remained largely independent; however, the Government sometimes refused to abide by judicial decisions. The President suggested that three Supreme Court justices resign, after they requested that he require executive branch officials to obey court orders.

The Customary Law and Local Courts Act of 1990 created a unitary court system, consisting of headmen's courts, chiefs' courts, magistrates' courts, the High Court, and the Supreme Court. With this restructuring, civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Judges are appointed for life and the Constitution provides that they can be removed from the bench only for gross misconduct, and that they cannot be discharged or transferred for political reasons. Magistrates, who are part of the civil service rather than the judiciary, hear the vast majority of cases and sometimes are subject to political pressure. Military courts deal with disciplinary or court-martial proceedings. Police courts, which can sentence a police officer to confinement to camp or demotion, handle disciplinary and misconduct cases. Trials in both these latter courts meet internationally accepted standards for fair trials; defendants in these courts have the right to appeal to the Supreme Court. All levels of the judiciary often make rulings disliked by the Government.

The Constitution provides for the right to a fair trial, and the judiciary rigorously enforces this right. Every defendant has the right to a lawyer of his choosing. However, well over 90 percent of defendants in magistrates' courts do not have legal representation. In criminal cases, an indigent defendant may apply to have the Government provide an attorney, but this is rarely done and rarely granted. However, in capital cases the Government provides an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the NGO Legal Resources Foundation. The government-established Citizens Advice Bureau was eliminated due to budget constraints in 1997. All litigants are represented in the High Court. The Supreme Court has instructed magistrates to ensure that unrepresented defendants fully understand their rights and to weigh any mitigating circumstances in criminal cases, whether or not the accused presents them as part of his defense.

The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed. Trials are open to the public except in certain security cases. Defendants enjoy a presumption of innocence and the right to present witnesses and question witnesses against them. Defendants and their attorneys generally have access to government-held evidence relevant to their cases. The legal system does not discriminate against women or minorities. However, some High Court judges imposed lenient sentences in some cases of rape and child sexual abuse, and local women's and legal organizations challenged these decisions.

In January military officials who illegally had detained a newspaper editor failed to comply with two court orders to release the journalist (see Sections 1.c., 1.d., and 2.a.).

In a televised address to the nation on February 6, President Mugabe criticized the judiciary for what he asserted to be interference in political matters and implicitly threatened the members of the judiciary by suggesting that they quit the bench if they wanted to be involved in politics. Mugabe accused three Supreme Court judges and one High Court judge of "an outrageous act of deliberate impudence" for speaking against the illegal detention of two journalists (see Sections 1.d. and 2.a.). The President's comments came after several Supreme and High Court judges wrote the President to urge him to reaffirm the rule of law following the military's refusal to obey two court orders to release journalists from The Standard, who were tortured while in custody in January (see Section 1.c.). The justices remained on the bench.

In early July, prison authorities failed to comply with an order issued by the Chief Justice of the Supreme Court to bring to court the three Americans who were tortured while in custody (see Section 1.c.). In September, the Attorney General criticized the judiciary in state-owned media for what the Government perceived to be a court's excessive leniency in sentencing the same three persons. In response the court ordered the Attorney General to show why he should not be held in contempt of court, and a contempt hearing was held in early October.

In late July, the President exercised his authority under the Presidential Powers Act to issue an executive order stating that prison officials (rather than courts) were competent to determine prison conditions. The President's action effectively overrode a court order that instructed prison officials to allow the three American prisoners who were detained since March 7 to be housed together to enable them to prepare a joint defense (see Section 1.c.).

In November officials of the Ministry of Defense reportedly blocked a court official from serving a summons on five military officers in connection with the January detention of journalists employed by The Standard newspaper (see Sections 1.c., 1.d, and 2.a.).

The Government continued routinely to delay payment of court costs or judgments awarded against it. For example, the CIO continued its refusal to pay damages awarded by the High Court to a former opposition party official whom CIO agents had tortured in 1990.

The Government repeatedly has amended the Constitution in response to judicial rulings protective of human rights. For example, Amendment 11 (1992) changed the Constitution to allow corporal punishment of minors after the Supreme Court ruled that caning of minors constituted cruel and inhuman punishment. Amendment 14 (1996), which denies both men and women the right to confer automatic residency on their foreign spouses, was passed in response to a 1994 Supreme Court ruling declaring that women should have the same rights as men to confer residency and citizenship on their spouses (see Section 2.d.). Amendments to the Constitution are not ratified by the public but are subject only to the ZANU-PF-dominated Parliament's approval.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence*.—The Constitution prohibits arbitrary interference with these rights; however, while Government authorities generally respect citizens' right to privacy and violations are subject to legal sanction, the Government sometimes monitors private correspondence and telephones, particularly international communications.

Human rights groups are concerned that Amendment 14 erodes these constitutional rights by repealing Section 11 of the Constitution which specifies protection for the right to the privacy of one's home and from the compulsory acquisition of property without compensation.

About one-third of the country's most productive land is owned and farmed by about 4,000 families belonging to the country's European ethnic minority. The need for land reform is accepted almost universally; however, there are problems with implementation of the 1992 Land Acquisition Act (Land Act). Under the Land Act, farmers whose lands have been designated for acquisition and redistribution by the State may appeal only the amount of compensation, not the initial decision to acquire their farms. However, President Mugabe repeatedly has said that the Government would not compensate for land, but only for improvements, a position not sustainable under the act. Although the President reversed that position during the Government's September 1998 land conference for international donors when government ministers promised to abide by the act, Mugabe publicly stated in December that the Government intended to accelerate its land reform efforts without paying compensation for land. In the past, the act was implemented largely along racial lines; the Government stated that black-owned commercial farms would not be subject to acquisition. However, some of the original 1,461 farms designated in November 1997 for compulsory land acquisition, many of which remain on the revised list,

are owned by the black, urban elite. In some cases, land apparently was targeted for acquisition to achieve political goals.

During the year, the Government did not expropriate any of the 841 farms designated for acquisition under the land reform program. In February the Administrative Court annulled the acquisition orders for 520 of these 841 farms, ruling that the Government had failed to follow proper administrative procedures for filing second acquisition notices on the properties in November 1998. (The Government filed its first acquisition notices in November 1997 and was required to renew the notices after 12 months.) The court also ruled that the Government must designate individual farms for acquisition and provide fair and full compensation for each. After the court rulings, the Government initially turned its attention away from the compulsory acquisition of the 841 farms, focusing instead on 120 farms already being offered willingly for sale by the owners. However, in December President Mugabe publicly reaffirmed his intention to expropriate farmland from Europeans without compensating them, and urged adoption of a draft constitution that provided for such acquisitions for resettlement purposes.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression but allows for legislation to limit this freedom in the "interest of defense, public safety, public order, state economic interests, public morality, and public health," and the Government restricted this right in practice.

The Government and security forces arbitrarily detained journalists, disobeyed court orders to release journalists, refused to punish security force members who tortured journalists, and monopolized domestic broadcast media. The President publicly criticized the independent press and vetoed a bill passed by the Parliament that would have removed some legal restrictions on press freedom, and government ministers threatened to enact laws that would restrict media freedom still further. Journalists practice self-censorship.

Sections 44 and 50 of the LOMA criminalize and allow the Government to suppress the publication of any "subversive" statement or of "a false story capable of causing alarm and despondency." An extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons alike.

Most major print media (seven English-language newspapers and one local-language tabloid) belong to the Mass Media Trust (MMT), a holding company heavily influenced by the ruling party. Until April the Government, through the MMT, controlled the only two daily newspapers, the Chronicle and the Herald. The news coverage in these newspapers generally focused on the activities of government officials, neglected opposition parties and other antigovernment groups, and also neglected events or information that reflected adversely on the Government. The government-controlled media never criticized President Mugabe. In addition, the Ministry of Information controls the Zimbabwe Inter-Africa News Agency wire service.

The independent press remained small relative to the MMT-owned press. Independent newspapers that appeared regularly and had more than 3,000 subscribers were relatively few: one daily (The Daily News), three weeklies (The Financial Gazette, the Independent, and The Standard), and three monthlies. In 1998 a new privately owned consortium, Associated Newspapers of Zimbabwe (ANZ), which was 60 percent foreign-owned in 1998 but only 40 percent foreign-owned by year's end, launched five weeklies tailored to community-level readership. Three of the ANZ weekly newspapers have closed due to financial problems arising from limited advertising revenue; two remained open at year's end. In April the ANZ launched the country's first independent daily newspaper, The Daily News. The major independent newspapers continued to monitor government policies and open their pages to opposition critics, but most of them also continued to exercise some self-censorship in reporting due to growing government intimidation of the press and the continuing prospect of prosecution under criminal libel laws.

The Government increasingly tolerated private media criticism of official corruption, as a number of widely publicized reports on malfeasance in government parastatals and ministries, notably the National Oil Company of Zimbabwe, appeared in both independent and MMT-owned newspapers. The Government did not prosecute any journalists or newspapers in connection with these reports; in past years, government prosecutions for criminal libel in connection with reporting of government corruption had resulted in the closure of some newspapers.

However, in other respects the Government was increasingly intolerant of freedom of the press, including reports perceived to be critical of the military.

Between January 12 and January 21, military and civilian police detained, tortured, beat, and otherwise abused two journalists for The Standard, Mark

Chavunduka and Ray Choto, who reported in a story published by the Standard on January 10 that 23 army officers were arrested in connection with an attempted military coup. Both journalists stated that this mistreatment occurred in the context of prolonged interrogation about their sources for the report. Military and police officials refused repeatedly to comply with court orders to release one of these journalists (see Section 1.e.). On January 19, the Government charged the two journalists under Section 50 of the LOMA with "publishing a false story capable of causing alarm or despondency." The two journalists subsequently filed suit against members of the security forces for damages to compensate them for the torture and illegal detention, and challenged the constitutionality of the LOMA (see Sections 1.c. and 1.d.). At year's end the two journalists remained free on bail; their court cases were still pending.

On January 22, a Friday, police arrested and detained Clive Wilson, managing director of The Standard. He was interrogated over the weekend in connection with The Standard's January 10 coup story and then released.

On January 20, in Masvingo in the southern region of the country, CIO officers reportedly beat several journalists working for two independent newspapers, The Zimbabwe Mirror and The Tribune, including Tribune subeditor Ray Matikinye; the officers reportedly criticized the journalists for publishing antigovernment stories while beating them.

On February 6, in a televised address to the nation, President Mugabe suggested that three Supreme Court justices resign; in the wake of the illegal detention and torture of The Standard journalists, the three justices had requested that the President reaffirm his Government's commitment to the rule of law by requiring executive branch officials to obey court orders (see Section 1.e.). In the same address, Mugabe criticized and threatened to take "very stern measures" against the independent media, singling out in particular domestic media owned by members of the country's European ethnic minority and by white foreigners. During the days following the President's address, MMT-owned newspapers and state-owned broadcast media repeatedly featured editorials and opinion pieces criticizing "white-owned" or "white-controlled" media, which were characterized as opposing the Government's land reform program and as seeking to destabilize the Government (see Sections 1.f. and 5). During an interview broadcast by state-owned television on February 15, Defense Minister Moven Mahachi criticized media reporting that caused "general despondency" and "bad publicity," and stated that unless the media exercised greater self-censorship, "the Minister of Information will enable the Government to bar some private media organizations from operating in Zimbabwe." This threat generally was understood to be directed at the ANZ.

On February 7, the chief of the Law and Order Section of the police detained four journalists affiliated with The Mirror, an independent weekly newspaper: owner Ibbo Mandaza; managing editor Fernando Goncalves; reporter Grace Kwinjeh; and former editor Farai Mungazi, in connection with a story, published in November 1998, which reported that the army surreptitiously had repatriated and buried the headless body of a soldier killed in the DROC. The police released Goncalves and Mungazi after brief questioning but charged Mandaza and Kwinjeh with violating Section 50 of the LOMA; a court released Mandaza and Kwinjeh on bail on Feburary 9. The Government subsequently dropped the charges against Mandaza and Kwinjeh.

In February in Harare an army sergeant based at Cranborne Barracks, where The Standard journalist Chavunduka was tortured in February, reportedly seized from a street vendor and publicly burned 16 copies of The Standard; the sergeant also reportedly threatened to kill the vendor if he continued to sell the newspaper. The lead story in the burned issue concerned the construction of a new mansion for President Mugabe. In late February, a police spokesperson stated that the police would charge the sergeant with malicious injury to property.

In June President Mugabe declined to sign and thereby effectively vetoed a bill (the POSB) passed by Parliament that the Government originally had proposed in 1997 to replace the LOMA, but which the Parliament had amended to relax various restrictions on human rights, including freedom of the press. Mugabe reportedly wrote to the Speaker of Parliament that he refused to sign the POSB because it was excessively liberal, especially with respect to freedom of the press (see Section 1.d.).

In November two journalists working for independent newspapers, Basildon Peta of the Financial Gazette and Ray Choto of The Standard, reportedly received anonymous death threats. A written death threat reportedly was delivered to Choto's home attached to a teddy bear that had two bullets tied on its neck. Peta reportedly received a written death threat with three bullets.

Books and films are subject to review by the Zimbabwe Board of Censors.

Radio remained the most important medium of public communication, especially for the majority of the population living in rural areas. The Government continued to control all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Corporation (ZBC), supervised by the Ministry of Information. There were credible reports that the Ministry routinely reviewed ZBC news and repeatedly excised reports on the activities of groups and organizations opposed to or critical of the Government, including antigovernment demonstrations and the ZCTU. In December the ZBC, reportedly at the order of the Ministry, stopped broadcasting a popular phone-in talk show in which citizens increasingly had voiced criticism of the Government.

The Government appeared effectively to control, although the State no longer owned, all domestic television broadcasting stations. The ZBC, under the supervision of the Ministry of Information, owns and operates television broadcasting facilities. Following a Supreme Court ruling that the Government's monopoly on telecommunications was unconstitutional because it interfered with the right to freedom of expression, the Government for the first time granted a broadcasting license to private television station, Joy Television (Joy TV). However, President Mugabe's nephew, Leo Mugabe, reportedly has financial ties to Joy TV, and the ZBC reportedly exercises editorial control over Joy TV's programming. Joy TV remained the only privately licensed television station, and it remained restricted to broadcasting on an available channel leased from the ZBC; creation of an independent transmission facility remained restricted under the Broadcasting Act. However, international television broadcasts were available freely through private cable and satellite firms.

The Government does not restrict access to the Internet. During the year, there were many privately owned domestic Internet service providers.

The National Constitutional Assembly (NCA) accused the government-influenced newspaper The Herald and the ZBC of refusing to publish previously accepted advertising from the NCA about its proposed constitutional process because of government orders to ban the NCA from disseminating its alternative message on the constitutional process. After the NCA threatened a court challenge, advertisements resumed in the government-influenced media, but then ceased again without explanation.

The University of Zimbabwe (UZ) Amendment Act and the National Council for Higher Education Act curtail academic freedom by restricting the independence of universities, making them subject to government influence, and extending the disciplinary powers of the university authorities against staff and students. The Ministry of Higher Education and Technology controls the UZ and appoints its Chancellor and Vice Chancellors; since 1998 the Ministry also has appointed the Dean of Faculty, previously elected by the faculty, and most members of the University Council, which previously consisted largely of faculty members. The 1998 expansion of the Government's control of the UZ, which had been a subject of student protests in 1998, was cited as a subject of concern to the faculty in a parliamentary committee report in June.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government resticted this right in practice. The Government used laws that restrict this right, including the LOMA, enforced those restrictions, and repeatedly used force to break up nonviolent demonstrations by its critics. Permits are not required for meetings or demonstrations.

On February 8, riot police reportedly used tear gas to disperse an assembly of striking catering industry workers in Harare's tourist hotel district (see Section 6.a.). Police maintained that the striking caterers had tried to use force against nonstriking caterers at a nearby hotel; strikers maintained that the police had gassed them without any provocation.

On February 10, near the UZ campus in Harare, police used tear gas to break up a demonstration by UZ students who voiced both financial and political grievances.

On July 12 and 13, riot police used force to disperse demonstrations at sites in Harare, including ZANU–PF headquarters and the President's official residence, by an estimated 2,000 veterans and wives of veterans of the ZANU–PF and other guerrilla forces that had fought against Ian Smith's white settler regime during the 1970's, and some persons who had suffered prolonged detention or imprisonment by that regime. The veterans and former detainees were demanding financial benefits and an audience with the President. Riot police reportedly used tear gas, used their batons to beat many veterans and their wives including elderly persons, and made at least 14 arrests.

During the night of September 10–11, unknown persons disrupted a mass rally to launch a new labor-based opposition party at Harare's Rufaro Stadium by dam-

aging most of the stadium's electrical power transformers; although event organizers restored power for loudspeakers and lights by bringing in generators, the start of the meeting was delayed by 2 hours.

On October 26, riot police used tear gas to prevent some 3,000 demonstrating UZ students from marching to the city center. The demonstration reportedly became violent after the police obstructed its march.

On December 11, riot police in Harare repeatedly used force, including tear gas and baton beatings, to disperse nonviolent demonstrations organized by the National Constitutional Assembly (NCA), a coalition of NGO's and political parties, to protest the Government's domination and diversion of a constitutional reform process that the NCA had initiated (see Section 3). The demonstrators whom police gassed and beat reportedly included women and clergy.

The Constitution provides for freedom of association for political and nonpolitical organizations, including a broad spectrum of economic, social, and professional groups, and the Government generally respects this right in practice. The formation of unions and political parties is not restricted. Organizations generally are free of governmental interference as long as their activities are viewed as nonpolitical.

In a case brought by a women's NGO, the Supreme Court ruled unconstitutional those sections of the 1995 Private Voluntary Organizations Act, which had empowered the Minister of Social Welfare, Labor, and Public Service to suspend the executive body or "any member of the executive committee of an organization and to appoint persons to manage the affairs of the organization for a specified time." Prior to the Supreme Court's ruling, several new NGO's set up their organizations as "associations" connected with established NGO's so that their executive bodies would not be subject to government interference.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, a law that reportedly criminalizes both purporting to practice witchcraft and accusing persons of practicing witchcraft reportedly was viewed as restrictive by some practitioners of indigenous religions.

Although 60 percent of the population are at least nominally Christian, many persons continue to practice, in varying degrees, traditional indigenous religions. Belief in traditional healers reportedly spans both rural and urban areas. Traditional healers are so common that they are licensed and regulated. Healing is central to traditional indigenous religion in the country. Witchcraft—widely understood to encompass attempts to harm others not only by magic but also by covert means of established efficacy such as poisons—traditionally has been a common explanation for diseases of which the causes were unknown. Although traditional indigenous religions generally include or accommodate belief in the efficacy of witchcraft, they generally approve of harmful witchcraft only for defensive or retaliatory purposes and purport to offer protection against it. In recent years, interest in healing through traditional religion and through prayer reportedly has increased as HIV/AIDS has infected an estimated one-quarter of the adult population, and affordable science-based medicines effective in treating HIV/AIDS have remained unavailable.

The 1890 Witchcraft Suppression Act (WSA) reportedly criminalizes purporting to practice witchcraft, accusing persons of practicing witchcraft, hunting witches, and soliciting persons to name witches; penalties reportedly include imprisonment for as much as 7 years. The law reportedly defines witchcraft as the practice of sorcery, without reference to the consequences intended by the practitioner. Since 1997 the Zimbabwe National African Traditional Healers' Association (ZINATHA) has proposed amendments to the 1890 law that would redefine witchcraft in terms of intent to cause harm including illness, injury, or death. However, such legislation reportedly has been opposed by mainstream Christian churches. The existing WSA also generally was supported by human rights groups; the Act has been used since independence primarily to protect people, primarily women, who have been accused falsely of causing harm to people or crops in rural areas where traditional religious practices are strong.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, there were reports that the Government at times failed to respect them in practice.

In February the Government refused to allow two journalists who were tortured by security forces, and who were charged with violations of the LOMA, to travel abroad for medical treatment (see Section 2.a.). The Government confiscated the passports of the journalists. However, in early March, a court ruled that the Government had to return the journalists' passports and allow them to travel overseas. The Government complied with this order.

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

Government provides first asylum. According to the Government, 130 asylum seekers were given refugee status, and at least 5 persons were denied first asylum during the year. At year's end, there were reportedly 1,492 refugees in Zimbabwe from more than 20 countries; the largest groups consisted of 244 Rwandans, 228 Burundians, 213 Somalis, 169 Sudanese, 160 Congolese (DROC), and 139 Angolans.

There were no confirmed reports of the forced expulsion of persons having a valid claim to refugee status.

There was a press report that the Government arrested refugees from the DROC and arbitrarily subjected them to prolonged detention in a prison (see Section 2.d.).

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

Although citizens have the legal right to change their Government democratically, in practice the political process continued to be tilted heavily in favor of President Mugabe and his ZANU–PF party, which have ruled continuously since independence in 1980. The ruling party's candidates benefit from its control of the state-owned firms that dominate the country's economy, from its control of the state-monopolized broadcast media (see Section 2.a.), and from its near-monopoly on overt state grants for political campaigns. In 1998 the Supreme Court ruled unconstitutional provisions of the Political Parties Finance Act (PPFA) that allocated state grants among political parties in proportion to the parties' seats already in the Parliament. In response the Government, later in 1998, amended the PPFA to allocate campaign grants among parties in proportion to votes received in the last general election, with a minimum of 5 percent required. There also were credible reports of security force harassment of opposition and independent candidates and their supporters.

On January 25, the Government announced in The Herald that the State, by far the country's largest employer, henceforth would hire new employees only if they were members of the ZANU–PF ruling party. By February there were reports that the Government had begun requiring newly hired civil servants to swear oaths of loyalty to the ZANU–PF.

The 15 constitutional amendments since 1980 have increased greatly Mugabe's power relative to the legislature. Originally a prime minister elected by the Parliament, he has become a directly elected president. Constitutional Amendment 9 authorizes the President to declare unilaterally a state of public emergency for a period of up to 14 days. Amendment 10 grants the President sole power to dissolve Parliament and to appoint or remove a vice president and any minister or deputy minister. Amendment 10 also allowed the President to appoint 20 of the 150 Members of Parliament (M.P.'s), including 12 nonconstituency M.P.'s and 8 cabinet members who sit in Parliament. The President also exerts great influence on the process by which the country's chiefs (traditional rulers) select 10 of their number to sit as M.P.'s. All 30 of these M.P.'s have consistently been ZANU–PF members. President Mugabe won reelection in March 1996, receiving 93 percent of votes cast in an election in which less than one-third of eligible persons voted; his two main opponents withdrew from the race, alleging intimidation and harassment of their supporters. The opposition's lack of access to state-monopolized broadcast media and to state campaign subsidies strongly biased the contest in favor of the incumbent, although the election-day voting and subsequent vote tabulation were considered generally free and fair by hundreds of NGO monitors.

In the 1995 parliamentary general elections, the ZANU–PF captured 117 of the 120 popularly elected seats. Although the legislature remained generally subordinate to the executive branch, it has shown some independence in some respects during the past 2 years. For example it liberalized the PSOB legislation that the Government had introduced in 1998 to replace the LOMA, with the result that the President, in July, refused for the first time to sign legislation passed by the Parliament (see Sections 1.d. and 2.a.). In February the Legal Committee of the Parliament unanimously declared illegal a ban on nationwide strikes and other mass actions that President Mugabe had declared in November (see Section 6.a.). In 1998, following more than a year of nationwide consultations, a Parliamentary Reform Committee released a report that recommended that the Parliament be given greater powers relative to the presidency, including increased legislative oversight of the executive branch. Although the executive branch did not act on the committee's recommendations, the Parliament proceeded with those recommendations that were within its power to carry out.

Since late 1997, an independent group of approximately 40 NGO's, labor unions, and political parties known as the National Constitutional Association (NCA) has advocated the creation of a new constitution that would reduce the power of the presidency and offer greater protection for civil liberties. In May the President established the Constitutional Commission (CC), whose 400 members he appointed, to

review the current Constitution and prepare a new draft to be submitted to a national referendum in January 2000. CC commissioners held meetings at venues throughout the country, surveying citizens and recording their opinions on what provisions a new constitution should contain. However, the NCA was openly critical of the CC, asserting that it was a government-controlled entity whose product would not reflect the will of the populace. The NCA also conducted town meetings and workshops around the country as part of its public awareness campaign on constitutional reform. On December 11, the CC released a draft constitution that would maintain a strong presidency and might reduce the independence of the judiciary, although it would increase Parliamentary oversight of the executive. A minority of the commissioners publicly protested that the draft constitution did not reflect the expressed views of the populace. In December the NCA organized demonstrations against the Government's cooptation of the constitutional reform process and encouraged citizens to vote against the CC's draft constitution at the national referendum in 2000 (see Section 2.b.).

In September, 6 months before the next scheduled parliamentary elections, the ZCTU labor federation launched a new political party, the Movement for Democratic Change (MDC), intended to be a broadly based opposition party capable of overcoming the poor organization and factionalism from which opposition parties previously had suffered. Unknown persons disrupted the founding convention of the MDC by damaging electrical facilities at the meeting site, a stadium in Harare (see Section 2.b.).

There are institutional problems with the management and supervision of elections. Although the Ministry of Justice technically administers the Electoral Act, the Registrar General's Office falls under the Ministry of Home Affairs. With a meager budget and a tiny staff seconded from the Ministry of Justice, the Electoral Supervisory Commission (ESC) lacks the institutional capacity to oversee all of the country's polling stations. Commissioners also lack authority to order that an irregularity be corrected. Despite an attempt to computerize the voters' roll, it contains a very large number of redundancies or errors, including misspellings, multiple entries, and names of deceased persons. Few opposition candidates contested the 1998 rural district council elections. During the year, voter turnout for the rural and urban council elections in September was minimal and courts ordered that voting be postponed in pro-opposition areas due to irregularities in the voter rolls. Independent NGO election observers reported widespread fraud and intimidation in those elections where independents challenged ZANU–PF candidates. The ESC, chaired by Bishop Peter Hatendi, refused to supervise or monitor the September elections, citing the Registrar General's failure to provide the ESC with a complete list of polling stations or the report on the nomination courts that ruled on the eligibility of candidates.

Women are underrepresented in government and politics. Twenty of the 150 M.P.s are women, including the deputy speaker of the Parliament. Three cabinet ministers with portfolios, three ministers of state, and three deputy ministers are women. Women participate in politics without legal restriction; however, according to local women's groups, husbands—particularly in rural areas—commonly direct their wives to vote for the husband's preferred candidates.

All major ethnic groups are represented in Parliament and in the Government. However, most members of the Government and the Parliament, as well as most ZANU–PF officials, are affiliated with the Shona ethnic group, which makes up a majority of the population (see Section 5).

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

Although the Government permits local civic and human rights groups to operate, it monitors their activities closely, in particular those of the CCJP and Zimbabwe Human Rights Association (ZIMRIGHTS). Other groups that promote human rights include the Legal Resources Foundation, Zimbabwe Lawyers for Human Rights, the Bulawayo Legal Projects Centre (BLPC), the National Constitutional Assembly, the Southern African Foundation of the Disabled, the Child and the Law Project, the Musasa Project, the Zimbabwe Women Lawyers Association, the Association of Zimbabwe Journalists, the Women's Action Group, Women and Law in Southern Africa, Women in Law and Development in Africa, Zimbabwe Women's Resource Centre and Network, Women and AIDS Support Network, and the Human Rights Research and Documentation Trust of Southern Africa. These NGO's worked on human rights and democracy issues including lobbying for revision of the Public Order and Security Bill, increasing poor women's access to the courts, raising awareness of the abuse of children, eliminating irregularities in voter rolls, preserving the independence of the judiciary, and eliminating torture, arbitrary deten-

tion and restrictions on freedom of the press and assembly. The Foundation for Democracy in Zimbabwe (FODEZI) was established in July 1997 as a watchdog organization to support independent candidates. Amnesty International, Transparency International, and the International Committee of the Red Cross operate in the country. The Government generally does not discourage representatives of international human rights groups from visiting the country.

In his February 6 television address to the nation, President Mugabe criticized human rights organizations and monnitors generally in connection with their criticism of the torture of journalists by security forces and the Government's refusal to obey court orders to release those journalists (see Sections 1.e., 2.a. and 5). In particular, Mugabe named and criticized Michael Auret, director of the CCJP, and David Coltart, former director of the BLPC, both members of the country's European ethnic minority. Mugabe suggested that they were part of an international conspiracy by "whites" to undermine land reform in Zimbabwe.

On September 11, the same day that the ZCTU launched a new opposition political party, the Minister of Information publicly called for the deportation of Georg Lemke, director of the Danish Trade Union Council for International Development Cooperation, which had provided technical and financial assistance to the ZCTU. The Minister alleged that the Council was meddling in the country's internal politics. In October the Government induced the Council to recall Lemke to Denmark by threatening to deport him and close the Council's projects in the country (see Sections 3 and 6.a.)

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

The Constitution provides that "every person in Zimbabwe" is entitled to fundamental rights whatever his race, tribe, place of origin, political opinions, color, creed, or sex; however, domestic violence and discrimination against women, abuse of children, and discrimination against the disabled remained problems. There were increasing reports of ritual murders associated with traditional religious practices. The President and his Government exacerbated widespread resentment of the economically prominent European ethnic minority.

Women.—Domestic violence against women, especially wife beating, is common and crosses all racial and economic lines. It extends throughout the country and at times results in death. According to Women in Law and Development in Africa (WILDAF), domestic violence accounted for more than 60 percent of murder cases tried in the Harare High Court in 1998. The Musasa Project, a women's rights organization, established the country's first shelter for victims of domestic violence in Harare in 1997. Musasa is attempting to establish a second shelter in Bulawayo for victims of domestic violence in that area. The Musasa Project provided services to almost 3,000 clients at its Harare office in 1998, half of whom were female victims of domestic violence; 39 percent of those who were assisted were minors, victims of child abuse. The Musasa Project reports that 54 percent of the women counseled for domestic violence have sexually transmitted diseases, including many with HIV/AIDS. The media increasingly reported incidents of rape, incest, and sexual abuse of women.

There has been a significant increase in the number of reported rape cases countrywide; most cases involved victims who were minors and family member abusers. Women face many obstacles in filing reports of rape. Many police stations are not prepared to handle properly the investigation of such cases. In addition, women are reluctant to file reports because of the social stigma of rape. Women's groups believe the actual number of rapes is underreported greatly. When cases go to court, lengthy sentences for rape and wife beating generally are imposed. A "binding over" order (an order to appear in court to respond to an accusation of violent behavior) is issued based only on actual physical abuse and not on threats of violence. Courts also do not have the power to oust an abusive spouse from a matrimonial home. Systematic problems and lack of education often mean that police do not respond to women's reports or requests for assistance.

Since independence the Government has enacted major laws aimed at enhancing women's rights and countering certain traditional practices that discriminate against women. However, women remain disadvantaged in society. Illiteracy, economic dependency, and prevailing social norms prevent rural women in particular from combating societal discrimination. The literacy rate for women over the age of 15 is estimated to be 80 percent while the male rate is about 90 percent. The 1998 U.N. Development Program's Human Development Report noted that in most regions of the country, fewer girls than boys attend secondary schools. Despite legal prohibitions, women still are vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her

choosing; the custom of forcing a widow to marry her late husband's brother; and the custom of offering a young girl as compensatory payment in interfamily disputes.

The Legal Age of Majority Act (LAMA) and the Matrimonial Causes Act recognize women's right to own property independently of their husbands or fathers. While unmarried women may own property in their own names, women married under customary law are not allowed to own property jointly with their husbands. During the September land conference, women's rights organizations effectively lobbied the Government to agree to create legislation giving married women joint spousal title to property offered under the resettlement program; however, no such legislation had been enacted by year's end.

In August 1998, the Government denied a petition by women's groups that one-third of land redistributed under the land reform program (see Section 1.f.) be distributed to households headed by women, which reportedly make up one-third of all rural households. At a press conference, Joseph Msika, Minister Without Portfolio in charge of resettlement, reportedly stated, "I would have my head cut off if I gave women land."

The Administration of Estates Amendment Act, which came into effect in October 1997, removed inheritance laws unfavorable to widows. Women's groups regard the act as a major step toward ending the unfair and unequal distribution of inherited assets for women. The President signed the new Inheritance Amendment into law. However, in February the Supreme Court upheld a magistrate court decision that, under customary ethnic law, a man's claim to family inheritance takes precedence over a woman's, regardless of the woman's age or seniority in the family; the Court cited Section 23 of the Constitution, which allows discrimination against women under customary law. Divorce and maintenance laws are favorable to women, but women generally lack awareness of their rights under the law.

Many rural women, including 150 in 1997, reportedly commit suicide at harvest time after their husbands squander income from cash crops.

Research conducted by the Training and Research Support Centre (a Harare-based NGO) revealed that one in three working women at all levels were subjected to sexual harassment in the workplace, as defined by Zimbabwean legal experts. The October 1996 to February 1997 study was based on questionnaires from 528 working women.

Although labor legislation prohibits discrimination in employment on the basis of gender, women are concentrated in the lower echelons of the work force and commonly face sexual harassment in the workplace.

Several active women's rights groups, including WILDAF, the Musasa Project, the Zimbabwe Women Lawyers' Association, the Women's Action Group, and the Zimbabwe Women's Resource Center and Network concentrate on improving women's knowledge of their legal rights, increasing their economic power, and combating domestic violence. Groups that focus on the issues of protection of women against domestic violence and sexual transmission of HIV/AIDS included the Women and AIDS Support Network and Musasa Project. There is a gender affairs office in the Office of the President headed by Minister of State Oppah Rushesha.

In August the ZANU–PF Women's League voted out leaders associated with President Mugabe. In November the Women's League threatened to boycott the ruling party's national congress in December unless League members were allowed to elect a woman to hold at least one of the four top positions in the party. In December the ZANU–PF congress decided that women would be allotted one out of every three party positions; this decision had not been implemented at year's end.

Children.—The Government continued to demonstrate its strong commitment to children's rights and welfare through a system of primary health care and education overseen by the Ministry of Health and Child Welfare. While there is no compulsory education, the country has made considerable progress in providing education for girls, and overall primary school attendance has increased by more than 4,000 percent since independence. However, budget cuts and the lack of adequate attention to AIDS prevention are eroding the Government's capacity to address children's needs in these areas. International experts estimated that HIV/AIDS infects one-fourth of the adult population and has killed nearly 600,000 persons since the late 1980's, thereby tripling the mortality rate, reducing life expectancy from 61 to 49 years, and creating hundreds of thousands of orphans. From a small number in 1990, there were an estimated 150,000 orphans in 1995, growing to a projected 543,000 in 2000 and 918,000 in 2005. This rapidly growing problem is expected to put a tremendous strain on both formal and traditional social systems. At the household level, there is an increased burden on the extended family, which has traditional responsibility for caring for orphans. Many grandparents are left to care for the young, and in some cases children or adolescents are heading families. At the

provincial and national levels, the governments are saddled with increasing demands for community orphan projects, orphanages, health care, and school fees. The number of street children, with the related problems of theft, street violence, drug use, and violent death, is increasing.

The Children's Protection and Adoption Act, the Guardianship of Minors Act, and the Deceased Person's Maintenance Act protect the legal rights of minor children, but school attendance is not compulsory at any level. About 93 percent of children reached grade 5. However, with the reintroduction of school fees in urban schools and rural secondary schools, enrollment has declined. If a family is unable to pay tuition costs, it is most often female children who leave school.

There are an estimated 12,000 homeless street children in the country, many of them the children of former Mozambican refugees or AIDS orphans. The number of incidents of child abuse, including incest (long a taboo), infanticide, child abandonment, and rape is increasing. It is not known whether the statistics reflect the fact that more cases are occurring or only that more are being reported. There are reports of child labor (see Section 6.d.). The Ministry of Justice's Vulnerable Witnesses Committee established victim-friendly courts (VFC) in 1997 to improve the judicial system's handling of child victims of rape and sexual abuse. According to the Musasa Project, 39 percent of the 3,000 persons whom it assisted at its Harare office in 1998 were victims of child abuse. There was a large volume of rape cases in the Harare VFC, which led to calls by children's rights' advocates to establish additional courts in surrounding areas. The criminal justice system has special provisions for dealing with juvenile offenders.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, rarely is performed in Zimbabwe. However, according to press reports, the initiation rites practiced by the small Remba ethnic group in Midlands Province include infibulation, the most extreme form of FGM.

Indigenous African churches that combine elements of established Christian beliefs with some beliefs based on traditional African culture and religion generally accept and promote polygyny and the marriage of girls at young ages; they also generally approve of healing only through prayer and oppose science-based medicine including the vaccination of children.

There were increasingly frequent reports that children were killed for body parts by persons practicing healing rituals associated with traditional religions. Body parts from children reportedly were considered the most efficacious for some such purposes.

People with Disabilities.—President Mugabe appointed a disability activist to Parliament in 1995 to represent the needs of the disabled. The Disabled Persons Act of 1992 specifically prohibits discrimination against people with disabilities in employment, admission to public places, or provision of services and is viewed by advocates of the disabled as model legislation. However, in practice, the lack of resources for training and education severely hampers the ability of disabled people to compete for scarce jobs. Although the act stipulates that government buildings should be accessible to disabled persons, for budgetary reasons this rarely is implemented. Disabled people face particularly harsh customary discrimination. According to traditional belief, people with disabilities are considered bewitched, and reports of disabled children being hidden when visitors arrive are common.

Religious Minorities.—Many persons practice elements of both Christianity and traditional indigenous religion, either individually or as members of indigenous African churches that combine elements of established Christian beliefs with some beliefs based on traditional African culture and religion.

However, there were reports of growing tensions between mainline Christian churches and practitioners of traditional indigenous religions. Leaders of the Christian churches reportedly opposed the repeal or modification of the Witchcraft Suppression Act sought by practitioners of traditional indigenous religions (see Section 2.c.). Several leaders of Christian churches reportedly denounced a perceived increase in "satanism" in the country; acts of satanism allegedly included drinking human blood and eating human flesh.

There were increasing reports of ritual murders associated with traditional religious practices, although the Government actively enforces the law against all kinds of murder including ritual murders. Gordon Chavanduka, chairman of ZINATHA, the national association of traditional healers, reportedly stated that black-market demand for human body parts used in making potions has increased greatly in recent years. Some observers suggested that this development may be associated with the spread of HIV/AIDS in the country, and the lack of affordable science-based medicines for treating infected persons (see Section 2.c.).

In April Crispen Sachiwo, age 38, reportedly told police that he had been kidnaped on March 30 by four men who indicated that they intended to kill him in order to use his body parts to make "magic" for sale to local businessmen. However, Crispen reportedly stated that he was released after his kidnapers discovered that he was too old for his body parts to be efficacious. In July Faber Chidarikire, a ZANU–PF official and mayor of the northern town of Chinhoyi, was charged with murdering a 13-year-old girl in 1987, but he was released on bail after intervention by the Attorney General; there were reports that Chidarikire cut off the girl's ear and excised her genitals. In 1995 an examination of a severed head found in Chidarikire's car in 1994 indicated that it had been severed with a blade, not in a car accident as Chidarikire had maintained.

National/Racial/Ethnic Minorities.—According to Government statistics, the Shona ethnic group makes up 77 percent of the population, Ndebele 14 percent, Kalanga 5 percent, Europeans 2 percent, and other ethnic groups 2 percent. There have been tensions both between the African majority and the European minority and between the Shona majority and the Ndebele minority.

During the 1960's and 1970's, elements of the European minority rebelled against British rule and established and maintained a racially discriminatory regime, which was dismantled in 1980 only after armed insurgencies by African groups, including the ZANU–PF, and economic sanctions by the international community. The European community remains economically privileged; despite government efforts at land reform, European farmers continued to own one-third of the country's most productive land at year's end (see Section 1.f.). Government services are provided on a nondiscriminatory basis, the Government has sought to expand and improve the previously "whites only" infrastructure in urban areas to provide health and social services to all citizens, and all schools and churches are integrated legally. However, social interaction between Africans and Europeans remained relatively rare. Tensions between Africans and Europeans have been sharpened by the Government's repeated threats to confiscate primarily European-owned commercial farms without compensation. Sporadic illegal occupations of white-owned farms by landless peasants continued.

On several occasions during the year, President Mugabe, members of his Government, and state-owned or MMT-owned media publicly exacerbated Africans' resentment of the European minority. In his February 6 television address to the nation, Mugabe subjected journalists and human rights activists of European ancestry to explicitly racist criticism (see Sections 2.a. and 4). The President stated that they and other "white persons of British extraction" had "been planted in our midst to undertake acts of sabotage," and that their "evil machinations" had pushed the Government's sense of racial tolerance to the limit. Mugabe suggested that these Europeans' criticism of the security forces for torturing journalists of African ethnicity and of the Government for refusing to obey court orders to release those journalists was part of an international conspiracy by Europeans to frustrate the Government's land reform program. In March Mugabe publicly stated that governments of two foreign countries with mostly European populations sought to destabilize his Government in order to prevent his Government from redistributing land from Europeans to Africans (see Section 1.e.). Government ministers and state-owned and MMT-owned media echoed Mugabe's racist remarks.

During the 1980's the Shona-dominated Government suppressed an Ndebele insurgency and killed many Ndebele civilians in Matabeleland, the region in which the Ndebele were concentrated. Although relations between the Shona and the Ndebele subequently have improved, the disproportionate number of Shona speaking teachers and headmasters in Matabeleland schools remained a sensitive issue. Members of the Ndebele community continued to criticize the Government's unequal distribution of national resources and the Government's failure to compensate victims of the 1980's Matabeleland killings.

Section 6. Worker Rights

a. *The Right of Association.*—The 1985 Labor Relations Act (LRA) provides private sector workers with freedom of association and the right to elect their own representatives, publish newsletters, and set programs and policies that reflect the political and economic interests of labor. Workers are free to form or join unions without prior authorization. The LRA allows for the existence of multiple unions per industry, provided that each is registered with the Ministry of Public Service, Labor, and Social Welfare (MPSLSW). While the Government may deregister individual unions, the High Court has ruled that the LRA does not give the Minister the power to suspend or deregister the national umbrella labor confederation, the Zimbabwe Congress of Trade Unions (ZCTU).

Approximately 20 percent of the formal sector work force belongs to the 33 unions that form the ZCTU. ZCTU officers are elected by delegates of affiliated trade unions at congresses held every 5 years. While the Government encouraged the ZCTU's formation, anticipating that it would form the labor arm of ZANU–PF, it no longer controls the ZCTU. The Government and the ZCTU often have clashed sharply on economic policy, particularly the Economic Structural Adjustment Program. The Government usually has not consulted either the ZCTU or employers before implementing policy decisions that affect the workplace. This lack of consultation has often resulted in reactions that disrupted labor relations, thereby promoting uncertainty and even strikes.

Following the Government's efforts in December 1997 to impose significant income and other tax increases without consultation, the ZCTU organized a nationwide, 1-day work stoppage that month, and a 2-day "stayaway" in March 1998. The ZCTU also led two successful stayaways in November 1998 to protest a 67 percent increase in fuel prices and to demand a 20 percent pay increase for private and public sector workers. These were the two most successful labor actions in the country's history. In a period of serious and prolonged economic decline, the ZCTU has gained widespread support at the forefront of an energized labor movement. In September the ZCTU was instrumental in launching a new political party in opposition to the ruling ZANU–PF (see Section 3). In April state-owned media announced that the Government would negotiate with the ZCTU about labor policy only if the ZCTU abandoned its plans to form a political organization opposed to the ruling ZANU–PF party (see Section 3).

On January 20, Isidore Zindoga, the deputy secretary general of the ZCTU, was beaten unconscious by four men who were following him in Harare, one of whom Zindoga subsequently identified as a police officer (see Section 1.c.). ZCTU secretary general Morgan Tsvangirai had suffered a similar beating in late 1997.

The LRA allows for the formation of multiple national federations. A second umbrella labor organization, the Zimbabwe Federation of Trade Unions (ZFTU), was launched in October 1996 with the stated purpose of providing an alternative of the ZCTU. The new organization states that its goal is to work in collaboration with the Government, and it is openly critical of the ZCTU. The ZFTU's leadership and membership remained unclear, with key personnel changing regularly. Most observers believe that ZFTU leaders are principally former ZCTU leaders, some of whom were separated involuntarily from that organization. The ZFTU largely was inactive, except for occasional public statements criticizing ZCTU activities, and generally was not considered a viable labor organization.

Public servants and their associations, the Public Service Association (PSA), the Zimbabwe Teachers Association (ZIMTA), and the Zimbabwe Nurses Association (ZINA) are not covered by the provisions of the LRA. Instead, their conditions of employment are provided for under the Constitution. Although civil servants constitutionally are barred from forming unions, in 1995 ZIMTA stated its intention to affiliate with the ZCTU and the PSA. In 1998 the PSA affiliated itself with the ZCTU. All public servants are deemed essential and are prohibited from striking. However, PSA members violated this law in June when they engaged in a week-long strike, successfully securing a 25 percent pay increase. Local government employees around the country also went on strike in July to secure wage increases. Junior doctors and nurses in state-run hospitals walked off the job in October and November, refusing to return to work until the Government gave them long overdue salary increases and promised to improve working conditions. In April the Postmaster General announced that the state-owned Posts and Telecommunications Corporation (PTC) had fired 700 telecommunications engineers and technicians who had taken part in a strike. PTC workers' committee chairman Simon Musveosve and committee secretary Peter Manyonda were arrested and charged with inciting workers to strike illegally and to commit sabotage. The Government alleged that the srikers severed over 4,000 cable lines, thereby causing a massive disruption in the country's international telecommunications. Of the 700 workers dismissed, 600 were almost immediately reinstated. The remaining 100 were suspended, pending investigation into allegations that these were the technicians who severed the cables. PTC was unable to prove which technicians committed that act, and most technicians returned to work. Ultimately only a handful of workers were fired.

Workers and employers in major industries engage in a collective bargaining season from April to July each year, in which they negotiate salary increases and other benefits in their respective National Employment Councils (NEC's). The Government itself negotiates directly with civil servants (who received a 25 percent pay increase in June), primarily through the PSA. The empowerment of the labor movement under the ZCTU in recent years has focused more attention on worker rights, and most employers acknowledge that economic decline and the rising cost of living

have made annual wage increases a virtual necessity. By the end of the 1999 collective bargaining season, workers in the 20 major industries had received wage increases averaging 34.8 percent, with some receiving substantially more.

The 1992 Labor Relations Amendment Act (LRAA) specifies that workers may establish independent worker committees, which exist side by side with unions in each plant. Worker committees also must be registered with the MPSLSW, which is free to refuse registration. Trade union officials believe that the formation of worker committees was an attempt to dilute union authority. However, the ineffectiveness of worker committees demonstrated the need for the experienced worker representation of the established trade unions.

The International Conference of Free Trade Unions (ICFTU) has criticized the labor laws for giving "wide scope to the authorities to declare that a given enterprise or industry constitutes an essential service, and then impose a ban (on strikes) on it." The authority to reclassify a previously nonessential service as essential was not used in 1998 or 1999. However, President Mugabe issued a 6-month ban on all collective job actions from November 1998 to May 1999, in the wake of two successful national "stayaways," or work stoppages, organized by the ZCTU. In February the Legal Committee of the Parliament unanimously declared the President's ban illegal (see Section 3), but Parliament did not vote on the legality of the ban during the year. When the ban expired in May, the Minister of Public Service, Labor, and Social Welfare, Florence Chitauro, on instructions from the President, added the ban as a permanent amendment to the revised Labor Relations Act, which was awaiting parliamentary approval late in the year. However, under sharp criticism and legal challenges to the amendment's constitutionality from the ZCTU and local and international civil society groups, the Government withdrew the amendment in June. Although no ban on strikes was in place at year's end, government officials stressed that the Government reserves the right to reimpose the ban at its discretion.

Despite the expiration of the President's ban on strikes, it is virtually impossible to conduct legal collective job action. There is no right to strike in the Constitution. "Essential" employees are prohibited by law from striking, and the Government defines 90 percent of workers as "essential." For the remaining nonessential employees legally to conduct a strike, over 50 percent of the company's employees must vote in favor of the action. Many employees are afraid to do so, due to fear of management reprisals. However, if a majority vote is obtained, the dispute is referred to the concerned government agency for resolution. Only if the Government determines that a resolution is not possible is the right to strike granted.

Dissatisfaction with wage negotiations led employees in several major sectors to ignore the Government's requirements for a legal strike; they walked off the job for up to 1 week. Strikes included those by engineers at the posts and telecommunications company in May; civil servants in June; municipal workers in July; junior doctors, driving instructors, and restaurant and hotel workers in September; and nurses in October and November. The strikes were generally peaceful, although some violence occasionally occurred. Police used tear gas to disperse a demonstration by striking restaurant and hotel workers (see Section 2.b.). In most cases, employers agreed to negotiate further wage increases as a result of the job actions.

The ZCTU and its officials are free to associate with international labor organizations and do so actively. The ZCTU is affiliated with the ICFTU and the Southern African Trade Union Coordinating Council.

On September 11, the same day that the ZCTU launched a new opposition political party, the Minister of Information publicly called for the deportation of Georg Lemke, director of the Danish Trade Union Council for International Development Cooperation, which had provided technical and financial assistance to the ZCTU. The Minister alleged that the Council was meddling in the country's internal politics. The Council ordered Lemke transferred to Denmark in October, after the Government reportedly threatened to deport him and to close the Council's projects in the country if the Council failed to withdraw him voluntarily (see Sections 3 and 4). Lemke and the Danish Embassy in Harare insisted that the Danish Trade Union Council had provided assistance only to ZCTU, not to the new opposition party, in keeping with the organization's mandate.

b. *The Right to Organize and Bargain Collectively*.—The LRA provides workers with the right to organize. As originally written, this act was silent on the right to bargain collectively. However, the 1992 LRAA permits unions to bargain collectively over wages. Worker committees, which by law are not organizationally part of the unions or the ZCTU, are empowered to negotiate with the management of a particular plant on the conditions of labor and codes of conduct in the workplace, except for wages. Unions, employers, and individual workers have the right to take their grievances to the Government's Labor Relations Tribunal (LRT) for final adjudication. The LRT maintained a huge backlog of cases again during the year, with 1,731

cases pending as of August 31, some of which have been awaiting a hearing for years. The backlog is attributed to staffing shortages; only two LRT judges have been appointed to hear the hundreds of new complaints each year.

Collective bargaining wage negotiations take place on an industrywide basis between the relevant union and employer organizations sitting on joint employment boards or councils. These bodies submit their agreements to the Registrar in the MPSLSW for approval. The Government retains the power to veto agreements that it believes would harm the economy. However, it does not involve itself directly in labor negotiations unless requested to do so by one of the parties. When no trade union represents a specific sector, representatives of the organized workers, such as the professional associations, meet with the employer associations, under the mediation of labor officers from the MPSLSW. Public sector wages are determined by the Salary Service Department of the MPSLSW, subject to the approval of an independent Public Service Commission (PSC). Each year PSC officials meet with PSA representatives to review wages and benefits. These reviews result in a recommendation that is forwarded to the MPSLSW. The Minister is not required by law to accept the recommendation.

Collective bargaining agreements apply to all workers, not just union members. Over 80 percent of all industries are unionized. The collective bargaining season (which runs each year from approximately April to July), brought about wage gains in various industries. For example, pulp and paper manufacturing employees, received an increase of 40 to 59 percent, with a new monthly minimum wage of $57.92 (Z$2,198). Mining workers gained a 43 percent increase, with a new minimum wage of $51.07 (Z$1,938). Banking industry employees gained 45 percent, with a new minimum wage of $101.53 (Z$3,853). Printing, packing, and newspaper industry employees gained 23 to 40 percent, with a new minimum wage of $52.70 (Z$2,000). Workers in the leather, skins, taxidermy, and footwear industries gained 40 percent with a new minimum wage of $69.14 (Z$2,624).

Employees designated as managers positions are excluded from union membership and thus from the collective bargaining process. There were some reports that firms designated excessive numbers of employees as managers in order to exclude them from the collective bargaining exercises.

The LRA prohibits antiunion discrimination by employers against union members. Complaints of such discrimination are referred to labor relations officers and may subsequently be adjudicated by the LRT. Such complaints are handled under the mechanism for resolving cases involving "unfair labor practices." The determining authority may direct that workers fired due to antiunion discrimination should be reinstated, although this has yet to be utilized in practice.

The LRAA streamlined the procedure for adjudicating disputes by strengthening the LRT. Labor relations officers hear a dispute; their decision may be appealed to regional labor relations officers, after which the LRT may hear the case. Ultimately, it may be appealed to the Supreme Court. In 1993 the Government filled long vacant positions on the LRT, but at year's end the LRT boards still were not staffed fully.

The Export Processing Zones Act states the LRA shall not apply to workers in export processing zones. The ZCTU has negotiated directly with EPZ employers to allow some unions in the EPZ, although their number and level of activity remain low.

c. *Prohibition of Forced or Compulsory Labor*.—Compulsory labor is prohibited by law, and there were no reports that it was practiced. The Government prohibits forced and bonded labor by children, and there were no reports that it occurred (also see Section 6.d.).

d. *Status of Child Labor Practices and Minimum Age for Employment*.—Legislation passed in 1997 bans employment of children under the age of 12 and restricts employment of those between the ages of 12 and 17 to light work during school holidays for periods not exceeding 6 hours per day. Legislation passed in June banned the employment of children under the age of 15. Light work is defined as work not likely to prejudice a child's education, health, safety, rest, or social, physical, or mental development. All hazardous employment, overtime, and night shift work is banned for those under the age of 18. However, there is little to no enforcement of these laws. Children work in the agricultural sector, and there were reports that children worked as domestics and as car-watchers on the streets. Although schooling is not compulsory, over 90 percent of children attend school through grade 5 (see Section 5). The Government prohibits forced and bonded labor by children, and there were no reports that it occurred (see Section 6.c.).

Child labor in the formal agricultural sector, such as on tea and coffee plantations, reportedly involves children working in the fields after school during the planting and harvesting seasons and full-time during school holidays. Long hours

are common. Children often work alongside their parents, and their working conditions approximate those of adults. While some form of child labor on large commercial farms is widespread, agricultural organizations maintain that the labor performed is not exploitative, involuntary, contrary to law, or outside of cultural norms that allow children to engage in field work with their families. Anecdotal evidence suggests some school schedules and calendars are tailored to allow children to work in the fields during busy farming periods. Economic hardship often makes child labor imperative for families.

About 25 percent of the adult population was estimated authoritatively to be infected with HIV/AIDS, and the rate of infection appeared to be accelerating. As a result, more children were forced to work in a variety of sectors to fill the income gap left by ill or deceased relatives. The number of children in adoptive homes or living on the streets increased rapidly. The number of AIDS orphans is expected to reach 543,000 by the year 2000, and 910,000 by the year 2005. The deteriorating economy also is forcing more children to work. Although child labor in the agricultural, domestic, and informal sectors increasingly is discussed, the Government and NGO's have been unable to gather concrete data on the number of cases.

e. *Acceptable Conditions of Work*.—The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. Working conditions are regulated by the Government on an industry-specific basis. The Constitution empowers the PSC to set conditions of employment in the public sector. Government regulations for each of the 22 industrial sectors continue to specify minimum wages, hours, holidays, and required safety measures. In recent years, in an effort to opt out of the wage bargaining system, the Government mandated wage parameters and specified minimum wage increases only for domestics and gardeners. Due to an ineffective monitoring system, many such workers are remunerated below the minimum wage.

The minimum monthly wage for domestic servants is $19 (Z$704), and $17 (Z$629) for gardeners. These are the basic minimum wages for other workers. Current monthly minimum wage data for other sectors include: $38 (Z$1,441) for the catering industry; $42 (Z$1,576) for tobacco workers; and $52 (Z$1,981) for the garment industry. On commercial farms, the employer may provide schooling for workers' children. The minimum wage is not sufficient to sustain a decent standard of living for a worker and family. Based on the most recent data, from 1998, the ILO estimates the country's food poverty line at $105 (Z$4,000) per month. However, escalating inflation and substantial devaluation of the Zimbabwe dollar significantly reduced the standard of living for most workers. Workers in sectors covered under collective bargaining agreements received wage increases averaging 34.8 at the end of the collective bargaining season. However, accelerating price inflation, in excess of 60 percent on average during the year, eroded those gains. In theory, labor relations officers from the MPSLSW are assigned to monitor developments in each plant to assure that government minimum wage policy and occupational health and safety regulations are observed. In practice these offices are understaffed, cannot afford to inspect routinely workplaces, and must rely on voluntary compliance and reporting by employers.

According to the ZCTU, some employers take advantage of illegal refugees for inexpensive labor. Because the job market is worse in eastern border countries such as Malawi and Mozambique, the refugees are willing to risk arrest and work for wages below the legal minimums (see Section 2.d.).

Many of the basic legal protections do not apply to the vast majority of farm, mine, and domestic workers. Health and safety standards are determined only on an industry-specific basis. Despite the lack of general standards, the National Social Security Authority's statistics from 1998 show a decrease in the number of occupational injuries and deaths. Seventy-five fatal job accidents were reported during the first 9 months of 1998, compared with 200 in 1997. Similarly, 4,867 occupational injuries were reported during this same time period, compared with 14,000 in 1997. The Government designated the Zimbabwe Occupational Safety Council to regulate safe work conditions. The council consists of six representatives each from the Government, employers, and trade unions. Budgetary restraints and staffing shortages have made the council ineffective. Although workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment, in practice they risk the loss of their livelihood if they do so.

f. *Trafficking in Persons*.—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country during the year.

LATIN AMERICA, CANADA, AND THE CARIBBEAN

ANTIGUA AND BARBUDA

Antigua and Barbuda is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a bicameral legislative assembly compose the Government. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. Prime Minister Lester B. Bird's Antigua Labour Party (ALP) has controlled the Government and Parliament since 1976. In the March elections, the ALP retained power by capturing 12 of 17 parliamentary seats, 2 more than it won in the previous elections in 1994. The Governor General appoints the 15 senators in proportion to the parties' representation in Parliament and with the advice of the Prime Minister and the leader of the opposition. The judiciary is independent.

Security forces consist of a police force and the small Antigua and Barbuda Defence Force. The police are organized, trained, and supervised according to British law enforcement practices.

The country has a mixed economy with a strong private sector. Tourism is the most important source of foreign exchange earnings. The country is burdened by a large and growing external debt, which remains a serious economic problem. Per capita gross domestic product was about $7,500 in 1998.

The Government generally respected the human rights of its citizens; however, problems remained in several areas. Prison conditions are poor, and there were allegations of abuse of prison inmates. Opposition parties complained that they received limited coverage or opportunity to express their views on the government-controlled electronic media. Societal discrimination and violence against women also continued to be problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the authorities generally respected these prohibitions; however, there were allegations of abuse by prison guards.

Prison conditions are poor. Conditions at the lone, 18th-century prison considerably worsened when a fire destroyed most of the facility in January. Prisoners allegedly started the fire to protest random searches by prison guards. Following earlier prison riots and serious security breaches in 1997, the Government decided to privatize the prison and hired a foreign security company, which replaced all prison officials, with the exception of a small administrative staff and women's prison officials, with its own employees.

The severe damage to the prison from the January fire required prisoners to be scattered to a number of holding areas, including a factory shell, a former army headquarters building, and the main police station. The conditions in the alternative holding areas were overcrowded and inadequate for proper detention. Repairs to the prison continued throughout the year, and prefabricated buildings were installed to house some prisoners. However, the facility, which holds approximately 182 prisoners, remained overcrowded.

In addition, there were increased allegations of abuse of inmates by prison guards. In June six prisoners were hospitalized. Prison guards allegedly caused the injuries, which included severe bruising of one inmate's genitalia, broken legs due to rubber bullets fired at close proximity, broken ribs and limbs, and severe bruising of the face and head. Two inmates allegedly suffered broken jawbones. The Government

removed the prison superintendent and investigated the incidents of abuse; a final report was pending at year's end.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government respects these provisions in practice. Criminal defendants have the right to a judicial determination of the legality of their detention. The police must bring detainees before a court within 48 hours of arrest or detention.

The Government does not use forced exile.

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

The judicial system is part of the Eastern Caribbean legal system and reflects historical ties to the United Kingdom. The Constitution designates the Privy Council in London as the final court of appeal, which always is employed in the case of death sentences. There are no military or political courts.

The Constitution provides that criminal defendants should receive a fair, open, and public trial. In capital cases only, the Government provides legal assistance at public expense to persons without the means to retain a private attorney. Courts can reach verdicts quickly, with some cases coming to conclusion in a matter of days.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices. Government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech, of the press, and other forms of communication. Although the authorities generally respect these provisions in practice, the Government has restricted opposition parties' access to electronic media, effectively denying them equal coverage. The Government owns one of the two general interest radio stations and the single television station. A religious station broadcasts without impediment. One of the Prime Minister's brothers owns the second radio station, and another brother is the principal owner of the sole cable television company. The government-controlled media report regularly on the activities of the Government and the ruling party, but limit their coverage of and access by opposition parties.

These restrictions led opposition leader Baldwin Spencer to initiate a constitutional challenge in 1993. In 1997 the High Court determined that the Government had denied Spencer his constitutional right to freedom of expression and called on the Government to provide the opposition with greater media access in the future. However, this ruling has had limited impact in practice. The Government continues to restrict opposition access to the media, and there continue to be allegations of censorship. The March report of the Commonwealth observer group that monitored the general elections noted that the governing ALP party received the greatest share of political coverage by the government-controlled electronic media. The report also indicated that fair and equal access to publicly owned electronic media did not appear to be available to opposition party figures.

However, print media, including daily and weekly newspapers, are active and offer a range of opinion, often publishing vigorous criticism of the Government. Nevertheless, efforts by print media to expand into electronic media have been restricted. In 1996 a daily newspaper attempted to start a radio station but has been unable to secure a license to operate. The authorities charged the owners with operating a radio station without a license. The case went to trial, and the judge found in favor of the Government, charging the newspaper owners with criminal conduct and finding them liable for damages. The owners sued the State in December 1996 for illegal search and seizure and claimed that their constitutional right to broadcast had been violated. In December 1997, the judge ruled that constitutional rights had not been violated, even though the owners could rightly claim significant delay; the judge found that the Government had not been inconsistent in this case, since it had not granted other licenses. In 1998 the owners appealed the case, pointing out that a progovernment station had recently been granted a license. During the year, the owners submitted an appeal to the Privy Council in the United Kingdom; their case was still pending at year's end.

The police still have not issued a report of their investigations in three possible arson attacks in 1998. On November 19, 1998, an arsonist destroyed an opposition newspaper that published a story about large shipments of arms and ammunition imported by the Government. Several days later, a fire of suspicious origin badly

damaged the Ministry of Information, and shortly thereafter the opposition United Progressive Party's outdoor convention site mysteriously was set afire.

In March a newspaper dismissed two journalists due to a controversy surrounding a news story critical of the Government. The foreign-born newspaper publisher dismissed the reporters for making public their opposition to the publisher's decision not to publish the article critical of the Government just prior to the general elections. The Caribbean Association of Media Workers criticized the dismissals as undermining the newspaper's editorial independence and as a threat to press freedoms.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. The police normally issue the required permits for public meetings but sometimes deny them in order to avert violent confrontations. While the authorities placed some restrictions on demonstrations in the past, the opposition held numerous rallies, public meetings, and a large march with no interference.

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

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

There were no reports of forced expulsion of anyone having a valid claim to refugee status. The issue of provision of first asylum did not arise. The Government assesses all claims by refugees under the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

In 1998 the Government accepted approximately 3,500 residents of Montserrat who fled volcanic eruptions. This influx placed a serious burden on the country's social services, and the Government asked the United Kingdom for assistance in meeting these needs. Despite the additional burdens, the Government continued to welcome Montserrat refugees.

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

The Constitution provides for a multiparty political system accommodating a wide spectrum of political viewpoints. All citizens 18 years of age and older may register and vote by secret ballot. The Constitution requires general elections at least every 5 years; the last general elections were held in March. The law obligates the Government to hold voter registration during a fixed period (of only 5 days) each year, and parties conduct their own registration drives free of government interference.

Except for a period in opposition from 1971 to 1976, the Antigua Labour Party has held power continuously since 1951. The opposition has charged that the ALP's longstanding monopoly on patronage and its influence over access to economic opportunities make it extremely difficult for opposition parties to attract membership and financial support. In 1992 public concern over corruption in government led to the merger of three opposition political parties into the United Progressive Party.

The Commonwealth observer group that monitored the March elections issued a report noting irregularities in the electoral process. The report indicated that the voters' register stood at 52,348 voters, of a total population of approximately 69,000 persons. Since 40 percent of the population were estimated to be below voting age, the voting rolls appeared to be inflated. According to the observer group, the voter registration period, which is limited to only a week every July, appeared too restrictive and potentially disfranchises citizens, such as persons who would reach the voting age of 18 after July but before the elections. The observer group recommended the establishment of an independent electoral commission to improve the voter registration process.

There are no impediments to participation by women in government and politics, but they are underrepresented. No women have been elected or currently serve in the House of Representatives. Two women are senators, which are appointed positions. Eight of the 14 permanent secretaries (the top civil servant position in ministries) are women.

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

While there are no governmental restrictions, no local human rights groups have been formed. There were no requests for human rights investigations or inquiries from individuals or international human rights groups during the year. In 1995 the Government created the post of Ombudsman. During the year, the Ombudsman reviewed 220 cases, twice that of 1998 and the highest number since the office was

created. The office of the Ombudsman generally is well regarded. The Ombudsman makes recommendations to the Government based on investigations into citizens' complaints; however, his recommendations often are not implemented to the satisfaction of alleged victims of government abuse and injustice.

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

The law prohibits discrimination based on race, sex, creed, language, or social status, and the Government generally observed its provisions.

Women.—Violence against women is a recognized social problem. It is treated as a matter of public conscience, and there are nongovernmental social welfare groups focused on the problem. Women in many cases are reluctant to testify against their abusers. However, Parliament approved domestic violence legislation in January, and organizations such as the Government's Directorate of Women's Affairs sought to increase women's awareness of their rights under the law. Police generally refrain from intervening in cases of domestic violence, and some women have charged credibly that the courts are lenient in such cases.

While the role of women in society is not restricted legally, economic conditions tend to limit women to home and family, particularly in rural areas, although some women work as domestics, in agriculture, or in the large tourism sector. Although the Government pledged to provide better family planning services, educational opportunities, and job training, it has been slow to implement new programs. The Directorate of Women's Affairs exists to help women advance in government and the professions, but progress was slow.

Children.—The Government provides education for children through the age of 16, and children have access to health care and other public services.

Child abuse remains a hidden problem. While the Government has repeatedly expressed its commitment to children's rights, it has done little to protect those rights in practice. The Government stills plans to establish a committee on children's rights and indicated it intends to strengthen monitoring and implementation of the U.N. Convention on the Rights of the Child. The U.N. Children's Fund helped support a study of the needs of children and families, and its recommendations are being used to develop a National Plan of Action on Child Survival, Development, and Protection.

People with Disabilities.—No specific laws mandate accessibility for the disabled, but constitutional provisions prohibit discrimination against the physically disabled in employment and education. There is no evidence of widespread discrimination against physically disabled individuals, although the Government does not enforce the constitutional antidiscrimination provisions visibly.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to associate freely and to form labor unions, and the authorities generally respect these rights in practice. Approximately 70 percent of workers belong to a union, and the hotel industry is heavily unionized. There are two major trade unions: The Antigua Trades and Labour Union (ATLU) and the Antigua Workers' Union (AWU). The ATLU is associated with the ruling ALP, while the larger and more active AWU is allied rather loosely with the opposition.

The Labor Code recognizes the right to strike, but the Industrial Relations Court may limit this right in a given dispute. Once either party to a dispute requests that the court mediate, there can be no strike. Because of the delays associated with this process, unions often resolve labor disputes before a strike is called.

Unions are free to affiliate with international labor organizations and do so in practice.

b. *The Right to Organize and Bargain Collectively.*—Labor organizations are free to organize and bargain collectively. The law prohibits antiunion discrimination, and there were no reports that it occurred. Employers found guilty of antiunion discrimination are not required to rehire employees fired for union activities but must pay full severance pay and full wages lost by the employee from the time of firing until the determination of employer fault. There are no areas of the country where union organization or collective bargaining is discouraged or impeded.

An export processing zone, first proposed in 1994, had not yet started full operation as of year's end. The same labor laws will apply in that zone as elsewhere throughout the country.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, including that by children, and they do not exist in practice.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law stipulates a minimum working age of 16 years, which corresponds with the provi-

sions of the Education Act. The Ministry of Labor, which is required by law to conduct periodic inspections of workplaces, has responsibility for enforcement. There have been no reports of minimum age employment violations. The political strength of the two major unions and the powerful influence of the Government on the private sector combine to make the Ministry of Labor very effective in enforcement in this area. The law prohibits forced or bonded child labor, and it is enforced effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Minimum wage rates, which were established by law for various work categories in 1981, have never been revised and generally are viewed as irrelevant to current economic conditions. The lowest minimum wage, for domestic workers, is $0.46 (EC$1.25) per hour; the highest minimum wage, for skilled labor, is $1.30 (EC$3.50) per hour. Most minimum wages would not provide a decent standard of living for a worker and family, but in practice the great majority of workers earn substantially more than the minimum wage. The Ministry of Labor periodically surveys average minimum wages paid in various sectors; it issues these as guidelines to prevailing market wages. The guidelines are not compulsory; the Ministry provides them to reflect increasing wage expectations in the labor market and to offset the failure to update the 1981 minimum wage rates. In 1999 these guidelines indicated that employers pay an average salary of $92.60 (EC$250) per week, although the range of actual salaries varies widely, depending on level and experience. There was consideration of reactivating the tripartite advisory board to review the outdated 1981 rates.

The law provides that workers are not required to work more than a 48-hour, 6-day workweek, but in practice the standard workweek is 40 hours in 5 days. The law stipulates that workers receive a minimum of 12 days of annual leave. The law requires employers to provide maternity leave with 40 percent of wages for 6 weeks of leave, while social service programs provide the remaining 60 percent of wages. The employer's obligation ends after the first 6 weeks, but social services will continue to pay 60 percent of wages for an additional 7 weeks, covering a total of 13 weeks.

The Government has not yet developed occupational health and safety laws or regulations. Plans to incorporate comprehensive legislation on safety, health, and the welfare of workers into the existing Labor Code have not been implemented yet. There is no specific provision for a worker to leave a dangerous workplace situation without jeopardy to continued employment.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no recent reports that persons were trafficked in, to, or from the country.

ARGENTINA

Argentina is a federal constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In October voters elected Fernando de la Rua President for a 4-year term; he took office on December 10, replacing President Carlos Saul Menem. The elections were considered free and fair. The judiciary is generally independent but is inefficient and subject at times to political influence.

The President is the constitutional commander-in-chief, and a civilian Defense Minister oversees the armed forces. Several agencies share responsibility for maintaining law and order. The Argentine Federal Police (PFA) report to the Interior Minister, as do the Border Police and Coast Guard. The PFA also has jurisdiction in the Federal Capital. Provincial police are subordinate to the respective governor. Members of the police continued to commit human rights abuses.

Argentina has a mixed agricultural, industrial, and service economy. Following 7 years of economic growth during an economic reform and structural adjustment program, which included privatization and trade and financial sector liberalization, the economy slowed in 1998 due in large part to a reduction in foreign capital flows. In 1999 the country entered a recession, with gross domestic product declining an estimated 3 percent. Unemployment rose to 13.8 percent in 1999, compared with 12.4 percent in 1998. Income disparities are a problem. According to a study published in the press, in 1997–98 approximately 35 percent of the population had incomes below the poverty line.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be instances of extrajudicial killings, torture, and brutality by the police, although the authorities prosecuted a number of persons for such actions. Police also arbitrarily arrested and detained

citizens, prison conditions are poor, and lengthy pretrial detention is a problem. The judicial system is inefficient and is subject at times to political influence and to inordinate delays in trials. There were numerous threats—and several acts of violence—against journalists. Police used violence against demonstrators. Violence and discrimination against women also are problems. Child abuse and child prostitution continued to increase. Discrimination against indigenous people persists, and there were instances of anti-Semitism. Child labor is a problem. In addition, the legacy of the human rights abuses of the 1976–83 military regime continued to be a subject of intense national debate, particularly the arrest of former junta leaders on charges of taking or seizing babies born to dissidents in detention and giving them to supporters for adoption.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, police officers were responsible for a number of extrajudicial killings. The authorities investigated and in some cases detained, tried, and convicted the officers involved.

The authorities detained two police officers, Nestor Trotta and Roberto Martini, in Buenos Aires province and placed them under investigation for killing a youth in mid-January under unclear circumstances. Investigators suspect that the youth and the officers could have been involved in an illicit transaction gone awry.

In September in Ramallo, Buenos Aires province, police crossfire killed two hostages and one bank robber during a botched bank robbery that turned into a hostage situation. A second alleged robber died in police custody; by year's end, the police had not released a convincing explanation of the incident.

On December 17, a day after the Federal Government took control of the bankrupt Corrientes provincial government, police fired tear gas and rubber bullets into a crowd of protesters blocking a bridge, injuring at least 40 persons in the violent demonstrations. Several blocks away, two persons were killed; an investigation was underway at year's end.

In July a judge convicted Alberto Dattoli, an agent of the National Intelligence Service (SIDE), and sentenced him to 10 years in prison for the killing of Sofia Fijman in February 1998. In front of a SIDE building, Dattoli closed a heavy, mechanical, steel gate on the woman, who typically fed cats in the area. Dattoli maintained that he was trying simply to scare her and that the full closure of the gate was accidental.

In Jujuy province, 14 police officers remained under investigation for involvement in the January 1998 death of Carlos Andres Sutara. In Buenos Aires province, a police officer remained under investigation for allegedly killing Walter Repetto in January 1998.

The four police officers arrested for involvement in the January 1998 death of Juan Carlos Cardozo in Entre Rios Province remained in protective custody at year's end; their trial was scheduled for February 2000.

In July a court sentenced a policeman in Buenos Aires province to 10 years in jail for shooting Walter Alvarez in the back while the latter was in the process of committing a petty theft in 1997.

In April a court convicted an ex-chief of police in Rio Negro province and sentenced him to 26 months in prison for obstructing justice in the investigation of the November 1997 deaths of three young women in the town of Cipolletti. The authorities held two additional suspects who were awaiting trial at year's end.

In Mendoza seven policemen remained under indictment in the death of 18-year-old Sebastian Bordon in 1997. Several of these officers were among the 134 officials dismissed by Mendoza authorities on charges of misconduct (see Section 1.c.)

In Buenos Aires province, the investigation of the 1997 killing of news photographer Jose Luis Cabezas closed in December 1998, but a trial date had not been set at year's end (see Section 2.a.).

Several army officers were among 11 suspects under indictment at year's end in the continuing judicial investigation into the alleged coverup of the 1994 death of army recruit Omar Carrasco. In 1996 a court convicted three soldiers of murdering Carrasco, and a fourth for covering up the crime. In July and August, a judge in the province of Neuquen added charges of concealing evidence and providing false testimony against retired General Carlos Diaz and four other military officials.

In May a court convicted four police officers for the 1993 torture and murder of Miguel Bru, a student whose body never has been found. A judge sentenced police officers Justo Lopez and Walter Abrigo to life imprisonment for the crime and gave 2-year prison terms to two other police officials for their involvement in this crime.

The five police officers indicted in September 1998 for the 1989 deaths of Raquel Laguna and Sergio Sorbellini still awaited trial at year's end.

As of October, Spanish Judge Baltasar Garzon had charged 186 persons with various crimes committed during the "dirty war" that the 1976–83 military regime conducted against alleged leftists. In November Garzon indicted the leaders of the military junta, including former military leaders General Leopoldo Galtieri, General Jorge Videla, Admiral Emilio Massera, and 95 other officers, including 1 active federal judge, on charges of torture, terrorism, and genocide. In 1983 the courts sentenced Videla, Massera, and Galtieri to life in prison, but President Menem pardoned them in 1990. In 1986–87 former President Raul Alfonsin signed into law the "full stop" and "due obedience" laws which put an end to further trials stemming from dirty war offenses.

Investigations continued into the 1994 bombing of the city's Jewish Community Center (AMIA) and the 1992 bombing of the Israeli Embassy in Buenos Aires (see Section 5).

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

The Government failed to compensate the families of Adolfo Garrido and Raul Baigorria, contrary to the recommendation of the Inter-American Court of Human Rights in 1998. The court had urged compensation in the amounts of $110,000 (for Garrido) and $64,000 (for Baigorria) by the end of May. The two men disappeared in the province of Mendoza in 1990 and are believed to have died in police custody, but no one was arrested or charged in the case. The court also called on the Government to investigate the disappearances and to bring those responsible to justice.

Most reliable estimates place the number of those who disappeared during the dirty war at between 10,000 and 15,000. In 1984 the National Commission on Disappeared Persons (CONADEP) issued a report listing 8,961 names of such persons, based on public testimony from friends, relatives, and witnesses. Since then the Ministry of the Interior's Under Secretariat for Human and Social Rights, which inherited the CONADEP files, has added over 700 new names, also based on voluntary reporting. At the same time, other names have been removed from the original list, either through confirmation of the death or survival of the person who disappeared, or through the identification of duplicate entries. The absence of documentary records of those who disappeared means that the Government must rely on public testimony, either voluntary or court-ordered. As CONADEP noted in its report, "It has been possible to determine that an important quantity of documentation existed which has been destroyed or which is being concealed by those responsible for the repression."

The Under Secretariat for Human and Social Rights accepted claims for financial compensation from families of persons who died or disappeared during the dictatorship under a law that permits filing of applications until May 2000. It had received over 8,000 claims as of year's end. A law granting former prisoners of the military regime the right to apply for compensation from the Government expired in September 1998. Prior to the expiration date, the Under Secretariat, which administered the law, had received over 13,000 applications, and by the end of that year had approved over 7,000 of them.

At the urging of the human rights organization Grandmothers of the Plaza de Mayo, judicial authorities continued to investigate the illegal adoptions of approximately 250 to 300 children born to detained dissidents during the dirty war. In June 1998, one of the investigations led to the house arrest of former army General Jorge Rafael Videla, the de facto President from 1979 to 1981. Although a court convicted Videla for the crimes he committed during the dirty war and sentenced him to life in prison in 1985, President Menem pardoned him in 1990. However, it is not clear whether the 1990 pardon or the amnesty laws extend to the crime of child abduction.

The investigation by Judge Adolfo Bagnasco and other judges into the fate of babies whose mothers disappeared after giving birth in detention continued. In November 1998, Judge Maria Servini de Cubria ordered the arrest of retired Admiral (and former junta member) Emilo Massera, also in connection with an investigation into the abduction of babies of parents who disappeared. From prison he was moved to a hospital for medical treatment. The judge ordered that, when released from the hospital, Massera be placed under house arrest due to his age. In December 1998, former navy commander Admiral Ruben Franco was arrested on suspicion that he was a central organizer of the child abductions. Also that month, retired navy Captain Jorge Eduardo Acosta, formerly a senior officer at the Naval Mechanics School (site of some of the worst atrocities of the dirty war), surrendered and was arrested, bringing the total to nine senior officers who were arrested, detained, or summoned before various judges investigating the child abductions.

In January Judge Bagnasco ordered into custody former de facto President Reynaldo Bignone (who was arrested on January 20 and held on the Campo de Mayo army base). In addition to ordering the detention of Massera, Franco, and Acosta, the judge also ordered the arrest of retired Admiral Antonio Vanek, former army chief Cristino Nicolaides, and others. All remained under house arrest at year's end, with the exception of Acosta, who was held at a military facility.

On December 3, the authorities arrested former General Guillermo Suarez Mason in connection with the investigation of the theft of babies from women in torture centers. Suarez Mason was among those President Menem pardoned in 1990, and was the ninth senior junta official allegedly involved in kidnaping babies and changing their identities.

On September 9, the federal appeals court issued a ruling that confirmed the continuing house arrest of Massera, Videla, and the other defendants; found that they had not been tried for theft of babies in their original 1985 trial on human rights charges; that the case did not fall under the jurisdiction of military justice, had not expired due to the passage of time; and that the crimes in question had no time limit under international law. The court also required that the investigating judge question several of the defendants again.

Judicial authorities undertook several searches on military installations for information on the theft of babies. In addition, the Government created a reparation fund to be used by the Grandmothers of the Plaza de Mayo in carrying out activities to find and return children stolen from their parents during the 1976–83 military regime. The fund authorized $600,000 (600,000 pesos) over 2 years, starting in January.

In May a federal court in Cordoba province detained army Major Luciano Quiroga for allegedly gathering information on judicial efforts underway in the investigation on the military's role in the theft of babies. Army Chief of Staff Martin Balza subsequently suspended Quiroga and three other officials, a first step toward discharge, while investigating the charges.

In late December, Congress voted to block former General Antonio Bussi, who is charged with human rights abuses including torture and deprivation of liberty during the period of the dirty war, from taking his seat in the legislature. At year's end, the rules committee of the Chamber of Deputies was reviewing his right to be seated.

On June 7, President Menem relieved General Eduardo Cabanillas from command of the Army's II Corps, based on his distribution of a book entitled "Subversion: the Forgotten History," which contained harsh criticism of the Government, the business sector, the media, and political parties. However, early in June, a military tribunal tried Cabanillas for human rights abuses, including torture, theft of babies, and deprivation of due process, committed during the dictatorship. The trial followed allegations in the press that Cabanillas was involved in the theft of babies of women who had disappeared. While the court dropped the charges for lack of evidence, the army chief asked for his resignation. Cabanillas refused, stating that only the President could remove him from his post. In July President Menem discharged Cabanillas for insubordination.

In a disappearance case separate from the theft of babies, in September the Supreme Court ruled that Admiral Massera personally must pay $120,000 (120,000 pesos) to a survivor of the Tarnopolsky family, many of whose members disappeared during the military regime.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Criminal Code provides penalties for torture that are similar to those for homicide; however, police torture and brutality remain serious problems (see Section 1.a.). Human rights organizations described widespread police brutality, the use of torture on suspects, and corruption within the police forces. In June 1997, the United Nations Committee against Torture criticized the Government for tolerating continued brutality and the use of torture in police stations and prisons. In December 1998, the Government responded to the U.N. committee's criticism but did not make its reply public.

In May the authorities detained three police officers in Buenos Aires province for the alleged torture of several persons who were held on suspicion of killing a police official. In Rosario (Santa Fe province), the authorities imposed sanctions ranging from transfers to suspensions on nine police officers for seriously beating two youths who were arrested for creating a public disturbance in June. In August several witnesses alleged torture in the city of Buenos Aires by police who sought corroborating evidence against a suspect.

At mid-year the authorities were investigating two police officers in Buenos Aires province for forcing prostitutes (who were minors) to perform sexual acts to avoid being tried in the juvenile criminal system. They indicted the officers for abuse of

authority, extortion, and failing to carry out the duties of their office, among other offenses. In January Mendoza province undertook a wide-ranging purge of police ranks, when the authorities relieved 100 police officials from duty for presumed involvement in murders, torture, and abuses of civil rights. By year's end, they dismissed 34 additional officials on charges of misconduct. Among those discharged were eight officials involved in the case of Sebastian Bordon (see Section 1.a.).

Police used tear gas and rubber bullets to disperse violent protesters on numerous occasions, resulting in injuries (See Section 2.b.). In a number of incidents, they used deadly force (see Section 1.a.).

Police at times threatened journalists (see Section 2.a.).

The Commission for Relatives of Victims of Social and Institutional Violence (Cofavi) works to obtain justice in instances of police brutality.

In July the local headquarters of the Radical Civic Union (UCR) political party in Corrientes province were firebombed and destroyed; attackers also attacked the headquarters of a provincial opposition party and that of the Peronists with Molotov cocktails. In mid-September several small handmade bombs exploded outside the headquarters in Buenos Aires of the three major presidential candidates. An unknown group, the Argentine Resistance Command, claimed responsibility. No one was injured.

Prison conditions are poor. Many prisons and jails are overcrowded, and some facilities are old and dilapidated. In the Buenos Aires provincial prisons, 3,100 prisoners awaited trial at mid-year. The provincial government has considered various solutions, including renting temporary warehouse quarters, and was considering building 18 new prisons in various police districts. In the provincial capital, La Plata, 290 persons were being held for trial in an area with an original capacity of 100. In February five prisoners were wounded in a prison uprising in Buenos Aires province; the inmates appealed for better conditions in the prison, which had been opened the previous year.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Penal Code places limits on the arrest and investigatory power of the police and the judiciary; however, provincial police sometimes ignored these restrictions and arbitrarily arrested and detained citizens. Human rights groups find it difficult to document such incidents and state that victims are reluctant to file complaints because they fear police retaliation or do not believe that their complaints would do any good.

Police may detain suspects for up to 10 hours without an arrest warrant if the authorities have a well-founded belief that suspects have committed, or are about to commit, a crime, and if they are unable to identify themselves. However, human rights groups argue that this provision of law is widely abused, and that police often ignore the requirement that suspects must be unable to identify themselves, and often detain suspects who in fact do have identification.

Police occasionally detain teenagers and young adults, sometimes overnight, sometimes for an entire weekend, without formal charges. They do not always provide such detainees with the opportunity to call their families or an attorney. These detainees are released only upon a complaint from relatives or legal counsel.

In April the authorities investigated three Federal Police officials for fabricating charges against two persons in the Federal capital. Seventeen similar cases had been reported in the preceding 5 years.

In August the Government relaxed policies on police use of weapons. Officers may now fire at suspects without prior verbal warning in certain situations.

The authorities in Buenos Aires province indicted several police officials for conspiracy, hiding evidence, abuse of authority, and hiding public documents. Then-provincial Minister of Security Leon Arslanian relieved 1 official and suspended 19 others during the investigation. The officials allegedly hid or destroyed report files of about 200 crimes, with the apparent objective of reducing crime figures.

In March the Federal Government promulgated Decree 150, which instructs police to prevent conduct that "without constituting misdemeanors nor infractions in the Code of Misdemeanors, should be avoided." This decree is interpreted to allow the police to detain persons for carrying suspicious objects or potential weapons. Critics complained that the decree revived the old police edicts that had been in effect until the Buenos Aires City Council passed its Code of Misdemeanors in March 1998. Human rights groups had long argued that these edicts were used as an excuse for arbitrary detentions, particularly of young persons, immigrants, prostitutes, and transvestites. In a police sweep in downtown Buenos Aires 2 weeks after the decree was promulgated, authorities detained 21 persons under that decree and another law that allows police to check criminal records. The police said that the detainees were "intending to commit misdemeanors," although none were apprehended while committing a crime. Further massive sweeps did not occur.

The law provides for the right to bail, and it is utilized in practice. Nonetheless, the law allows pretrial detention for up to 2 years, and the slow pace of the justice system often results in lengthy pretrial detentions. If convicted, a prisoner usually receives credit for time already served. Three-fourths of the inmates in the federal prisons of the greater Buenos Aires area were reportedly in pretrial detention. In the prison system of the province of Buenos Aires, this figure was reported to be as high as 90 percent.

The law does not permit forced exile, and it is not used.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary is nominally independent and impartial, its processes are inefficient, complicated, and, at times, subject to political influence. The system is hampered by inordinate delays, procedural logjams, changes of judges, inadequate administrative support, and incompetence. Allegations of corruption are widely reported, especially in civil cases. In May 1998, the Justice Minister stated that "the system is in crisis."

The judicial system is divided into federal and provincial courts, each headed by a Supreme Court with chambers of appeal and section courts below it.

The Council of the Magistracy, created by the 1994 constitutional reform but not established until 1997, has responsibility for appointing and removing federal judges and administering the federal court system. It began the process of selecting judges in several parts of the country in September. Nonetheless, it still does not function fully; judicial vacancies have accrued, and roughly 200 impeachment cases against judges remain to be resolved.

Trials are public, and defendants have the right to legal counsel and to call defense witnesses. A panel of judges decides guilt or innocence. The law does not mandate a trial by jury. Federal and provincial courts continued the transition to oral trials in criminal cases, instead of the old system of written submissions. However, substantial elements of the old system remain. For example, before the oral part of a trial begins, judges receive written documentation regarding the case, which, according to prominent legal experts, can bias a judge before oral testimony is heard. Lengthy delays in trials are a problem.

In June 1998, the Government allowed Father Juan Antonio Puigjane to leave prison and serve the remainder of his term under house arrest. Puigjane, a Capuchin monk, was a leader of the leftist "All for the Fatherland" movement, which in 1989 assaulted the La Tablada army barracks near Buenos Aires. Although he did not take part in the assault and denied any foreknowledge of it, the court sentenced him to 20 years in prison. He becomes eligible for parole in 2000. Some international human rights groups claim that Puigjane was jailed for political reasons, but the Government maintains that he and the 19 others sentenced with him were tried and convicted properly of involvement in a violent rebellion against a democratically elected government.

The release of Puigjane followed the publication of a report by the Inter-American Commission on Human Rights (IACHR) on La Tablada, in which the IACHR absolved the Government of the use of excessive force in repelling the assault but concluded that the Government committed human rights violations after the attackers had surrendered. The Commission also found that the Defense of Democracy Act, under which the La Tablada defendants were tried and convicted, effectively denied them the right of appeal. In 1998 the Human Rights Committee of the lower house of Congress drafted a bill to amend the law in this respect, but it was unclear whether this bill, if passed into law, would retroactively benefit the La Tablada defendants. At year's end, the bill was still pending.

There were no other reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respects these prohibitions. Violations are subject to legal sanction, although in practice, local police have the right to stop and search individuals without probable cause.

Several highly publicized cases of unauthorized telephone wiretaps in recent years raised public concern, and the Government introduced a bill in Congress in 1998 to prevent such activities, including the unauthorized recording of telephone conversations, the unauthorized photographing or filming of private acts, and the dissemination of such unauthorized records. A group of prominent journalists warned that the proposed law could be used to abridge the public's right to information, under the guise of protecting the right to privacy. The Senate approved the bill at the end of 1998, but the Chamber of Deputies had not taken up the bill by year's end.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice.

A number of independent newspapers and magazines publish freely, and all print media are owned privately. Privately owned radio and television stations broadcast freely. The Federal Government still owns the Telam wire service, a television station, and a radio network. A few provincial governments also own broadcast media.

Nonetheless, organizations of journalists expressed concern over a number of developments during the year, including violence and threats against journalists, the growing concentration of media ownership, criticisms of the press by public officials, findings against journalists by the Supreme Court, and the failure to bring the Cabezas murder case to a close (see Section 1.a.).

Four provincial police were under arrest and awaiting trial in the case of the January 1997 killing of news photographer Jose Luis Cabezas. After the May 1998 suicide of business executive Alfredo Yabran, a business executive suspected of instigating the murder, the investigation closed in December 1998, with 17 persons named as possible defendants. However, the investigating judge moved to another position, and at year's end, a trial date had not been set.

In the spring, a court gave journalist Eduardo Kimel a year's prison sentence (suspended) and imposed a fine of $20,000 (20,000 pesos) for comments made in a book titled "La Masacre de San Patricio." On April 16, the OAS Special Rapporteur for Freedom of Expression issued a statement criticizing this ruling as an infringement on freedom of expression.

In March the authorities discharged two police officers in the province of Mendoza for threatening journalists.

On May 13, unknown individuals killed Ricardo Gangeme, a newspaper editor in Chubut province. Government investigators ruled out theft as a motive and suspect that it was a crime of vengeance. The authorities arrested six persons for Gangeme's murder; at year's end, they had not yet set a trial date.

In May 1988, Amnesty International stated that there was "a prevailing climate of intimidation against journalists," and an "increasing frequency of attacks, death threats, and harassment." In a report issued in September 1998, the Association for the Defense of Independent Journalism, a group of prominent journalists, concluded that, in view of such threats and of the authorities' failure to bring to justice the murderers of Cabezas, "the freedom of the press existing in our country since 1983 is seriously compromised." However, despite the chilling effect of the Cabezas murder, the press continued to report and criticize freely.

The law provides for academic freedom, and the Government respects this in practice. In May students protested cuts in the federal education budget (see Section 2.b.).

b. *Freedom of Peaceful Assembly and Association.*—The Constitution and the law provide for freedom of assembly, and the Government respects this right in practice. In March the executive branch issued a decree that allowed the Federal Police to detain persons who took part in "tumultuous meetings" that disturbed public tranquility. Provincial police clashed with public sector protesters numerous times throughout the year; security forces typically used rubber bullets and tear gas to disperse protests that turned violent. However, in a number of incidents the police used deadly force against demonstrators (see Section 1.a.).

In March a protest march during a visit by Prince Charles of the United Kingdom turned violent and resulted in 7 police injuries and 57 arrests. In May students blocked streets in Buenos Aires for several days, protesting cuts in the federal education budget. In May in Resistencia, Chaco province, police used heavy batons, rubber bullets, and tear gas to prevent public sector employees who were demonstrating from reaching the provincial executive offices. In June President Menem authorized the use of border police to remove a group of demonstrators who occupied the provincial legislature in Corrientes. In July clashes between protesters and police in Corrientes left a reported 25 demonstrators wounded. On August 11, police repelled protesters in Tucuman province with rubber bullets and tear gas; more than 30 persons were injured, including security officers. In December police injured over 40 protesters (and 2 persons were killed in as yet undetermined circumstances) in Corrientes (see Section 1.a.).

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

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Constitution states that the Federal Government "sustains the Apostolic Roman Catholic faith," and the Government provides the Catholic Church with a subsidy of $15 million (15 million pesos), which is administered through the Secretariat of Worship in the Office of the Presidency.

Religious organizations that wish to hold public worship services and to obtain tax exempt status must register with the Secretariat. Possession of a place of worship, an organizational charter, and an ordained clergy are among the criteria the Secretariat considers in determining whether to grant or withdraw registration.

Registered religious organizations may bring foreign missionaries to the country by applying to the Secretariat of Worship, which in turn notifies the immigration authorities so that the appropriate immigration documents may be issued.

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

In February members of the Roman Catholic Church complained that poor immigrants had difficulty paying the costs to arrange their residency documents and that the government immigration bureaucracy was excessive.

A committee composed of representatives of the Ministries of Justice, Foreign Relations, and the Interior determines grants of refugee status, using the criteria of the 1951 U. N. Convention Relating to the Status of Refugees and its 1967 Protocol. A representative of the U.N. High Commissioner for Refugees may participate in committee hearings, but may not vote. The Government has granted refugee status to numerous persons and accepted them for resettlement. The issue of the provision of first asylum did not arise in 1999.

In March the Government granted asylum to Paraguayan former general and coup plotter Lino Oviedo, who fled that country after the assassination of the Vice President, in which Oviedo allegedly was implicated.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic free and fair elections held on the basis of universal suffrage. In October voters elected Fernando de la Rua, leader of an opposition alliance, as President; he succeeded President Carlos Saul Menem of the Justicialist Party on December 10.

In December President de la Rua requested and received congressional permission to suspend all three branches of the Corrientes provincial government and take direct federal control of the province. Public workers, including teachers, court workers, and public hospitals had been on strike or limiting services for much of the year, due to the provincial government's inability to pay salaries.

There are no legal impediments to participation by women and minorities in politics and government; however, they remain underrepresented. The Constitution stipulates that the internal regulations of political parties and party nominations for elections be subject to affirmative action requirements to increase women's representation in elective offices. A 1991 law mandates the use of gender quotas by all political parties in national elections. A 1993 decree requires a minimum of 30 percent of all political party lists of candidates be female. As a result, the presence of women in Congress is increasing. About one-fourth of the 257 members of the lower house are women. However, gender quotas do not apply in the Senate, in which members are chosen by provincial legislatures, and membership in the 72-seat Senate is overwhelmingly male.

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

A wide variety of domestic and international human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Government is generally cooperative, although not always responsive to their views.

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

The Constitution and laws provide for equal treatment for all citizens. A 1988 law provides for prison terms of up to 3 years for discrimination based on race, religion, nationality, ideology, political opinion, sex, economic position, social class, or physical characteristics.

Women.—Violence and sexual harassment against women are problems, but the dimensions are difficult to measure. The only available statistics are those based on the number of cases reported to police, but the number of unreported cases is unknown. The National Council of Women, a governmental organization created in 1992, has worked with the U.N. Children's Fund (UNICEF) on the design and implementation of software that would standardize data from numerous sources and

permit a more accurate evaluation of the scope of the problem. The council also established a web site with information for women.

In 1994 Congress passed the Law on Protection against Family Violence, which authorizes a judge to order an offender excluded from the home. However, human rights groups criticized this law as insufficient to address the problem. NGO's working in the area of women's rights stress that women too often do not have a full understanding of their rights. They are uncertain what constitutes sexual harassment, what can be considered rape, or when physical and mental abuse is considered a punishable crime.

Rape is a problem, but reliable statistics as to its extent were not available. Marital rape and acquaintance rape are recognized by law, as long as there is force involved, but the need for proof, either in the form of clear physical injury or the testimony of a witness, often presents a problem. A rapist is not prosecuted if he offers to marry the victim and she accepts. In May Congress passed a law that expanded the definition of punishable sexual violations beyond forcible intercourse and increased the severity of punishments.

Public and private institutions offer prevention programs and provide support and treatment for women who have been abused, but transitory housing is almost nonexistent. The Buenos Aires municipal government operates a small shelter for battered women and a 24-hour hot line offering support and guidance to victims of violence, but few other shelters are known to exist.

Women encounter economic discrimination and occupy a disproportionate number of lower paying jobs. Often they are paid less than men for equivalent work, even though this is prohibited explicitly by law. Working women also are represented disproportionately in the informal sector, where effectively they are denied work-related economic and social benefits enjoyed by registered workers. The underemployment rate for women was twice as high as that of men, according to government statistics. In March 1998, President Menem signed a decree calling for the "design and implementation of policies, plans, and programs to promote the incorporation of women into the work force on an equal footing with men."

The National Council of Women carries out programs to promote equal opportunity for women in education and employment, encourage the participation of women in politics, and support women's rights programs at the provincial level.

Children.—Education is compulsory, free, and universal for children up to the age of 15. However, adequate schooling is unavailable in some rural areas. There are numerous health care programs for children, although not all children have access to them. The Ministry of Interior's Subsecretariat for Human and Social Rights works with UNICEF and other international agencies to promote children's rights and well-being.

There is no pattern of societal abuse of children, but nongovernmental and church sources indicate that child abuse and prostitution are on the rise. The National Council on Children and the Family believes that those affected tend to be younger than previously thought. The Council, which the Government established in 1990, works with federal and local agencies to improve child protection programs. In June the National Census Bureau reported that in 1998 4.5 million children under age 14—45 percent of children in that age group—lived in impoverished conditions. Street children can be seen in some large cities, although there are no reliable statistics on their numbers.

People with Disabilities.—A 1994 law aimed at eliminating barriers to disabled persons regulates standards regarding access to public buildings, parks, plazas, stairs, and pedestrian areas. Street curbs, commuter train stations, and some buildings in Buenos Aires have been modified to accommodate wheelchairs, but some public buildings and lavatories are still inaccessible to the disabled.

The law prohibits discrimination against disabled persons in employment, education, and the provision of other state services, and mandates access to buildings for the disabled. There was some progress in these areas. The National Advisory Commission on the Integration of People with Disabilities—a governmental office—and numerous nongovernmental groups were active in defending the rights of the disabled and helping them find employment. Since the establishment of the National Program Against Discrimination (INADI) in 1994, the largest single group bringing complaints has been the disabled. INADI received approximately 300 complaints of discrimination based on disability between December 1997 and July 1999.

Indigenous People.—The Constitution, as amended in 1994, recognizes the ethnic and cultural identities of indigenous people and states that Congress shall ensure their right to bilingual education, recognize their communities and the communal ownership of their ancestral lands, and ensure their participation in the management of their natural resources. The National Institute of Indigenous Affairs (INAI) is the government agency responsible for implementing these provisions.

The principal indigenous groups—the Kollas in Salta and Jujuy, the Mapuches in the Patagonian provinces, and the Wichis and Tobas in the northern provinces—represent less than 5 percent of the national population. The INAI estimates that there are 700,000 indigenous people, most of whom reside in rural areas. However, the nongovernmental Indigenous Association of the Argentine Republic estimates the indigenous population at 1.5 million. Other demographers in recent years have set the figure no higher than 450,000. To clarify the issue, the 2000 national census is to collect information about indigenous identity for the first time.

Census data show that poverty rates are higher than average in areas with large indigenous populations. Indigenous people have higher rates of illiteracy, chronic disease, and unemployment. Government efforts to offer bilingual education opportunities to indigenous people were hampered by a lack of trained teachers.

Since 1994 the Government has restored approximately 2.5 million acres of land to indigenous communities. Nonetheless, some communities were involved in land disputes with provincial governments and private companies.

Religious Minorities.—There were a number of reports of anti-Semitic vandalism, threats, and occasional instances of anti-Semitic violence. In April the Government applied the 1988 Antidiscrimination Law to send Ricardo Russo to prison for 2½ years for inciting anti-Semitism.

On September 17–18, unknown vandals desecrated some 63 graves at the Jewish cemetery in La Tablada, and in October unknown individuals desecrated the graves of 11 children at the Jewish cemetery in Liniers, both in Buenos Aires province. Investigations continued into vandalism at Jewish cemeteries in Ciudadela (1998) and La Tablada (1997), but there were no arrests. In August two Jewish families received telephonic threats and packages containing elements of an explosive device.

In April 1998, a court sentenced three Buenos Aires youths to 3 years in prison for assaulting a man in 1995 whom they believed to be Jewish. It was the first instance of an oral trial under the Antidiscrimination Law. The court found that the three had acted out of "hatred due to race, religion, or nationality," and they were given the maximum penalty provided by the law. At the sentencing in April, some persons in the courtroom shouted anti-Semitic remarks. The Interior Ministry's National Institute Against Discrimination, the nongovernmental Permanent Assembly for Human Rights, and the Delegation of Jewish-Argentine Associations filed suit demanding that the perpetrators be identified and tried under the Antidiscrimination Law. The defendants were released from prison in August 1998, pending an appeal. Early in the year, the appeals court overturned the sentence, ruling that it had not been proven that the attack was racist in nature. The court ordered that the defendants be tried on charges of aggravated assault, and the case is scheduled to go before the Supreme Court.

Investigations continued into the 1992 bombing of the Israeli Embassy in Buenos Aires and the 1994 bombing of the city's Jewish community center (AMIA). On February 24, the chief prosecutor in the investigation ruled that there was insufficient evidence to charge Iranian Nasrim Mokhtari in the AMIA bombing, and on July 16, the Supreme Court ruled that she could leave the country. The prosecutor also ruled in February that Islamic Jihad could have been responsible for the bombing, although he did not make a formal declaration to that effect. Wilson Dos Santos, who reportedly had linked Mokhtari to the bombing, again recanted his testimony from early in the year; the press reported in July that he had offered to return and testify in exchange for money. An investigator interviewed him in Brazil, evaluated the proposed testimony, and rejected his offer.

In March the prosecutor in the AMIA bombing ordered the release from detention of five former police officers, who had been detained for (but not convicted of) a variety of crimes in conjunction with the bombing. Their release was based upon the fact that they had served more than half of the minimum time they could have received if convicted. Two officers had been released previously. In May six of the men were taken into custody again for questioning on their possible connection to a stolen van used in the AMIA bombing. Four former police officers and a mechanic remain in jail, charged for their involvement in the AMIA bombing. In July the authorities brought charges against all 17 suspects held in connection with the case. Trials had not begun at year's end.

The AMIA center reopened in September; since then unknown persons made bomb threats against it on several occasions.

In September the Supreme Court issued an arrest warrant for Lebanese citizen Imad Mouyhine in connection with the Israeli Embassy bombing. On May 5, the Interior Minister called for an investigation into an audiotape that reportedly contained an order from a policeman redirecting a patrol car from the area around the embassy just before the bombing. In May the chief investigators reported that the

explosion was the result of a car bomb and formally determined that Islamic Jihad was responsible for the bombing.

In February a youth attending an outdoor evangelical event in suburban Buenos Aires was shot and killed by an unknown sniper who remains at large.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right to form "free and democratic labor unions, recognized by simple inscription in a special register," and this right is observed in practice. With the exception of military personnel, all workers are free to form unions. An estimated 35 percent of the work force is organized. Trade unions are independent of the Government and political parties, although many union leaders traditionally have supported the Justicialist Party. Most unions are affiliated with the General Confederation of Labor. A smaller federation, the Argentine Workers' Central, also is recognized legally.

The Constitution provides for the right to strike, and this right is observed in practice. During the year, there were scattered local work stoppages and several unions, including transport workers, farmers, and teachers, initiated separate nationwide labor strikes of several days' duration.

Unions are free to join international confederations without government restrictions; many unions also are active in international trade secretariats.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides unions with the right to negotiate collective bargaining agreements and to have recourse to conciliation and arbitration, and these rights are observed in practice. The Ministry of Labor and Social Security ratifies collective bargaining agreements, which cover roughly three-fourths of the work force. In recent years, most collective bargaining agreements have been negotiated at the plant level. However, in September 1998 Congress passed amendments to existing labor laws, one of which reserved to national unions the right to represent workers at the collective bargaining table, or to delegate this authority to lower-level unions. The new law also called for the creation of a mediation and arbitration service within the Ministry of Labor and Social Security to intervene in collective bargaining if requested by labor and management; at year's end, this service had not yet been established.

The law prohibits antiunion practices, and the Government enforces this prohibition.

Export processing zones exist or are planned in several provinces. The same labor laws apply within these zones as in all other parts of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that it was used. The law also prohibits forced and bonded labor by children, and the Government enforces this prohibition effectively.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employment of children under 14 years of age, except in rare cases where the Ministry of Education may authorize a child to work as part of a family unit. Children between the ages of 14 and 16 may work in a limited number of job categories, but not more than 6 hours a day or 35 hours a week. The Ministry of Labor chairs the National Commission for the Prevention and Eradication of Child Labor, working with government, organized labor, the business community, religious groups, UNICEF, and NGO's. In June 1998, the Commission adopted a national plan to eliminate child labor; it still is developing programs to implement this plan.

A 1993 law requires that all children receive a minimum of 9 years of schooling, beginning at age 6. The effect of the law was to raise to 15 the minimum age at which children may be employed.

Government census figures indicate that about 5 percent of children between the ages of 6 and 14 are employed, most with older family members. Local NGO's note that the figure is imprecise and could be as high as 10 percent. In the greater Buenos Aires area, 12,500 children age 14 and below are in the work force. In a 1997 report, UNICEF stated that 252,000 children between the ages of 6 and 14 were employed—183,500 in urban areas and 68,500 in the country, principally harvesting tea and tobacco.

The Government prohibits forced and bonded child labor, and there were no reports of its use (see Section 6.c.).

e. *Acceptable Conditions of Work*.—The monthly national minimum wage is $200 (200 pesos), which is not sufficient to provide a decent standard of living for a worker and family.

Federal labor law sets standards in the areas of health, safety, and hours. The maximum workday is 8 hours, and the maximum workweek is 48 hours. Overtime payment is required for hours worked in excess of these limits. The law also sets minimums for periods of rest and paid vacation. However, laws governing acceptable

conditions of work are not enforced universally, particularly for the salaried workers in the informal sector (roughly 40 percent of the work force).

Occupational health and safety standards still are being developed, but federal and provincial governments lack sufficient resources to enforce them fully. Employers are required by law to insure their employees against accidents at the workplace, and when traveling to and from work. However, a rash of accidents in the construction industry in 1998 led to demands that the law be strengthened. Workers have the right to remove themselves from dangerous or unhealthful work situations, after having gone through a claim procedure, without jeopardy to continued employment. Nonetheless, workers who leave the workplace before it has been proven unsafe risk being fired; in such cases, the worker has the right to judicial appeal, but the process can be very lengthy.

f. *Trafficking in Persons*.—While there are no laws specifically addressing trafficking in persons, laws against child abuse provide penalties for trafficking for purposes of prostitution, and other laws prohibit alien smuggling, indentured servitude, and similar abuses.

Although there were no reports of persons trafficked in, to, or from the country, police in Spain apprehended two Argentine citizens whom they charged with trafficking in women for purposes of prostitution.

BAHAMAS

The Commonwealth of the Bahamas is a constitutional, parliamentary democracy and a member of the Commonwealth of Nations. Queen Elizabeth II, the nominal head of state, is represented by an appointed Governor General. Prime Minister Hubert A. Ingraham's Free National Movement (FNM) has controlled the Government and Parliament since August 1992. The judiciary is independent.

The police and the small Bahamas Defence Force answer to civilian authority. There continue to be reports that police occasionally committed human rights abuses.

The economy depends primarily on tourism, which accounts for nearly two-thirds of the gross domestic product. Financial services, particularly offshore banking and trust management, are also a major source of revenue. While some citizens enjoy relatively high income levels, there is considerable underemployment and poverty. According to the Government's survey in May, the unemployment rate fell to about 7.8 percent.

The Government generally respects the human rights of its citizens; however, problems remain in several areas. There were reports that police occasionally beat and abused detainees, and prison conditions remain harsh. The police occasionally use arbitrary arrest, and lengthy pretrial detention and delays in trials are problems. Violence and discrimination against women, and violence against children also are problems. Discrimination against the disabled and persons of Haitian descent persists.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel and degrading treatment or punishment; however, the police occasionally beat and otherwise abused criminal suspects. Many of the charges of abuse involved beatings in order to extract confessions. Police officials continued to deny that there have been violations of defendants' rights. According to the officials, these rights are protected by the trial judge, who determines the admissibility of the defendant's statement as evidence at trial.

The Police Complaints and Discipline Unit, which reports directly to senior police officials, is responsible for investigating allegations of police brutality. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant discipline within the police system or, in some instances, criminal prosecution by the Attorney General. Local human rights observers doubt the police force's ability to investigate itself impartially in cases of alleged abuse and misconduct and believe that many incidents of improper police behavior go unreported. Police officials insist that their investigations are fair and thorough.

In 1998 the number of complaints against the police had dropped to 212 from 275 in 1997. Of that number, 15 resulted in disciplinary action, 76 were found to be unsubstantiated, 5 were withdrawn, and 116 were still under investigation at the end of that year. The acting Police Commissioner stated that the 1999 figures were expected to be lower than in 1998. Police officials believe that a continuing turnover in personnel is the contributing factor in disciplinary cases. There are approximately 2,200 officers to police a total population (excluding tourists) of 293,000.

Corporal punishment—abolished in 1984—was reinstated in 1991.

Conditions at Fox Hill, the only prison, continued to improve, but remain harsh and overcrowded. The men's maximum-security block, originally built in 1953 to house 400 to 600 inmates, holds nearly 800 of the prison's total of over 1,400 inmates. The remaining prisoners are housed in medium- and minimum-security units, which are currently at, or above, maximum capacity. The prison's female population is around 40 inmates, considerably less than the female unit's full capacity of 200. Male prisoners are crowded into poorly ventilated cells that generally lack regular running water. There are no separate facilities for inmates being held on "remand" (detention pending trial or further court action), although some eventually are segregated in a medium security wing after being processed through maximum security. All inmates are screened for infectious diseases, and prison officials estimate that about 7 percent of the incoming prison population is infected with the HIV virus. Most prisoners lack beds. Many of them sleep on concrete floors and are locked in their cells 23 hours per day. Facilities for women are less severe and have running water. Organizations providing aid, counseling services, and religious instruction have regular access to inmates.

The Government has provided funds for improvements in prison facilities and prisoner rehabilitation programs. Prison officials have instituted some technical and vocational programs, and correctional officers are undergoing instruction to become certified trainers. Modern training facilities are equipped with new computers, and the prison also offers some educational and literacy programs for prisoners. The prison is constructing a new 80-cell maximum security building. This building, which is to have larger cells and more extensive plumbing, should provide some relief of the overcrowding in the existing block. Prison officials plan to renovate the current maximum security unit once the new building is in service.

Domestic and international human rights groups were able to visit the prison during the year.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, police occasionally arbitrarily arrest and detain persons. In general, the authorities conduct arrests openly and, when required, obtain judicially issued warrants. The Government respects the right to a judicial determination of the legality of arrests.

Serious cases, including those of suspected narcotics or firearms offenses, do not require warrants where probable cause exists. Arrested persons appear before a magistrate within 48 hours (or the next business day for cases arising on weekends and holidays) to hear the charges against them. They may hire an attorney of their choice, but the Government does not provide legal representation except to destitute suspects charged with capital crimes. Some local legal professionals and human rights observers believe that this lack of representation risks hasty convictions on the basis of unchallenged evidence, particularly in the case of poor or illiterate defendants. However, there is no statistical evidence to indicate that this is more than an occasional problem.

The Bail Act prohibits bail for repeat offenders and those accused of certain violent crimes. Judges tend not to grant bail to foreign suspects, particularly on more serious offenses, since the authorities consider foreign offenders more likely to flee if released on bail. Judges sometimes authorize cash bail for foreigners arrested on minor charges, but in practice, foreign suspects generally prefer to plead guilty and pay a fine rather than pursue their right to defend themselves, given possible delays in court cases and harsh conditions in the prison. Attorneys and other prisoner advocates continue to complain of excessive pretrial detention.

The authorities detained illegal immigrants, primarily Haitians and Cubans, at the detention center located off Carmichael Road until arrangements could be made for them to leave the country, or they obtain legal status. Conditions at the detention center were Spartan, but the authorities do not hold most detainees for an excessively long period of time. Female and child detainees are housed together with the general population and are afforded little privacy. Because of a severe shortage of security personnel (8 guards for a detainee population that can range between 150 and 500), prisoners have vandalized much of the facility. Incidents of antagonism between detainees and guards are frequent. Most of these incidents occur among the Cuban detainees, a few of whom have been in custody for over a year.

Haitians are usually repatriated within a few days. Many detainees are provided with food and other items by relatives and friends on a regular basis, and those who can arrange and finance their repatriation generally are deported much more quickly. Illegal immigrants convicted of crimes other than immigration violations are held at Fox Hill Prison where they may remain for weeks or months after serving their sentences, pending deportation.

In September Hurricane Floyd severely damaged the detention center. For safety reasons, the authorities had transferred detainees to facilities at Fox Hill Prison before the storm. A number of detainees escaped after the storm. At year's end, about 400 detainees were held in quarters formerly used by female inmates at Fox Hill; although physical conditions were better than those in the center, detainees complained of reduced privileges available in the prison compound. A new detention center was expected to open in the spring of 2000.

Exile is illegal and is not used.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

Magistrate's courts are the lowest level courts and only handle crimes with a maximum sentence of 5 years. Trial by jury is available only in the Supreme Court, which is the trial court that handles most major cases. Its decisions may be appealed to the Court of Appeal, with the Privy Council in London being the final court of appeal. The Governor General appoints judges on the advice, in most cases, of the independent Judicial and Legal Services Commission.

The justice system derives from English common law. Trials are fair and public. Defendants enjoy the presumption of innocence and the right to appeal. Defendants can confront and question witnesses against them and present evidence on their own behalf. However, the judicial system is plagued by a large backlog of cases, and delays reportedly can last as long as 2 years. To reduce the backlog, the Government has begun the process of streamlining appeals, computerizing court records, and hiring new judges, magistrates, and court reporters. The Supreme Court established a task force to recommend further reforms in the court system.

Despite these measures to improve efficiency, complaints persist of excessive pretrial detention, outdated record-keeping, delayed justice for victims, and a lack of updating laws on the books. Some judges have been brought in from abroad who are familiar with English common law, but lack experience regarding domestic law and procedures. There were isolated complaints of deviations from normal, fair court proceedings—particularly in civil matters—but there were no indications that this was a widespread problem.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, or seizure, and the Government generally respects these prohibitions in practice. The law usually requires a court order for entry into or search of a private residence, but a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation exists. Such an official may also authorize the search of a person (that extends to the vehicle in which the person is traveling) without a court order, should probable cause exist to suspect drug possession.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government respects the constitutional provision for the right of free expression, and the political opposition criticizes the Government freely and frequently. Three daily and several weekly newspapers, all privately owned, express a variety of views on issues of public interest, including varying degrees of criticism of the Government and its policies. Foreign newspapers and magazines are readily available.

There is a government-run radio station and four privately owned radio broadcasters. The country's sole television station, the state-owned Broadcasting Corporation of the Bahamas (ZNS), presents a variety of views, although opposition politicians claim with some justification that their views do not receive as extensive coverage as those of the Government.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities respect this right in practice. Groups must obtain permits to hold public demonstrations; the authorities generally grant such permits.

The Constitution provides for freedom of association, and the authorities respect this right in practice. The law permits private associations.

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

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

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

There is no legislation to govern the processing of asylum seekers, and applications for political asylum are supposed to be adjudicated on a case-by-case basis at the cabinet level. The UNHCR has scaled back its involvement significantly since the beginning of 1998, leaving the screening of asylum applicants to trained immigration officials. Since this development, domestic and international human rights observers have criticized the Government for failing to screen potential asylum applicants adequately. These organizations have claimed that some Cubans with legitimate fears of persecution were repatriated without first having the opportunity to make a claim for asylum. However, UNHCR continues to review Bahamian interview records of Cuban detainees and offer advice. Although the repatriation agreement between the Bahamas and Haiti expired at the end of 1995, the Government continued to repatriate illegal Haitian immigrants based on the terms of that agreement. The Government signed a repatriation agreement with Cuba in 1998. During the year, the authorities repatriated 283 illegal Cuban immigrants and 2,886 Haitians. The authorities granted 21 persons (including 4 minors) first asylum.

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

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

The Bahamas is a constitutional, parliamentary democracy with two major political parties and general elections at least every 5 years. An elected Prime Minister and Parliament govern. The political process is open to all elements of society, and citizens 18 years of age and older are eligible to register and vote; voting is by secret ballot. The two principal political parties are the ruling Free National Movement and the opposition Progressive Liberal Party (PLP). The PLP led the country for 6 years of internal self-government from 1967 to 1973 and held power from independence in 1973 until 1992. The FNM won general elections in 1992 and 1997. The FNM holds 35 of 40 seats in the House of Assembly, and the PLP holds 5. Both the ruling party and the opposition name members to the upper house, the Senate, in compliance with constitutional guidelines. Although it does pass legislation, the Senate is primarily a deliberative body that serves as a public forum to discuss national problems and policies.

There are no legal impediments to participation by women in government and politics, but women are underrepresented. The 40-seat House of Assembly has 6 elected female members, including the speaker of the House, and there are 6 appointed female Senators, including the government leader in the Senate. The Minister of Foreign Affairs, Janet Bostwick, also directs the Bahamian Bureau of Women's Affairs. Women also head the Ministry of Education and the Ministry of Labor, Immigration, and Training. The Chief Justice of the Supreme Court is a woman.

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

Individual human rights monitors and several domestic human rights groups, as well as representatives of international human rights organizations, operate freely, expressing their opinions and reporting their findings on alleged human rights violations without government restriction. The Government allows them broad access to institutions and individuals.

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

The Government generally respects in practice the constitutional provisions for individual rights and freedoms regardless of race, place of origin, political opinion, creed, or sex. However, the Constitution and the law contain certain provisions that discriminate against women.

Women.—Violence against women continues to be a serious, widespread problem. Government crime statistics do not separate domestic violence from other incidents of violence. However, the Government established a nationwide toll-free hot line, with two trained volunteers on each of the inhabited islands who are on call to respond in the event of a crisis. Throughout the year, the Government and private women's organizations conducted a public awareness campaign highlighting the problems of abuse and domestic violence. In May the Government authorized the Department of Social Services to establish two shelters, which is the first time that

it has dedicated premises to assist battered women; they were projected to open in the spring of 2000. The Domestic Court, which deals exclusively with family issues such as spousal abuse, maintenance payments, and legal separation, continued to receive a high volume of cases. The court can and does impose various legal constraints to protect women from abusive spouses or companions. However, advocates for women's rights see a need to improve the effectiveness of enforcement of the court's orders. They cite a general reluctance on the part of law enforcement authorities to intervene in domestic disputes and a lack of police training and sensitivity in dealing with domestic violence. While police training includes some presentations on domestic violence, law enforcement authorities admit that the problem has not been a top priority in training or resource allocation.

The Constitution discriminates against women by not providing them with the same right as men to transmit citizenship to their foreign-born spouses. Additionally, the law makes it easier for men with foreign spouses to confer citizenship on their children than for women with foreign spouses. Some inheritance laws also favor men over women. For example, when a person dies without a will, the estate passes to the oldest legitimate son, or in cases where there is no son, the closest legitimate male relative. Prominent women of all political persuasions continue to push for an amendment to the Constitution and related laws to redress this situation.

Women participate fully in society and are well represented in the business and professional sectors.

Children.—The Government places a priority on maintaining adequate expenditures for child welfare and education. Public education is compulsory for children through the age of 16.

Awareness of parenting and responsibility for children has increased. However, child abuse and neglect remain serious problems, and cases of sexual abuse involving children age 14 and under are on the rise. The law requires that persons who have contact with a child they believe to be sexually abused must report their suspicions to the police. However, the same reporting requirement does not apply to cases of physical abuse, which health care professionals believe occurs quite frequently. The police refer reported cases of sexual and physical abuse to the Department of Social Services, which investigates them and can bring criminal charges against the perpetrators. The Department may remove children from abusive situations if the court deems it necessary. In light of increasing awareness of children's issues, in April the Government announced that it would subsidize a home for sexually and physically abused children. Construction of the new facility started in October.

People with Disabilities.—The Government has constructed additional housing units in Nassau designed specifically for the disabled, but very few buildings and public facilities are accessible to the disabled. Although the 1973 National Building Code mandates certain accommodations for the physically disabled in new public buildings, the authorities rarely enforce this requirement. The code also fails to mandate accommodations in new private buildings, which often lack accessibility as well. Advocates for the disabled complain of widespread job discrimination and general apathy on the part of private employers and political leaders towards their needs for training and equal opportunity. They note that there is no overarching legislation to implement and enforce equal opportunity policies in the workplace, educational institutions, or elsewhere.

The Disability Affairs Unit of the Ministry of Social Development and National Insurance works with the Bahamas Council for Disability, an umbrella organization of nongovernmental organizations (NGO's) that offer services for the disabled, to provide a coordinated public and private sector approach to the needs of the disabled. A mix of government and private residential and nonresidential institutions provides a range of education, training, counseling, and job placement services for both physically and mentally disabled adults and children. There is still no disability act, but in December 1998, a government-sponsored conclave initiated a national task force to address issues facing the disabled. The task force drafted proposed legislation that it plans to introduce in 2000.

National/Racial/Ethnic Minorities.—Unofficial estimates suggest that between 20 and 25 percent of the country's roughly 290,000 inhabitants are Haitians or Bahamians of Haitian descent, making them the largest and most visible ethnic minority in the islands. While 30,000 to 40,000 Haitian citizens reside in the Bahamas legally, some observers believe that similarly large numbers are in the country illegally. Although Haitians and Bahamians of Haitian descent are generally well integrated into society, interethnic tensions and inequities persist. Some members of the Haitian community complain of discrimination in the job market, and resentment of continued Haitian immigration is widespread. However, reports of ethnic violence

or blatant discrimination against legally resident Haitians are scarce. Leaders of the Haitian community approve of the Government's humane approach to the repatriation of illegal immigrants and point to the high number of ethnic Haitians in the public service.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides labor unions with the right of free assembly and association. Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Workers exercise the right of association extensively, with almost one-quarter of the work force (and one-half of the workers in the important hotel industry) belonging to unions.

Three major umbrella labor organizations, the National Workers Council of Trade Unions and Associations, the Trade Union Congress (TUC), and the National Congress of Trade Unions, along with individual labor unions, all function independent of government or political party control.

The Industrial Relations Act requires that, before a strike begins, a simple majority of a union's membership must vote in favor of a motion to strike. The Department of Labor must supervise the vote. Unions threatened several work stoppages against both public and private employers during the year. In order to resolve trade disputes more quickly, Parliament amended the Industrial Relations Act in 1996 to establish an industrial tribunal. According to the act, labor disputes are first filed with the Ministry of Labor and then, if not resolved, are turned over to the tribunal. The tribunal follows normal court procedures for the admission of evidence, direct examination, and cross examination. The tribunal's decision is final and only is appealable in court on a strict question of law. Some employers complain that the industrial tribunal is biased unfairly in favor of employees. All labor unions have the right to maintain affiliations with international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—Workers freely exercise their right to organize and participate in collective bargaining, which the law protects. Unions and employers negotiate wage rates without government interference.

The Constitution and the Industrial Relations Act prohibit antiunion discrimination by employers. The act requires employers to recognize trade unions, and it requires the reinstatement of workers fired for union activities. Employers may dismiss workers in accordance with applicable contracts, which generally require some severance pay. The Government enforces labor laws and regulations uniformly throughout the country.

Freeport is a specially designated free trade zone. Labor law and practice in this zone do not differ from those in the rest of the country. However, human rights advocates assert that the port authority has allowed a Hong Kong-based company, which owns the harbor, airport, and many major hotels in Freeport, not only to monopolize industry but also to discourage unions.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor by all persons, including children, and such labor does not exist in practice.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14 for industrial work or work during school hours. Children under the age of 16 may not work at night. There is no legal minimum age for employment in other sectors, and some children work part time in light industry and service jobs. The constitutional prohibition of forced and compulsory labor, including that by children, is respected in practice (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Fair Labor Standards Act permits the creation of a Wages Council to recommend the setting of a minimum wage, but the Government never has established such a council or a general minimum wage. However, in 1996 the Government established a specific minimum wage of $4.12 (B$4.12) per hour for all hourly and temporary workers throughout the public sector. In view of the high cost of living, this wage alone would not provide a decent standard of living for a worker and family. The act limits the regular workweek to 48 hours, provides for one 24-hour rest period, and requires overtime payment (time and a half) for hours beyond the standard.

The Ministry of Labor, responsible for enforcing labor laws, has a team of inspectors who conduct on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints, but inspections occur infrequently. The Ministry normally announces inspection visits in advance, and employers generally cooperate with inspectors to implement safety standards.

The national insurance program compensates workers for work-related injuries. The Fair Labor Standards Act requires employers to find suitable alternative em-

ployment for employees injured on the job but still able to work. The law does not provide a right for workers to absent themselves from dangerous work situations without jeopardy to continued employment.

f. *Trafficking in Persons.*— There are no laws that specifically address trafficking in persons; however, the Penal Code bans prostitution and prohibits the detention of persons against their will and for immoral purposes. There were no reports that persons were trafficked in, to, or from the country.

BARBADOS

Barbados is a constitutional democracy with a multiparty, parliamentary form of government and is a member of the Commonwealth of Nations. The Queen is head of state and is represented by an appointed Governor General. Prime Minister Owen Arthur is the head of government and governs with an appointed cabinet. The judiciary is independent.

The Royal Barbados Police Force is charged with maintaining public order. The small volunteer Barbados Defence Force (BDF), responsible for national security, can be employed to maintain public order in times of crisis, emergency, or other specific need. There continued to be infrequent reports of abuses by police.

The economy is based on tourism, services, light manufacturing, and agriculture, which makes it vulnerable to external economic developments. Per capita gross domestic product (GDP) was about $7,350 in 1998. The country has experienced a continued strong recovery after a recession in the early 1990's. Estimated GDP growth in the first half of the year was 2.5 percent, and it was expected to be between 2.5 and 3 percent for the year.

The Government generally respects constitutional provisions regarding human rights; however, there were problems in a few areas. Principal human rights problems continued to be occasional instances of excessive use of force by police and societal violence against women and children.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*— The Constitution specifically prohibits torture and cruel, inhuman, or degrading treatment or punishment; however, credible reports continued that law enforcement officials sometimes used force during detention to extract confessions from detainees.

In December 1998, the police took two foreign citizens into custody for questioning in connection with a bank burglary. According to eyewitnesses, both individuals were in good health when the police apprehended them. However, 2 days later, the police took both men to the local hospital following complaints of abdominal pain. One man suffered severe injury to his abdomen, liver, and colon and had to undergo extensive emergency surgery for life-threatening internal bleeding. Doctors treated the second man for injuries to the abdomen and groin. Both men asserted that they were beaten while in police custody. They allegedly were taken to separate rooms, where their heads were covered and hands taped, and they were each forced to lie down on a desk while five to six men beat them with blunt instruments. The police force's Criminal Investigation Department conducted an investigation and presented a report to the Director of Public Prosecutions in February. The authorities filed charges against five police officers and started trial proceedings.

In February 1998, two youths were rushed unconscious to the hospital after being held in choke holds during a police raid. In June 1998, another youth was shot in the shoulder during another alleged raid. The police investigated both cases and submitted reports to the Director of Public Prosecutions. After study, the prosecutor did not advise bringing the cases to trial. The police claimed that the medical evidence was inconclusive and, as a result, took no disciplinary action against the police officers involved in the cases.

The majority of complaints against the police fall into the categories of unprofessional conduct and beating or assault. While the police force has a complaints and discipline department headed by a superintendent to deal with matters of inappropriate police conduct, there is no independent body to review complaints against the police. However, in December 1998, the Attorney General instituted a working

group to make recommendations regarding the establishment of an independent complaints authority. The group's recommendations still were pending at year's end.

Police procedures provide that the police may question suspects, and other persons they hold, only at a police station, except when expressly permitted by a senior divisional officer. An officer must visit detainees at least once every 3 hours to inquire about the detainees' condition. After 24 hours, the detaining authority must submit a written report to the Deputy Commissioner. The authorities must approve and record all movements of detainees between stations. The authorities generally adhere to these basic principles, although officials occasionally used excessive force.

The authorities issued firearms to special foot patrols in high-crime areas in response to public concern over violent incidents that occurred during the year. Aside from this, the police force is still mainly unarmed, in keeping with its British traditions.

The only prison is antiquated and overcrowded, with over 700 inmates in a structure built for 350 inmates. The Caribbean Human Rights Network has called for reform of the penal system and advocates the development of alternatives to imprisonment such as community service to alleviate the problem of severe overcrowding. During the year, government officials discussed introducing alternative, noncustodial sentencing.

The Government allows private groups to visit prisons to ascertain conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and imprisonment and requires detainees to be brought before a court of law within a reasonable time, and the Government generally respects these provisions in practice. Criminal defendants have the right to counsel, and attorneys have ready access to their clients.

The authorities do not use exile as a punishment or means of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is free of intervention by other branches of government.

The judiciary includes the Supreme Court, which consists of the high court and court of appeal. The Governor General, on recommendation of the Prime Minister and after consultation with the leader of the opposition, appoints the Chief Justice and other judges. Judges serve until the age of 65.

The Constitution provides that persons charged with criminal offenses be given a fair public hearing within a reasonable time by an independent and impartial court, and the Government respects this right in practice. The judicial system provides for the right of due process at each level. The law presumes defendants innocent until proven guilty. The Government provides free legal aid to the indigent with the exception of a limit of about $2,150 (1,300 pounds sterling) on expenses incurred for appeals by death row prisoners to the Privy Council in London. Two inmates have challenged this limit and are suing the Government on the grounds that it effectively deprives them of their right to due process.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary entry, search, or seizure, and the law requires warrants to be issued before privately owned property may be entered and searched.

The Government does not routinely interfere in the private lives of its citizens; however, the police sometimes resorted to searches of homes without warrants. The Government does not censor mail. However, the Government restricts the receipt of foreign publications deemed to be pornographic. Other foreign publications of a nonprurient nature are allowed without restriction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities respect these rights in practice. There are two independent daily newspapers, both of which present opposition political views. The Government regularly comes under criticism in the newspapers and on daily call-in radio programs. There are six radio stations, two of which are owned by the Government. The Caribbean Broadcasting Corporation (CBC) television service (the only television source, excluding direct satellite reception) is government owned. Although CBC is a state enterprise, it regularly reported views opposing government policies. Critics allege that the Government sometimes uses its influence to discourage media reporting on sensitive issues, but the press remained vigorously critical of the Government on a broad span of issues. The Government prohibits the production of pornographic materials.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Government observes the constitutional provisions for peaceful assembly and private association in practice.

Political parties, trade unions, and private organizations function and hold meetings and rallies without hindrance.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens and legal residents move freely within the country and leave and enter it without restriction.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status. However, government practice remains undefined.

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

Citizens have this right in law and exercise it in practice. Political parties freely compete in fair elections by secret ballot at least every 5 years. In the January elections, the Barbados Labour Party won a decisive victory, gaining a 26-to-2 majority over the Democratic Labour Party. There are no impediments to participation in the political process, and all citizens over age 18 may vote. The Prime Minister exercises executive power along with the Cabinet of Ministers that he appoints, balanced by the bicameral Parliament and the judicial system.

Although underrepresented overall, women participate in all levels of government and politics. There are three female members of Parliament; the Deputy Prime Minister, who also serves concurrently as Foreign Minister, is a woman, as is the Minister of Education.

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

Local groups involved with human rights operate freely and without government hindrance. The Caribbean Human Rights Network, a Caribbean-wide human rights organization which has its headquarters and a small staff in Barbados, investigates and reports on allegations of human rights violations throughout the region.

The Ombudsman's office, established in 1987, hears complaints against government offices for alleged injuries or injustices resulting from administrative conduct. The office is proscribed from involving itself in issues involving foreign affairs, immigration questions, and certain other matters. Because it focuses only on administrative conduct, it does not deal with complaints of police abuse; a separate department within the police force deals with matter of inappropriate police conduct.

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

The Constitution provides for equal treatment under the law, regardless of race, religion, or sex. The Government respects these rights in practice.

Women.—Violence and abuse against women continued to be significant social problems. However, women's rights groups reported that victims of sexual assaults, domestic violence, incest, and rape are often reluctant to report such incidents. There are public and private counseling services for victims of domestic violence, rape, suicide, and child abuse.

The 1992 Domestic Violence Law specifies the appropriate police response to domestic violence, which is intended to protect all members of the family, including men and children. It applies equally to marriages and to common law relationships. Criminal penalties for violent crimes are the same, regardless of the sex of the offender or the victim. The courts heard a number of cases of domestic violence against women involving assault or wounding. Victims may request restraining orders, which the courts often issue. The courts can sentence an offender to jail for breaching such an order. Human rights monitors criticized an inconsistency in sentencing for rape, incest, and statutory rape. They noted that the lack of sentencing guidelines resulted in longer sentences for persons convicted of petty theft than for incest; and lesser sentences for incest than for rape or sexual assault of nonfamily members.

Women actively participate in all aspects of national life and are well-represented at all levels of both the public and private sectors. They form a large percentage of heads of household and are not discriminated against in public housing or other social welfare programs. The National Organization of Women (NOW) is an affiliate of a regional women's organization called the Caribbean Women's Association.

The Business and Professional Women's club, an affiliate of the NOW, runs a crisis center staffed by 30 trained counselors and provides legal and medical referral services. The center also has a hot line for clients who wish to maintain their ano-

nymity. The Government allocated $190,000 (bds$380,000) for a new battered women's shelter, which opened in September.

Children.—The Government provides for compulsory education to the age of 16. The national health insurance program provides children with free medical and dental services for most medical conditions. The Government is committed to children's human rights and welfare, although violence and abuse against children remain serious problems. The Child Care Board is responsible for monitoring and responding to the critical welfare needs, interests, and rights of children. Statistics from the Child Care Board show that approximately 1,000 children suffered abuse in 1998–99.

People with Disabilities.—The law does not prohibit discrimination against the physically disabled in employment, education, or the provision of other state services. However, in 1997 the Ministry of Labor established the Disabilities Unit to address the concerns of the disabled, and in early 1998 it created an advisory committee on disabilities. The Labor Department, a unit within the Ministry that finds jobs for the disabled, long has advocated the introduction of legislation prohibiting discrimination. In May the Government, labor leaders, and the private sector jointly announced as part of their continuing social partnership an agreement to promote a code of practice on the employment of persons with disabilities. They also agreed to establish targets and time frames for the employment of disabled persons in the private and public sectors.

While there is no legislation mandating provision of accessibility to public thoroughfares or public or private buildings, the Town and Country Planning Department sets provisions for all public buildings to include accessibility to persons with disabilities. As a result, the majority of new buildings have ramps, reserved parking, and special sanitary facilities for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—Workers freely exercise their right to form and belong to trade unions and to strike. Approximately 30 percent of the labor force belongs to trade unions. Overall union membership appears to have declined slightly in recent years as some workers moved to better-paying positions in higher-technology sectors. There are two major unions and several smaller ones, representing various sectors. The public service union, the National Union of Public Workers, is independent of any political party or the Government. The largest union, the Barbados Workers' Union (BWU), was closely associated with the Barbados Labour Party prior to 1954. After 1954 officers of the BWU became personally associated with the Democratic Labour Party. A new Congress of Trade Unions and Staff Associations was inaugurated in August 1995. Most unions belong to this organization.

The law accords full protection to trade unionists' personal and property rights. All private and public sector employees are permitted to strike, but essential workers may strike only under certain circumstances and after following prescribed procedures. While the industrial relations climate generally remained stable, there were two contentious strikes during the year, as well as several minor strikes in the public and private sectors over wages and workplace conditions.

A 9-day general strike at the government-owned television station challenged management's decision to discipline a station executive for public involvement in a political campaign. Other issues included restraints on the freedom of shop stewards to carry out union activities and outstanding back wages. A negotiated settlement was reached after senior government intervention. In the sugar industry protracted industrial action over wages took place just prior to the beginning of the sugar harvest. A modest wage increase ultimately was granted, but only after the delay in the harvest posed a threat to the annual output and important foreign exchange earnings.

Trade unions are free to form federations and are affiliated with a variety of regional and international labor organizations. The Caribbean Congress of Labor has its headquarters in Barbados.

b. *The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the authorities respected it in practice. Normally, wages and working conditions are negotiated through the collective bargaining process, but a tripartite prices and incomes policy accord signed in 1993 established a 2-year wage freeze. A revised (second) protocol contained provisions for negotiated increases in basic wages and increases based on productivity, which covered 1995–97. In May 1998, the tripartite partners signed a third protocol covering 1998–2000, broadened to address the needs of disabled workers and to express support for international efforts against child labor.

Employers have no legal obligation to recognize unions under the Trade Union Act of 1964, but most do so when a significant percentage of their employees signify a

desire to be represented by a registered union. Several foreign-owned international data-processing companies challenged union claims in 1997–98 to represent their workforces, highlighting the country's need for legislation outlining the union recognition process. While there is no specific law prohibiting antiunion discrimination, the courts provide a method of redress for employees alleging wrongful dismissal. The courts commonly award monetary compensation but rarely order reemployment.

There are no manufacturing or special areas where collective bargaining rights are legally or administratively impaired. There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced, compulsory, or bonded labor, including that by children, and there were no reports of its use.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum working age of 16 is broadly observed. Compulsory primary and secondary education policies, which require school attendance until age 16, reinforce minimum age requirements. The Labor Department has a small cadre of labor inspectors who conduct spot investigations of enterprises and check records to verify compliance with the law. These inspectors may take legal action against an employer who is found to have underage workers. The law prohibits forced or bonded labor by children, and the authorities effectively enforce it (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The law sets and the authorities establish minimum wages for specified categories of workers. Only two categories of workers have a formally regulated minimum wage—household domestics and shop assistants (entry level commercial workers). Household domestics receive a minimum wage of about $0.75 (bds$1.50) per hour, although in actual labor market conditions, the prevailing wage is triple that amount. There are two age-related minimum wage categories for shop assistants. The adult minimum wage for shop assistants was raised by 13 percent in June 1997, to $2.13 (bds$4.25) per hour; the juvenile minimum wage for shop assistants became $1.62 (bds$3.25) per hour. The minimum wage for shop assistants is marginally sufficient to meet minimum living standards; most employees earn more.

The standard legal workweek is 40 hours in 5 days, and the law requires overtime payment for hours worked in excess. The Government accepts International Labor Organization conventions, standards, and other sectoral conventions regarding maximum hours of work. However, there is no general legislation that covers all occupations. Employers must provide workers a minimum of 3 weeks' annual leave. Unemployment benefits and national insurance (social security) cover all workers. A comprehensive, government-sponsored health program offers subsidized treatment and medication.

The Factories Act of 1983 sets out the officially recognized occupational safety and health standards. The Labor Department enforces health and safety standards and follows up to ensure that problems cited are corrected by management. The Factories Act also requires that in certain sectors firms employing more than 50 workers create a safety committee. This committee can challenge the decisions of management concerning the occupational safety and health environment. Trade union monitors identify safety problems for government factory inspectors to ensure the enforcement of safety and health regulations and effective correction by management. Government-operated corporations in particular were accused of doing a "poor job" in health and safety. The Government has promised to undertake inspections of government-operated corporations and manufacturing plants as a priority. Workers have a limited right to remove themselves from dangerous or hazardous job situations without jeopardizing their continued employment.

f. *Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked in, to, or from the country.

BELIZE

Belize is a parliamentary democracy with a constitution enacted in 1981 upon independence from the United Kingdom. The Prime Minister, a cabinet of ministers, and a legislative assembly govern the country. The Governor General represents Queen Elizabeth II in the largely ceremonial role of head of state. Prime Minister Said Musa's People's United Party (PUP) holds 26 of the 29 seats in the House of Representatives. The Government generally respects the constitutional provisions for an independent judiciary; however, at times the judiciary is subject to political influence.

The Police Department has primary responsibility for law enforcement and maintenance of order. The Belize Defense Force (BDF) is responsible for external security but, when deemed appropriate by civilian authorities, may be tasked to assist the police department. Both the police and the BDF report to the Minister of National Security and are responsible to and controlled by civilian authorities. There were reports of abuse by the police.

The economy is primarily agricultural, although tourism has become the principal source of foreign exchange earnings. The agricultural sector is heavily dependent upon preferential access to export markets for sugar and for bananas. The Government favors free enterprise and generally encourages investment, although domestic investors are given preferential treatment over foreign investors in a number of key economic sectors. Preliminary estimates of 1999 gross domestic product growth placed it at 3 to 4 percent in real terms. Annual per capita income was $2,647.

The Government generally respected many of its citizens' human rights; however, there were problems in several areas. Principal human rights abuses include an instance of extrajudicial killing, occasional brutality and use of excessive force by the police when making arrests, poor prison conditions, allegations of arbitrary arrest and detention, lengthy pretrial detention, political influence on and interference with the judiciary, and judicial limits on freedom of the press. Violence and discrimination against women, abuse of children, and employer mistreatment of undocumented workers in the banana industry also were problems.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There were no political killings by the security forces; however, there was one instance of extrajudicial killing. In another incident, a BDF soldier killed a Guatemalan national in what was determined to be self-defense.

On September 22, 38-year-old Daniel Tillett died while in police custody, after being arrested for fighting in public. Although the police initially claimed that he had passed out in his own vomit and died, a cellmate told family members that police repeatedly beat Tillett and forced his head into a toilet. An autopsy revealed that Tillett had a fractured skull, water in his lungs, and a ruptured liver. The police internal affairs and discipline division questioned seven police officers following Tillett's death. As a result of the investigation, the Director of Public Prosecutions is pursuing a murder charge against one officer, who remains in police custody; the police temporarily suspended a second officer, who awaited a final disciplinary ruling at year's end.

The Prime Minister appointed an independent Commission of Inquiry to investigate the June 12 fatal shooting of Guatemalan national Mateo Paiz Ramirez by a BDF corporal. The Commission ruled the soldier had shot Ramirez in self-defense.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Constitution forbids torture or other inhuman punishment; however, the police occasionally used excessive force when making arrests. The Government's newly appointed Ombudsman said in a press interview that the majority of complaints that his office receives are allegations of police misconduct and brutality. At year's end, the ombudsman's office had 15 open cases involving complaints against the police.

The Police Department's internal affairs and discipline section, the Director of Public Prosecutions, the Ombudsman's office, and on occasion, special independent commissions appointed by the Prime Minister investigate allegations of abuse by officials.

On April 26, two Guatemalan men, Hector Balcarcel and Ricardo Guzman, were detained at the Guatemala-Belize border. They were taken into police custody. Balcarcel alleged that he was detained arbitrarily for 5 days and tortured. His report to the Human Rights Commission and the Guatemalan embassy claimed that he was stripped, handcuffed, burned with a lighter and habanero peppers on his genitals, beaten with a stick, and forced to drink his own urine. After an investigation, the police determined that these allegations were false; however, an internal review was underway at year's end of the allegation that the original investigation was a whitewash.

On October 14, plainclothes policemen shot and wounded Curtis Flowers, who allegedly brandished a toy weapon. Eyewitnesses confirmed the police account, and the shooting was ruled to be self-defense.

On October 26, the police questioned Luis Arturo Villavicencio Alas, a Guatemalan citizen residing in a border town in Belize and searched his home for drugs.

Villavicencio alleged that the police beat him; the Police Commissioner ordered an investigation, and a police tribunal fined the officer.

In June the authorities arrested a police constable and charged him with extortion and corruptly soliciting a reward. They relieved him of duty and at year's end, he was scheduled to stand trial in the Supreme Court.

Prison conditions are poor. Conditions at the Hattieville Department of Corrections—the country's only prison—have deteriorated continually since it opened in 1993. Although designed to house 500 inmates, it currently houses 1,023 prisoners, or approximately 6 prisoners per 10-by-12 foot cell. The majority of prison accommodations do not have showers or toilets. Instead, inmates are provided with 5-gallon buckets. The prison psychiatrist (a newly established position) provides mental health services for inmates. The prison includes a separate facility for women; however, the administrative section of the prison is situated nearby and as a result, guards and male prisoners occasionally roam about this area. There is no separate facility for inmates with mental illnesses. First-time offenders are housed in the same building as those who commit capital crimes. Noncitizens constitute approximately 15 to 20 percent of the prison population. There are rare reports of human rights abuses at the prison in the form of physical brutality by prison wardens. Incidents of gang and drug related violence in the prison are on the rise. A new superintendent of prisons was named to combat these and other problems.

The Government took steps to curb recidivism and focus on rehabilitation. The Youth Enhancement Agency (YEA) houses over 2,100 youths between the ages of 13 and 25, who participate in rehabilitation and job training programs. Increasingly, youthful offenders are transferred from the main prison to the YEA facilities. A job-training program at a citrus farm employs approximately 50 inmates. There is a time-off program for good behavior.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government observes these provisions to a degree; however, accusations of arbitrary arrest and detention were frequent. Two Guatemalan citizens alleged that they were detained and tortured in April (see Section 1.c.).

The law requires the police to inform a detainee of the cause of detention within 48 hours of arrest and to bring the person before a court to be charged formally within 72 hours. In practice, the authorities normally inform detainees immediately of the charges against them. Bail is granted in all but the most serious cases. In cases involving narcotics, the police cannot grant bail, but a magistrate's court may do so after a full hearing. There are persistent allegations that security forces hold detainees for 72 hours and release them, but upon release, arrest them again. Many detainees cannot afford bail, and backlogs in the docket often cause considerable delays and postponement of hearings, resulting in an overcrowded prison, and at times prolonged incarceration before trial.

The Constitution forbids exile, and it does not occur in practice.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice; however, the appearance of judicial independence from the executive branch is compromised because some foreign judges and the Director of Public Prosecutions must negotiate renewal of their contracts with the Government and thus may be vulnerable to political interference. In February the Government abruptly fired Supreme Court Justice Manuel Sosa, arbitrarily voiding his 11th-hour appointment in August 1998 by the ousted United Democratic Party (UDP) government of Manuel Esquivel, claiming that the PUP—then in the opposition—had not been consulted appropriately as the Constitution specified. In June the Government appointed Sosa to the Court of Appeals.

The judiciary consists of the magistrate's courts, the Supreme Court, the Court of Appeal, and a family court that handles cases of child abuse, domestic violence, and child support. Those convicted by either a magistrate's court or the Supreme Court may appeal to the Court of Appeal. In exceptional cases, including those resulting in a capital sentence, the convicted party may make a final appeal to the Privy Council in the United Kingdom.

Persons accused of civil or criminal offenses have constitutional rights to presumption of innocence, protection against self-incrimination, defense by counsel, a public trial, and appeal. Legal counsel for indigent defendants is provided by the State only for capital crimes. In April the Government appointed an attorney to the Legal Aid Center to improve and strengthen legal aid services to the public.

Trial by jury is mandatory in capital cases.

Trials in cases that come before the family court generally are private. The convicted party in family court also may appeal to the Supreme Court. Defendants have the right to be present at their trial unless the opposing party fears for his or her

safety. In such a case, the court grants interim provisions under which both parties are addressed individually during a 5-day period.

There are lengthy trial backlogs in the judicial system. One factor commonly cited is the low pay offered to judges, resulting in high turnover rates. In addition, an inordinate number of significant narcotics-related cases are taking years to resolve. In these cases, defendants often are released on minimal bail payments. In April two retired judges were named to the Supreme Court in a temporary capacity to help reduce backlogs.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violators are subject to legal action. However, there were several cases in which the previous government exercised its power under the right of eminent domain in an arbitrary manner. Such cases take years to resolve in the courts.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press but also permits the authorities to make "reasonable provisions" in the interests of defense, public safety, public order, public morality, or public health. These provisions include forbidding any citizen to question the validity of the financial disclosure statements submitted by public officials. Anyone who questions these statements orally or in writing outside a rigidly prescribed procedure is subject to a fine of up to $2,500 (bz$5,000), or imprisonment of up to 3 years, or both.

A wide range of viewpoints is presented publicly, usually without government interference, in seven privately owned weekly newspapers, three of which are affiliated directly with major political parties. There is no daily press. All newspapers are subject to the constraints of libel laws.

Since the first privately owned commercial radio station began broadcasting in 1990, other stations have been established, broadening the audience's choices. In addition to these local stations, there are two British military stations that broadcast news directly from London. Popular radio call-in programs are lively and feature open criticism of and comments on government and political matters.

There are eight privately owned television broadcasting stations, including several cable networks in Belize City and the major towns. The Government's Belize Information Service issues press releases and maintains an Internet web site. Two independent television stations produce local news and feature programs. The Belize Broadcasting Authority (BBA) regulates broadcasting and asserts its right to preview certain broadcasts, such as those with political content, and to delete any defamatory or personally libelous material from political broadcasts. In a controversial move, the BBA granted a narrow-range frequency to the opposition UDP radio station, which limited its broadcasts to the greater Belize City metropolitan area.

The law provides for academic freedom, and the Government respects it in practice.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects it in practice. Political parties and other groups with political objectives freely hold rallies and mass meetings. The organizers of public meetings must obtain a permit 36 hours in advance of the meetings; such permits are not denied for political reasons and are granted routinely in practice.

The Constitution permits citizens to form and join associations of their choosing, both political and nonpolitical, and the Government respects these provisions in practice.

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

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

The law provides for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations. In 1997 the UNHCR liaison office ceased all funding for the Government's Refugee Department, which previously had relied upon the UNHCR to pay all program costs, including salaries. The Refugee Department officially closed on January 1; all remaining functions are handled through a small refugee desk within the Department of Immigration and Nationality.

The previous administration appointed members to an eligibility committee to review applications for asylum. The committee, which included a UNHCR representative, met on a weekly basis. In 1998 the Government turned down 30 requests for asylum. After the 1998 elections, no applications for asylum were made. There is no legislation that formalizes the asylum process. The Government last honored the principle of first asylum in the case of four persons in 1995.

In the wake of the civil conflicts in Central America in the 1980's, over 40,000 predominantly Hispanic migrants came to Belize, many of them entering illegally and living without documentation. In May the Government instituted a 6-week amnesty initiative whereby undocumented migrants were eligible to obtain legal residency, provided: They lived in Belize continuously for 4 years, married a Belizean citizen or had a stable common-law association, had Belizean children, or, if female, were at least 4 months pregnant. In response to UNHCR concerns, the Government amended its process, reducing the residency requirement from 10 to 5 years, to allow these migrants to obtain citizenship. The amnesty is expected to benefit about 5,000 UNHCR-registered asylees, as well as 13,000 others.

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

Belize is a democracy governed by a national assembly with executive direction from a cabinet of ministers headed by Prime Minister Said Musa. The law requires national elections every 5 years. The Government changed hands in August 1998 when the PUP won 26 of 29 seats in the House of Representatives in free and fair elections.

All elections are held by secret ballot, and suffrage is universal for citizens 18 years of age and older. National political parties include the People's United Party, the United Democratic Party, and the National Alliance for Belizean Rights (NABR). The country's ethnic diversity is reflected in each party's membership.

No laws impede participation of women in politics; however, they are underrepresented in electoral politics due to both tradition and socioeconomic factors. Voters elected 2 women to the 29-seat House of Representatives, and the Speaker of the House and the President of the Senate, both appointed, are women. Women also hold a number of other appointive offices, including four of nine senate seats and one cabinet position.

There are no laws impeding participation by indigenous people or minority groups in politics. There are Mestizo, Creole, Maya, and Garifuna representatives in Parliament.

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

The Human Rights Commission of Belize (HRCB), a nongovernmental organization (NGO) affiliated with regional human rights organizations and partly funded by the UNHCR, operates without government restriction on a wide range of issues, including migrant and agricultural workers' rights and cases of alleged police abuse. The HRCB publishes human rights complaints and urges police and other governmental bodies to act upon them. The HRCB gained prominence through media reports about its workshops and seminars that educate citizens about human rights. International human rights groups operate freely as well. Government officials generally are cooperative and responsive to their activities.

On July 13, the Government appointed the country's first Ombudsman. The Ombudsman's office receives a daily average of half a dozen complaints. The Ombudsman said in a press interview that the majority of complaints that his office receives are allegations of police misconduct and brutality. At year's end, the ombudsman's office had 15 open cases involving complaints against the police (see Section 1.c.).

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

Belize is a multiracial, multiethnic country, and the Government actively promotes tolerance and cross-cultural understanding. Discrimination on ethnic or religious grounds is illegal and rare, although ethnic tension, particularly resentment of recently arrived Central American and Asian immigrants, continued to be a problem. The Government continues to reserve certain professions for citizens, granting permits and licenses to noncitizens only in specific cases. These occupations include fishing, souvenir manufacturing, sightseeing tours, accounting, insurance, real estate, and legal services.

b. Women.—Violence against women is a problem. A shelter for battered women offers short-term housing. The Belize Organization for Women and Development, an NGO, advises women on their rights and provides counseling. Laws prohibit rape

and sexual harassment, but few offenders are charged and convicted. In October Parliament passed a law specifically prohibiting spousal rape.

There were reports of trafficking in women for purposes of prostitution (see Section 6.f.).

Despite constitutional provisions for equality, women face social and economic prejudice. Women find it more difficult than men to obtain business and agricultural financing and other resources. Most employed women are concentrated in female-dominated occupations with traditionally low status and wages.

The Women's Bureau in the Ministry of Human Development, Women, and Civil Society is charged with developing programs to improve the status of women. A number of officially registered women's groups work closely with various government ministries in promoting social awareness programs. Women have access to education and are active in all spheres of national life, but relatively few hold top managerial positions. However, women head the Belize Business Bureau, Belize Chamber of Commerce and Industry, Belize Citrus Growers Association, several prominent environmental NGO's, and the Belize Rotary Club. The law mandates equal pay for equal work, but female workers often earn less than men in similar jobs. There are no legal impediments to women owning or managing land or other real property.

Children.—Education is compulsory for children between the ages of 5 and 14. After children finish their primary education, they may enter a secondary school, the government-run apprenticeship program, or a vocational institution. However, these programs have room for only about one-half of the children finishing primary school; competition for spaces in secondary school is intense. Education is nominally free, but various school, book, and uniform fees put education out of reach for many poor children.

The Family Services Division in the Ministry of Human Development, Women, and Civil Society is devoted primarily to children's issues. The division coordinates programs for children who are victims of domestic violence, advocates remedies in specific cases before the family court, conducts public education campaigns, investigates cases of trafficking in children (see Section 6.f.), and works with the NGO's and the United Nations Children's Fund to promote children's welfare. The National Committee for Families and Children includes a representative from the Ministry of Human Development, Women, and Civil Society.

During the year, the public became more aware of the Families and Children Act, which was passed in late 1998. The National Organization for the Prevention of Child Abuse (NOPCA) published a handbook for the public that outlined in plain language provisions of the act. The act allows authorities legally to remove a child from an abusive home environment. The act removes the limit placed on child support a parent must pay, and it allows men to file for support, as well as women. It requires parents to maintain and support a child until he or she reaches the age of 18, compared with the previous law's mandate of support up to the age of 16. The new act also accepts DNA testing as legal proof of paternity and maternity. It requires that all adoptions be reported to the Human Development Department of the Ministry of Human Development, Women, and Civil Society and that prospective parents be screened before they may adopt a child. The NOPCA instituted a nationwide telephone help line to encourage discourse and reduce abuse.

People with Disabilities.—The law does not specifically provide for accessibility for disabled persons or prohibit job discrimination against them. The Government's Disability Services Unit, as well as a number of NGO's, such as the Belize Association of and for Persons with Disabilities and the Belize Center for the Visually Impaired, provide assistance to physically disabled persons. Disabled children have access to government special education facilities, although the requirements to enter such programs are strict.

Indigenous People.—Among the country's indigenous people, the Mopan and Ke'kchi are grouped under the general term Maya, although their leaders say they should be identified as the Masenal, meaning "common people." The Maya have sought official recognition of their communal claims to land, but the Government has been reluctant to single out one ethnic group for special consideration. The Government has designated 77,000 acres as 9 separate Mayan reserves; however, Mayan leaders purport that the Maya have an ancestral claim to a total of 500,000 acres. Several Mayan organizations have filed suit to force the Government to recognize the Mayas' ancestral land rights and to prevent further granting of logging concessions on the disputed land.

In October the Government introduced legislation to establish the Southern Regional Development Corporation (SRDC), which would promote development in districts of the country that are heavily populated by Maya. Indigenous leaders opposed the first draft of the bill because they wanted their land claims addressed

first and because they believed that their communities were represented insufficiently on the SRDC board. At year's end, the legislation was still pending; however, on November 23, the Cabinet approved the regional development plan that the corporation is to implement.

The Maya have formed cultural councils and other groups to advance their interests, sometimes with the collaboration of NGO's concerned with environmental and indigenous issues. In 1998 one Mayan council sought and won greater involvement by the Mayan community in an internationally funded highway project in the southern part of the country, the location of many Mayan communities. In response to Mayan objections to strip logging, the Government created a broad-based oversight committee to scrutinize the loggers' compliance with strict environmental statutes.

Section 6. Worker Rights

a. *The Right of Association*.—By statute and in practice, workers are free to establish and join trade unions. Eleven independent unions, whose members constitute approximately 11 percent of the labor force, represent a cross-section of white-collar, blue-collar, and professional workers, including most civil service employees. However, several of these unions are inactive. The Ministry of Industry, Commerce, Public Services, and Labor recognizes unions after they file with the Registrar's Office. The law empowers members to draft the by-laws and the constitutions of their unions, and they are free to elect officers from among the membership at large. Unions that choose not to hold elections may act as representatives for their membership, but the national Trade Union Congress permits only unions that hold free and annual elections of officers to join its ranks. Both law and precedent effectively protect unions against dissolution or suspension by administrative authority.

The law permits unions to strike and does not require them to give notice before going on strike.

Although no unions are affiliated officially with political parties, several are sympathetic to one or the other of the two main parties (the PUP and the UDP).

Unions freely exercise the right to form federations and confederations and affiliate with international organizations.

b. *The Right to Organize and Bargain Collectively*.—The law provides for collective bargaining and unions practice it freely throughout the country. Employers and unions set wages in free negotiations, or, more commonly, employers simply establish them. The Labor Commissioner or his representative acts as a mediator in deadlocked collective bargaining negotiations between labor and management, offering nonbinding counsel to both sides. Historically, the Commissioner's guidance has been accepted voluntarily. However, should either union or management choose not to accept the Commissioner's decision, both are entitled to a legal hearing of the case, provided that it is linked to some provision of civil or criminal law.

The Constitution prohibits antiunion discrimination both before and after a union is registered. Unions may organize freely, but the law does not require employers to recognize a union as a bargaining agent. For example, although the registered Banana Workers Union actively advocated worker rights, it was not recognized by the banana industry's growers association due to low membership. Some employers have been known to block union organization by terminating the employment of key union sympathizers, usually on grounds purportedly unrelated to union activities. Effective redress is extremely difficult in such situations. Technically, a worker can file a complaint with the Labor Department, but in practice it is virtually impossible to prove that a termination was due to union activity.

The Labor Code applies in the country's export processing zones (EPZ's). There are no unions in the EPZ's, reflecting the general weakness of organized labor in the country.

c. *Prohibition of Forced or Compulsory Labor*.—The Constitution and laws forbid forced, compulsory or bonded labor, including that performed by children, and generally it is not known to occur; however, there were reports that women were trafficked for the purpose of forced prostitution (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The minimum age for employment is 14 years, or 17 years for employment near hazardous machinery. Inspectors from the Departments of Labor and Education enforce this regulation. During the year, truancy officers, who historically have borne the brunt of the enforcement burden, were more active. The law requires children between the ages of 5 and 14 to attend school, but there are many truants and dropouts. Laws prohibit forced and bonded labor by children, and the Government effectively enforces this prohibition; however, there were infrequent reports of trafficking in children for purposes of prostitution (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work*.—The minimum wage is $1.12 (bz$2.25), except in export industries, where it is $1.00 (bz$2.00) per hour. For domestic workers in

private households and shop assistants in stores where liquor is not consumed, the rate is $0.87 (bz$1.75) per hour. The minimum wage law does not cover workers paid on a piecework basis. The Ministry of Industry, Commerce, Public Services, and Labor is charged with enforcing the legal minimum wage, which generally is respected in practice. The minimum wage as sole source of income does not provide a decent standard of living for a worker and family. Most salaried workers receive more than the minimum wage.

The law sets the normal workweek at no more than 6 days or 45 hours. It requires payment for overtime work, 13 public holidays, an annual vacation of 2 weeks, and sick leave for up to 16 days. An employee is eligible for severance pay provided that he was employed continuously for at least 5 years.

The exploitation of undocumented Hispanic workers, particularly young service workers and possibly some agricultural workers, continued to be a problem. Banana farm owners slowly are moving the housing they provide for their workers away from the fields where poisonous pesticides are sprayed. Health clinics in the region report that the most frequently treated ailments are pesticide-related skin conditions. Company-provided housing often lacks electricity and water. The Government, the HRCB, and other concerned citizens all focus on this problem.

A patchwork of health and safety regulations covers numerous industries, and the Labor Department in the Ministry of Industry, Commerce, Public Services, and Labor enforces these regulations to varying degrees. Enforcement is not universal, and the ministries commit their limited inspection and investigative resources principally to urban and more accessible rural areas where labor, health, and safety complaints have been registered. Workers have the legal right to remove themselves from a dangerous workplace situation without jeopardy to continued employment.

f. *Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, it does proscribe trafficking in women with the intent that the woman may become an inmate of or frequent a brothel. Nonetheless, there were reports in 1998 that one or more dance hall owners have recruited women from neighboring countries, promising them jobs as dancers, waitresses, or domestics. Upon arrival, the employer allegedly takes their passports, forces them to engage in prostitution, and holds their wages. The police have investigated, but had not made any arrests by year's end, nor had the Government taken any other steps to address this practice.

The Ministry of Human Development, Women, and Civil Society, the police department, and—in cases involving migrant children—the Ministry of National Security and Immigration investigate and attempt to remedy cases that involve trafficking in children (see Section 5). According to a spokesperson from the Human Development Department, there were rare reports of trafficking in children for the purpose of prostitution; most involved migrant children.

BOLIVIA

A constitutional, multiparty democracy with an elected president and bicameral legislature, Bolivia has separate executive, legislative, and judicial branches of government, with an attorney general independent of all three. The judiciary, while independent, is corrupt and inefficient. The executive and legislative branches share these defects to some extent. The Government continued to implement constitutional amendments to reform the judicial system, which were passed in 1994; the reforms were partially completed by the end of 1999.

The National Police have primary responsibility for internal security, but military forces can be called upon for help in critical situations. The police provided security for coca eradication work crews in the Chapare region. A special antinarcotics force (FELCN), including the Mobile Rural Patrol Unit (UMOPAR), is dedicated to antinarcotics enforcement. Civilian authorities generally maintain effective control over the security forces, but some members of these forces committed human rights abuses.

Bolivia has extensive poverty, and many citizens lack access to such basic services as potable water, sewage, electricity and primary health care. Per capita gross domestic product (GDP) is about $1,076. The country is rich in minerals and hydrocarbons, and extensive investments in petroleum deposits in the eastern and southern parts of the country are expected to form a basis for strong GDP growth in the future. However, most workers engage in traditional agriculture, and many citizens remain barely linked to the cash economy.

The Government generally respected the human rights of its citizens; however, while the Government's human rights record improved somewhat, problems remain

in certain areas. Legal and institutional deficiencies prevented the full protection of citizens' rights. There were several suspicious deaths of persons who had been in police custody. Unlike 1997 and 1998, there were no major clashes in the Chapare region between security forces and illegal coca growers and no killings there due to such confrontations. There were credible reports of abuses by police, including use of excessive force, petty theft, extortion, and improper arrests. Investigations of alleged official abuses were slow. Prison conditions are harsh and at times police arbitrarily arrested and detained persons. The most pervasive human rights abuse continued to be prolonged incarceration of detainees due to antiquated procedures and inefficiency and corruption in the judicial system. Other problems include government attempts to intimidate some news media, violence and discrimination against women, trafficking in women, abuse of children, discrimination against and abuse of indigenous people, discrimination against Afro-Bolivians, and inhuman working conditions in the mining industry.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings.

On November 11, Miguel Angel Rivero Siles, a 17-year-old prisoner accused of murder, suffered second and third degree burns over 80 to 90 percent of his body while in a solitary confinement cell at San Sebastian prison in Cochabamba. He died in a hospital on November 13. Prison authorities asserted that the fire was accidental, caused by a candle used for illumination. Rivero told the Ombudsman's office that he lit the candle, fell asleep, awoke to find the room on fire, and that the prison guards were very slow to come to his assistance. Rivero's attorney asserted that prison officials' statements were contradictory, and at year's end prison authorities, the local prosecutor, and the Ombudsman were conducting investigations of the incident. The Ombudsman's preliminary investigation determined that the fire was not accidental.

On October 23, police in Santa Cruz arrested 18-year-old Marcelo Botelho; he died the next day in a hospital. The police said that they arrested Botelho after he was caught stealing a watch, that his alleged victims had beaten him, and that they had rushed him to the hospital later that evening when they noticed that he was suffering convulsions. However, there were allegations that the police had beaten Botelho, although there were no eyewitness reports.

On October 21, Oscar Justiano, who was arrested and reportedly beaten by the FELCN in December 1998, died after being sent from the Palmasola prison in Santa Cruz to the hospital. An autopsy showed that he died from tuberculosis and other diseases, not as a result of the beating he suffered upon arrest. Nonetheless, his family and human rights advocates charged the FELCN with responsibility for his death.

On May 20, police arrested Peruvian businessman Carlos Freddy Cano Lopez for refusing to pay a disputed taxi fare. After Cano had spent several days in jail, his cell mysteriously caught fire and Cano suffered third degree burns over 50 percent of his body. On May 29, the authorities transferred Cano to a hospital in Lima, Peru, where he died on June 9. Before dying, Cano told his wife that the police had set his cell on fire. However, the police alleged that Cano set his cell on fire while burning incriminating photographs that he wished to conceal from his wife. The authorities suspended the policemen in question and their judicial case was pending at year's end.

Unlike in 1997 and 1998, there were no major clashes in the Chapare region between security forces and illegal coca growers. The Government neared completion of its investigation into the deaths in the violent incidents in the Chapare in the spring of 1998 and planned to report on it in January 2000. Out of an original list of 13 possible civilian deaths that resulted from the clashes, in only 5 cases did it appear that the deaths could have resulted from clashes between security forces and illegal coca growers.

However, the Government did not complete its investigations into the deaths in the serious and violent incidents in 1997 in the Chapare region or the deaths in the Amayapampa confrontations in December 1996. An investigation by the Inter-American Commission on Human Rights (IACHR) found that security forces committed excesses resulting in the deaths of 9 civilians and 32 persons wounded in Amayapampa and that the Government did not act to identify and punish those responsible; the Attorney General has yet to complete a long-promised report on these deaths. In addition, the authorities have not recaptured the police officer accused in 1994 of murdering coca worker Felipe Perez Ortiz; the officer escaped from cus-

tody in September of that year. The Government's failure to complete effective investigations and identify and punish those responsible for either civilian or police deaths results in an atmosphere of impunity and a condition that almost amounts to lawlessness.

There are reports that indigenous communities burn or bury alive alleged witches (see Section 1.c.).

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

The case of Juan Carlos Trujillo Oroza drew renewed attention as the most prominent of the cases of those who disappeared during the 1971–78 de facto regime of President Hugo Banzer Suarez. Trujillo's mother presented the case to the Inter-American Court of Human Rights in June. The security forces had detained Trujillo, a 21-year-old university student, on December 23, 1971, and he was never seen again after February 2, 1972. Trujillo's mother first presented his case to the Inter-American Commission on Human Rights on September 28, 1992. In 1996 the Government of President Gonzalo Sanchez de Lozada accepted responsibility for Trujillo's arrest and disappearance and named those responsible, but did not hold them accountable. Trujillo's mother is seeking the return of her son's remains and punishment for those responsible; the Government agreed to start negotiations with her, with the goal of an amicable settlement.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and the Government generally respects this provision; however, there were a number of significant allegations of torture.

There were also credible allegations that military officers and sergeants beat and otherwise mistreated military conscripts. The Government was investigating the alleged beating by his superiors of conscript Roger Candia Vallejos in September and November.

Victor San Unzueta alleged that security forces detained him on June 6, 1998, took him to a supposed mobile military camp known as Santisima Trinidad (that apparently no longer exists), and tortured him. A human rights organization claims that there are other persons who were also tortured at this mobile camp. However, there are no eyewitness accounts or other evidence to support these allegations.

Human Rights Ombudsman Ana Maria Romero de Campero completed her investigation into the November 1998 alleged army intimidation of residents of the village of Puerto Zudanez in the Chapare. In her March 16 report, she was critical of the Government's security forces, and urged the Government to respect citizens' human rights. She presented her findings to the Attorney General, which noted that none of the perpetrators of the alleged intimidation had been identified. The military rejected the accusations of intimidation. The Ombudsman noted a marked improvement in the conduct of coca eradication work crews with respect to human rights in 1999.

In September the military signed a cooperation agreement with the Ombudsman's office, and in November the military concluded an agreement for cooperation and coordination for human rights training with the Ministry of Justice and Human Rights.

Several police officers were fired and charged for off-duty crimes including theft and rape, and a number were dismissed for corruption. In general, however, the police were not disposed to investigate their own colleagues, and prosecutors were reluctant to prosecute security officials for alleged offenses committed while on duty. Then-Police Chief General Jose Luis Medina reinstated 172 policemen who earlier had been dismissed for corruption; the authorities dismissed Medina on October 15 after less than 5 months on the job, saying that he had failed to restructure the police force. The 172 policemen then were suspended with pay pending an investigation directed by the new Police Chief, General Roberto Perez. At year's end, more than half of the suspended police officers had retired, and many others were expected to do so. It appeared that the few who remain will be able to be reinstated to their jobs.

Neither the technical and judicial police nor prosecutors normally receive human rights training. However, in June foreign human rights attorneys conducted a 2-week human rights course for 53 FELCN investigators and National Police Internal Affairs officers. The Congress has yet to take action on the 1995 report of its Human Rights Commission resurrecting allegations that police officials had in past years tortured captured terrorists and recommending that criminal proceedings be opened against a number of named officers.

Indigenous communities in areas with little or no central government presence impose punishment reliably reported to include the death penalty on members who violate traditional laws or rules, although such punishment is forbidden by the Constitution. For example, there are reports that alleged witches are burned or buried alive.

Prison conditions are harsh. Prisons are overcrowded, and conditions can be life threatening for inmates without money. According to the Director General of the Penal System in the Ministry of Government, as of June there were 8,057 prisoners in facilities designed to hold 4,959 prisoners. Fifty-six percent of all prisoners were held for narcotics crimes. Ability to pay can determine cell size, visiting privileges, day-pass eligibility, and place or even length of confinement. Cell prices range from $20 to $5,000, paid to prior occupants or to prisoners who control cell blocks. In the poorest parts of San Pedro prison in La Paz, for example, inmates occupy tiny cells (3 by 4 by 6 feet) with no ventilation, lighting, or beds. Crowding in some "low-rent" sections obliges inmates to sleep sitting up. Children up to 6 years old may live with an incarcerated parent. According to the Director General, as of March there were 665 children living with a parent in prison. If such children have nowhere else to go, the Government considers it more humane to support them in prison than to leave them homeless in the streets. The standard prison diet, according to a 1995 study, can cause anemia; the diet has not been improved since then. There is no adequate health care within the prisons, and it is very difficult for prisoners to get permission for outside medical treatment. However, affluent prisoners can obtain transfers to preferred prisons or even to outside private institutional care for "medical" reasons. Drugs and alcohol are readily available for those inmates who can pay.

Convicted juvenile prisoners are not segregated from adult prisoners in jails. Rehabilitation programs for juveniles or other prisoners are scarce to nonexistent. The Government has acknowledged these problems but does not have sufficient resources to correct them quickly.

In November prisoner Miguel Angel Rivero Siles died as the result of a fire in his prison cell; in May Carlos Freddy Cano Lopez was arrested and suffered severe burns after his cell mysteriously caught fire. He died in a hospital in June (see Section 1.a.). These were the second and third times since 1998 that prisoners had been burned in their cells. The authorities discharged the two policemen arrested for attempting to burn a drunken man in September 1998, but their judicial case still was pending at year's end. On November 29, the Ombudsman and the Ministry of Government signed an agreement that is expected to lead to closing down several prisons determined to have inhuman conditions, including the detention cell in La Paz where Cano Lopez was burned. The agreement also calls for repair of other substandard prisons, including San Sebastian prison in Cochabamba where Rivero Siles was burned.

Two other prisoners died in hospitals under circumstances that suggested neglect by prison authorities in providing medical care. In one case, the victim's family alleged that his death was related to a beating he received when arrested in 1998; in the other, human rights organizations alleged that police had beaten the victim (see Section 1.a.).

The Government permits prison visits by human rights monitors and news media representatives.

d. *Arbitrary Arrest, Detention, or Exile.*—There were some instances of arbitrary arrest and detention. Arrests are carried out openly. The law requires a valid warrant, which a court must confirm within 48 hours. However, there were credible reports that these legal safeguards were violated in some cases.

Denial of justice through prolonged detention remains the most pervasive human rights problem. Judicial corruption, a shortage of public defenders, inadequate case-tracking mechanisms, and complex criminal justice procedures keep persons incarcerated for months, or even years, before trial. The Constitution provides for judicial determination of the legality of detention. Prisoners are released if a judge rules detention illegal, but the process can take months. Prisoners may see a lawyer, but approximately 70 percent cannot afford legal counsel, and public defenders are overburdened. Bail exists, except in some drug cases, and generally is granted.

According to a 1998 study, approximately 60 percent of those jailed are still waiting for the processing of their cases to be finished, and of those, 30 percent already had served what would have been the maximum sentence for the crime they were accused of committing.

The Government continued to address the problem of delay of justice by implementing the 1994 constitutional reforms to streamline the judicial system and by taking measures to correct other deficiencies as they come to light. Although large numbers of prisoners continued to be released under the Personal Recognizance Law promulgated in 1996, most prisoners still await either trial or sentencing.

The expanding public defender program pursues an active approach by distributing concise information about human rights to the populace and seeking to be involved in arrest cases at the earliest possible juncture to ensure that human rights and due process are honored. The new program of mobile public defenders who can

reach the more remote parts of the country has proven effective, obtaining the conditional or provisional release (often on bail) of arrested persons in about 60 percent of the cases handled, and is being extended to additional isolated regions.

Children from 11 to 16 years of age can be detained indefinitely in children's centers for known or suspected offenses, or for their protection, simply on the orders of a social worker. There is no judicial review.

The 1997 abduction case of Waldo Albarracin, President of the Bolivian Permanent Assembly for Human Rights (APDH), continued to move slowly through the judicial system. The authorities had yet to take any action regarding the four police officials accused of abducting Albarracin.

The Government does not use forced exile as a punishment.

e. *Denial of Fair Public Trial.*—Although the judiciary is independent, corruption and intimidation in the judicial system remain major problems. Poor pay and working conditions help make judges and prosecutors susceptible to bribes. In March two of the five Supreme Court justices who were the subjects of corruption allegations or lawsuits were impeached, and one resigned. The Congress elected seven new Supreme Court justices in March; no new allegations of corruption were raised against that Court during the year.

The judicial system has four levels: Investigative, trial, and superior courts, with the Supreme Court at the apex. Since the establishment of the Constitutional Tribunal in 1998, the Supreme Court hears only appeals, not constitutional issues.

Police present the case of an arrested person to a prosecutor. If the prosecutor decides to prosecute, the case is then submitted to an investigative court, which decides whether there is sufficient evidence to issue an indictment; if so, the case goes to a trial court. The trial court's decision may be appealed to superior court and, eventually, to the Supreme Court. Cases of persons arrested under the counternarcotics law go directly from a special prosecutor to the trial court. The trial court's decision must be reviewed by the district superior court, which may confirm, lower, raise, or annul the sentence, or impose a sentence where there was none before. Both the district prosecutor and the defense attorney may make recommendations and comments at this stage. Superior court decisions in narcotics cases must be reviewed by the Supreme Court, whose decision is final. Under the Personal Recognizance Law, persons who are absolved or found innocent in either of the two first instances may then be granted provisional liberty while they await the mandatory higher reviews.

The authorities generally respect the constitutional provision of the right to a fair public trial. However, the maximum time periods permitted by law for different stages of the judicial process frequently are exceeded. Supreme Court justices admit that it is sometimes difficult to assemble the quorum needed for decisions, and consequently the Court's rulings are unduly delayed.

Defendants have the right to an attorney, to confront witnesses, to present evidence, and to appeal judicial decisions. The authorities generally honor these rights. Although the law provides for a defense attorney at public expense if needed, one is not always promptly available. The highly formal and corrupt judicial system makes it difficult for poor, illiterate persons to have effective access to courts and legal redress.

In October the Constitutional Tribunal ruled that the Judicial Council, established in 1998 to oversee the judicial process and to provide an impartial body to review the actions of judges, did not have the power to dismiss judges because of an administrative finding of malfeasance alone. Earlier in the year, the Council had investigated numerous reports of judicial corruption, which led to the resignation or dismissal of more than 20 judges in Santa Cruz, Cochabamba, and La Paz. One of the dismissed judges, who allegedly accepted bribes from narcotics traffickers, protested his dismissal to the Constitutional Tribunal, which ruled that only a court finding of malfeasance, rather than a finding by an administrative body such as the Council, was cause for dismissal. The Tribunal's decision dealt a serious blow to the Judicial Council, weakening its role as a disciplinary body.

A new Code of Criminal Procedures became law in May, with the full changes to take effect in June 2001. The new code is expected to facilitate more efficient investigations, transparent oral trials, and credible verdicts. The Government has hired 49 additional staff members to bolster rural public defense, including public defenders, legal assistants, and social workers.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for the sanctity of the home and the privacy of citizens; although the authorities generally respect these provisions, there were credible allegations of UMOPAR abuses involving thefts of property. Residents in the coca-growing areas generally are reluctant to file and pursue formal complaints. In June the Gov-

ernment closed all of the human rights offices of the Ministry of Justice and Human Rights in the Chapare region due to a lack of funding. The Government plans to reopen two such offices in Chimore and Eterazama with assistance from an international donor. At year's end, final arrangements for the transfer of funds and management of this activity were still pending. These offices accept and pursue complaints of human rights abuses committed by anyone, including police, narcotics traffickers, and illegal coca growers.

During the summer, there were allegations in the press that the Government was intercepting cellular communications, tapping phone lines, and wiretapping the offices of newspapers and television stations. The allegations regarding media offices did not appear to be credible.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for the fundamental right to express ideas and opinions freely by any means of dissemination; however, there are some limitations on freedom of speech. The Penal Code provides that persons found guilty of insulting, defaming, or slandering public officials for carrying out their duties may be jailed from 1 month to 2 years. If the insults are directed against the President, Vice President, or a Minister, the sentence may be increased by one-half. In August the authorities arrested politician and defense lawyer Otto Ritter for allegedly slandering the President, jailed him for several days, and then released him.

In September the La Paz City Council chose 40 persons to serve on the La Paz Press Tribunal, an entity provided for by the 1925 Law of Print Media, following 10 years of controversy and attempts to nullify or amend the law. The Press Tribunal is authorized to evaluate journalists' practices that are alleged to violate either the Constitution or citizens' rights. Although the principal purpose of the 1925 law is to protect press freedom from censorship, several organizations, including the Ministry of Information, asked the new Tribunal to close down two sensationalist tabloid journals. At year's end, the Tribunal had not taken any action concerning the two tabloids.

State-owned and private radio and television stations operate freely. Newspapers are privately owned, and most adopt antigovernment positions. There were credible reports of government attempts to intimidate some news media to provide more favorable coverage.

The Government prohibits the importation of pornographic books, magazines, or artwork.

The Government respects academic freedom, and the law grants public universities autonomous status.

b. *Freedom of Peaceful Assembly and Association.*—The law provides for the right of peaceful assembly, and the authorities generally respect this right in practice. The Government routinely grants permits for marches and rallies; however, in July the La Paz departmental government imposed a requirement for not only a permit but also a deposit in the event of damages, based on the estimated size of the demonstration. The requirement was a result of a demonstration in June that led to violent confrontations, which resulted in property damage. Human rights groups strongly opposed this new requirement as a restriction on the freedom of peaceful assembly. In September the Human Rights Ombudsman challenged the requirement as unconstitutional, and in November the policy was suspended indefinitely. In December the Constitutional Tribunal ruled that it was unconstitutional.

As a rule, the authorities try to avoid confronting demonstrators. However, police clashed with union and other demonstrators on some occasions. Labor, political, and student groups carried out many demonstrations and rallies in La Paz and other cities throughout the year. The authorities intervened only when rallies became dangerously violent or interfered substantially with normal civic activity.

The law provides for freedom of association, and the authorities generally respect this right in practice. The Government requires nongovernmental organizations (NGO's) to register with the appropriate departmental government. There were complaints against the departmental government of La Paz for the revocation of civil registrations for three NGO's established by the Unification Church (see Section 2.c).

c. *Freedom of Religion.*—The Constitution provides for freedom and religion, and the Government respects this right in practice. Roman Catholicism predominates, and the Constitution recognizes it as the official religion. Non-Catholic religious organizations, including missionary groups, must register with the Ministry of Foreign Affairs and Worship and receive authorization for legal religious representation. There are 262 religious groups, mostly Protestant, registered; at year's end, approximately 100 applications were pending. The only minority religions in the country

that have encountered problems are Hari Krishna and the Unification Church. Hari Krishna had registered as an educational organization instead of as a religious organization. The Government sought to expel Hari Krishna from the country in the mid-1980's; however, the attempt failed when the Supreme Court declared it illegal. At year's end, Hari Krishna was in the process of applying for registration as a religious organization. In August the Unification Church complained of ongoing harassment by the Government, specifically citing the August 1998 revocation by the La Paz departmental government of three civil registrations for church-affiliated NGO's. However, the Unification Church still is registered legally with the Ministry of Foreign Affairs and Worship as a religious organization.

At year's end, the Government was finalizing new regulations regarding religious organizations, with the participation of the religious community.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on travel. The law permits emigration and provides for the right to return. The Government does not revoke citizenship for political reasons.

The law provides for the grant of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Human rights organizations have objected to some aspects of draft amendments to the Immigration Law that in their opinion could adversely affect asylees and refugees.

The Government cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government has accepted persons for resettlement; it received over 40 refugees in 1999 and 5 in 1998. The issue of the provision of first asylum did not arise. After the 1996 takeover of the Japanese Ambassador's residence in Lima, Peru by Tupac Amaru terrorists, the authorities found that some MRTA activists had used Bolivia as a safehaven and announced a more restrictive policy on accepting Peruvian political asylees. Nonetheless, MRTA and other terrorists continued to use the country as a safehaven and a place to plan activities.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Political parties ranging from far left to moderate right function openly. Implementing regulations for the 1994 constitutional revisions provide for half of the congressional deputies to be elected individually and directly, rather than from party lists. The first national election under these regulations was held in June 1997, with attendance by international observers. Only one instance of tampering with ballots was detected.

There are no legal impediments to women or indigenous people voting, holding political office, or rising to political leadership. Nevertheless, the number of women and indigenous people who have prominent positions in politics remains small. Political parties acceded to demands from women that they be allocated a fair share of the candidacies in the 1997 national elections, approving a law that every third candidate on party lists must be female. In addition, every other candidate on municipal election ballots, beginning with the second candidate, must be a woman—a development that has significantly augmented female representation at that level. There are 18 women among the 157 deputies and senators; there are no female ministers in the Cabinet.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views. However, several human rights NGO's complained that the Government blocked the access of human rights NGO representatives and one congressman who sought to observe the violent conflicts between illegal coca growers and security forces in the Chapare region in spring 1998. NGO's and the Ombudsman also have complained that Government security forces and government ministries have refused to cooperate when NGO's or the Ombudsman are conducting investigations. In 1998 the Government proposed a law that would have given it broad control over international NGO's, but the draft law was tabled later that year after negative reactions from the NGO's and international donors; the draft has not been proposed again. The Government criticizes

human rights advocates for paying attention exclusively to the negative aspects of the Government's performance.

APDH President Albarracin and his family have received anonymous threats in relation to the legal case against his alleged police abductors (see Section 1.d.). The APDH's branch office in Santa Cruz also received anonymous threats related to its investigations involving the security forces; unknown parties broke into its office and destroyed its computer.

The Human Rights Ombudsman conducted numerous investigations and in August presented a comprehensive report to Congress that was critical of the Government. The House of Representatives Human Rights Committee also presented its annual report in August, which criticized the Government.

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

The Constitution prohibits discrimination based on race, sex, language, religion, political or other opinion, origin, or economic or social condition. Nonetheless, there was significant discrimination against women, indigenous people, and the small Afro-Bolivian minority.

Women.—Violence against women is pervasive. According to the National Police's Department of Statistics and Planning, in 1998, 57 percent of reported assaults were perpetrated against women. According to a 1997–98 study conducted by the Pan American Health Organization and the Ministry of Health and Social Foresight among women in three municipalities representative of the country's three major cultural and geographic zones, 62 percent of women reported experiencing some kind of domestic violence or abuse at least once in their lifetime. Twenty-one percent had suffered psychological abuse, 28 percent had suffered non-life threatening physical violence, and 13 percent had suffered life-threatening violence. Rape is also a serious problem that is highly underreported.

On October 29, President Banzer signed into law the Law to Protect Victims of Crimes Against Sexual Freedom, first proposed in 1997 as a draft law against sexual harassment. The new Code of Criminal Procedures (see Section 1.e.) for the first time considers sexual harassment a civil crime, also resulting in greater protection under the law. There are no statistics on the incidence of sexual harassment, but the problem is generally acknowledged to exist widely in the male-oriented society.

In 1995 the Government promulgated the Law on Domestic and Family Violence, which makes rape a public crime and broadens the definition of family member abuse. Public agencies state that reported incidents of abuse have increased markedly as a result of the new law, as citizens become more aware of the problem and of the availability of help. A proposed law to provide benefits and protection for domestic workers, including specific protection from physical, psychological, and sexual aggression still was pending in the Congress at year's end.

Legal services offices devoted to family and women's rights operate throughout the country. Family protection police units, staffed by specially trained officers, including women, are also active.

A medical security program inaugurated in July 1996 provides free medical care to women of reproductive age and to children under the age of 5, based on economic need.

Prostitution is legal, and there were reports of trafficking in women for the purpose of prostitution (see Section 6.f.).

Women generally do not enjoy a social status equal to that of men. Many women do not know their legal rights. Traditional prejudices and social conditions remain obstacles to advancement. Women generally earn less than men for equal work. Young girls often leave school early to work at home or in the economy. According to a 1997 study by the Ministry of Education, four out of five illiterate citizens are female. Although not effectively enforced, the national labor law is overprotective in some aspects, limiting women to a workday 1 hour shorter than that of men and prohibiting them from working at night.

Children.—The Government is aware of the precarious situation of children and the need to provide legal and institutional infrastructure for their protection. Seven Defender of Children and Adolescents offices were opened in 1997 in La Paz to help protect children's rights and interests. However, the Government has not given the poor situation of children sufficient political priority to ensure that it will be corrected quickly and effectively.

On October 27, President Banzer signed into law a new Code for Boys, Girls, and Adolescents, which codifies many obligations the country assumed by ratifying the U.N. Convention on Rights of the Child. It also regulates adoptions and tightens protection against exploitative child labor and violence against children. However, resource constraints are expected to impede full implementation of this law.

Although the law requires all children to complete at least 5 years of primary school, this requirement is poorly enforced, particularly in rural areas. The Ministry of Education and the World Bank calculated in 1997 that 26 percent of children graduated from high school. Prolonged teachers' strikes often result in lengthy school closures, limiting children's access to education.

The National Institute of Statistics calculated in 1998 that 24 percent of children under 3 years old were chronically undernourished. Malnutrition levels were highest on the Altiplano in general and in the department of Potosi in particular. A December UNICEF report on infant mortality indicated that 85 of every 1,000 children die before they reach 5 years of age.

Many children, particularly from rural areas, lack the birth certificates and identity documents they need to secure social benefits and protection. There are credible allegations that as many as 200 juveniles, for instance, are incarcerated as adults in the San Pedro jail for lack of reliable civil documents proving their ages.

Corporal punishment and verbal abuse are common in school, and physical and psychological abuse in the home is also a serious problem. The rape and murder of a 10-year-old girl led to calls for the reimposition of the death penalty for such crimes. Although laws provide safeguards against children working, they are not enforced effectively. According to a May study commissioned by the International Labor Organization (ILO), approximately 369,385 children between the ages of 7 and 14 work (23 percent of that age group), usually to help provide for family subsistence, in uncontrolled and sometimes unhealthy conditions (see Section 6.d.).

The old practice of "criadito" service still persists in some parts of the country. Criaditos are indigenous children of both sexes, usually 10 to 12 years old, whom their parents indenture to middle- and upper-class families to perform household work in exchange for education, clothing, room, and board. There are no controls over the benefits to, or treatment of, such children, who may become virtual slaves for the years of their indenture.

People with Disabilities.—In 1997 the Government promulgated regulations to implement the 1995 Law on Disabilities. The regulations require wheelchair access to all public and private buildings; duty free import of orthopedic devices; a 50 percent reduction in public transportation fares; and expanded teaching of sign language and Braille. A National Committee for Incapacitated Persons was established to oversee the law's enforcement, conduct studies, and channel and supervise programs and donations for the disabled. The new electoral law made arrangements for blind voters. In general, however, there are no special services or infrastructure to accommodate people with disabilities. A lack of adequate resources impedes full implementation of the new law. Social attitudes keep many disabled persons at home from an early age, limiting their integration into society.

Indigenous People.—Discrimination against, and abuses of, indigenous people continued. The indigenous majority generally remains at the low end of the socioeconomic scale, facing severe disadvantages in health, life expectancy, education, income, literacy, and employment. More than one-half of all citizens speak indigenous dialects as their first language, and many speak no Spanish at all, which essentially excludes them from most of the formal economy. Lack of education, inefficient farming and mining methods, indigenous cultural practices, and societal biases keep the indigenous people poor. They continued to be exploited in the workplace. Some rural indigenous workers are kept in a state of virtual slavery by employers who charge them more for room and board than they earn. Although the 1996 Agrarian Reform Law extended the protection of the national labor law to all paid agricultural workers, including indigenous workers, the problem persists for lack of effective enforcement.

The Agrarian Reform Law provides for indigenous communities to have legal title to their communal lands and for individual farmers to have title to the land they work. The Government and indigenous leaders jointly developed provisions of this law.

Indigenous people complain that their territories are not legally defined and protected, and that outsiders exploit their resources. Specific offenders allegedly are illegal coca growers and timber pirates. Indigenous groups have taken advantage of the Popular Participation Law to form municipalities that offer them greater opportunities for self-determination.

National/Racial/Ethnic Minorities.—There is ongoing societal discrimination against the small Afro-Bolivian minority.

Section 6. Worker Rights

a. *The Right of Association.*—Workers may form and join organizations of their choosing. The Labor Code requires prior government authorization to establish a union, permits only one union per enterprise, and allows the Government to dissolve

unions; however, the Government has not enforced these provisions in recent years. While the code denies civil servants the right to organize and bans strikes in public services, including banks and public markets, nearly all civilian government workers are unionized. Workers are not penalized for union activities. In theory, the Bolivian Labor Federation (COB) represents virtually the entire work force; however, only about one-half of workers in the formal economy actually belong to labor unions. Some members of the informal economy also participate in labor or trade organizations.

The Government completed drafting legislation for a new labor law designed to modernize the antiquated Labor Code and to make it conform with ILO conventions that the country already has ratified. However, prior to submitting the draft law to Congress, the Government planned to undertake a national dialog to gain support for labor law modernization.

Workers in the private sector frequently exercise the right to strike. Solidarity strikes are illegal, but the Government has neither prosecuted those responsible nor imposed penalties. Significant strikes centered around annual negotiations over salaries and benefits for public employees. However, their real targets were the Government's economic and social reform programs. Most strikes were conducted and led by the militant Trotskyite element of the Urban Teachers Union, which protested the Government's education reform plan, including reform of teacher training institutions, a merit-based salary system, and decentralization designed to give municipalities greater control over education. Teachers' strikes shut down public schools for almost the entire month of February (the beginning of the school year).

Unions are not free from influence by political parties. The COB itself is a political organization directed by Marxist ideologues. Its stated aim is to overthrow the Government's neoliberal economic program, and it gives little attention to serious collective bargaining. Most parties have labor committees that attempt to influence union activity and also have party activists inside the unions.

The law allows unions to join international labor organizations. The COB became an affiliate of the Communist, formerly Soviet-dominated, World Federation of Trade Unions in 1988.

b. *The Right to Organize and Bargain Collectively.*—Workers may organize and bargain collectively. Collective bargaining, or voluntary direct negotiations between employers and workers without the participation of the Government, is limited but growing. The Labor Code was written in a period in which the COB, which purports to represent all worker groups and interests, had quasi-governmental status and the exclusive authority to negotiate with state-owned enterprises. The practice was for the COB and the Government to negotiate a global agreement on salaries, minimum wages, and other work conditions each year. With the privatization of most of these enterprises, the COB's relevancy has diminished markedly, and the practice of direct employee-management negotiations in individual enterprises is expanding.

The law prohibits discrimination against union members and organizers. Complaints go to the National Labor Court, which can take a year or more to rule due to a massive backlog of cases. The court has ruled in favor of discharged workers in some cases and successfully required their reinstatement. However, union leaders say problems are often moot by the time the court rules.

In December the Labor Ministry inaugurated a telephone hot line for citizen inquiries about labor issues.

Labor law and practice in the seven special duty-free zones are the same as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and bonded labor by children. However, the practices of child apprenticeship and agricultural servitude by indigenous workers (see Section 5) constitute violations, as do some individual cases of household workers effectively held captive by their employers. In addition, women were trafficked for the purpose of prostitution (see Sections 5 and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employment of persons under 18 years of age in dangerous, unhealthy, or immoral work. The Labor Code is ambiguous on conditions of employment for minors from 14 to 17 years of age and permits apprenticeship for those 12 to 14 years old. This practice, sometimes tantamount to bondage (see Section 6.c.), has been criticized by the ILO. The extreme poverty of many families dictates the involuntary employment of their children for motives of survival. After an ILO-sponsored conference in May on the country's child labor problems, a new National Committee for the Eradication of Child Labor and the Protection of the Working Minor was formed. The Government also signed a memorandum of understanding with the ILO, pledging more attention to child labor, a 5-year plan to combat it, and adoption of policies against its most dangerous forms.

Responsibility for enforcing child labor provisions resides in the Labor Ministry, but it generally does not enforce them throughout the country. Although the law requires all children to complete at least 5 years of primary school, this requirement is poorly enforced, particularly in rural areas. Urban children sell goods, shine shoes, and assist transport operators. Rural children often work with parents from an early age. Children generally are not employed in factories or formal businesses but, when employed, often work the same hours as adults.

e. *Acceptable Conditions of Work.*—In conformity with the law, the minimum wage is subject to annual renegotiation and was increased in January by 10 percent to approximately $56 (330 Bolivianos) per month, plus bonuses and fringe benefits. The minimum wage does not provide a decent standard of living for a worker and family, and most workers earn more. Although the minimum wage falls below prevailing wages in most jobs, certain benefit calculations are pegged to it. The minimum wage does not cover members of the informal sector, who constitute the majority of the urban work force, nor does it cover farmers, some 30 percent of the working population.

Only one-half of the urban labor force enjoys an 8-hour workday and a workweek of 5 or 5½ days, because the maximum workweek of 44 hours is not enforced. The Labor Ministry's Bureau of Occupational Safety has responsibility for protection of workers' health and safety, but relevant standards are poorly enforced. Working conditions in the mining sector are particularly bad. Although the State Mining Corporation has an office responsible for safety, many mines, often old and using antiquated equipment, are dangerous and unhealthy. In some mines operated as cooperatives, miners earn less than $3 per 12-hour day. They work without helmets, boots, or respirators in mines where toxic gases abound; they buy their own supplies, including dynamite, have no scheduled rest periods, and must survive underground from 24 to 72 hours continuously with little water or food. There are no special provisions in the law defining when workers may remove themselves from dangerous situations. Unless the work contract covers this area, any worker who refuses to work based on the individual's judgment of excessively dangerous conditions may face dismissal.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, although aspects of the problem are covered in other laws and in the Constitution. There were reports of domestic trafficking in women for the purpose of prostitution. A union leader asserted that employment agencies lure rural indigenous women to cities with promises of employment as domestic servants but then force them to work without salaries to repay transport and other fees and sometimes turn them over to houses of prostitution. There were no reports of trafficking in persons to or from the country.

BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In 1998 voters reelected President Fernando Henrique Cardoso to a second 4-year term. The 1998 elections marked the third time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties are able to compete on the basis of fair and equal procedures. The judiciary is independent but inefficient and subject to political and economic influence.

In June the Government passed legislation creating the Ministry of Defense and swore in the first civilian minister. The chiefs of the army, navy, and air force gave up their separate cabinet-level positions. Police forces fall primarily under the control of the states. State police are divided into two forces: The civil police, who have an investigative role, and the uniformed police, known officially as the "military police," who are responsible for maintaining public order. Although the individual state governments control the uniformed police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintain some military characteristics and privileges, including a separate judicial system. The federal police force is very small, primarily investigative, and plays little role in routine law enforcement. The state police forces committed numerous serious human rights abuses.

Brazil has a market-based, diversified economy. The Government, which traditionally played a dominant role in shaping economic development, is encouraging greater private sector participation in the economy through privatization of state enterprises, deregulation, and removal of some impediments to competition, trade, and

investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounts for approximately 34 percent of gross domestic product (GDP); agriculture contributes about 13 percent. Exports consist of both manufactured and primary goods. Among the principal exports are coffee, soybeans, textiles, leather, metallurgical products, and transportation equipment. Per capita GDP was about $2,600 (a significant drop in dollar terms because of currency devaluation), while the economy grew by 0.9 percent. Income distribution remained highly skewed, and the poorest half of the population received only 10 percent of national income while the richest 10th received 48 percent.

The Government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses. State police forces (both civil and uniformed) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police were also implicated in criminal activity of all kinds, including killings for hire, death squad executions, and kidnapings for ransom. Prison officials often tortured and beat inmates. The state governments concerned did not punish most perpetrators of these abuses effectively. Police tribunals (special courts for the uniformed police) remained overloaded, rarely investigated cases thoroughly, and seldom convicted abusers. The separate system of uniformed police tribunals contributes to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Prison conditions range from poor to extremely harsh. The judiciary has a large case backlog and often is unable to ensure the right to a fair and speedy trial. Justice is slow and often unreliable, especially in rural areas where powerful economic interests influence the local judiciary. Human rights monitors on occasion face threats and harassment. Violence and discrimination against women are problems. Child prostitution and abuse are problems. Despite constitutional provisions safeguarding the rights of indigenous people, government authorities often fail to protect them adequately from outsiders who encroach on their lands and fail to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians is a problem. Violence against homosexuals is a problem. Forced labor, including forced child labor, is a serious problem. Trafficking in women and children for the purpose of forced prostitution is a serious problem.

The National Secretariat of Human Rights, which was established in 1997, oversees the implementation of the 1996 Action Plan to address human rights abuses and is currently revising the plan in light of the experiences of its first 3 years. The Government undertook several programs to promote the protection of human rights. In an attempt to combat widespread impunity and to protect victims of human rights abuses, the Government passed legislation establishing a witness protection program.

The Government's interministerial Committee for the Defense of the Human Being (CDDPH), chaired by the National Human Rights Secretary, continued to be an effective instrument to highlight human rights abuses and allocate federal resources to bolster the efforts of the states. The CDDPH was instrumental in diminishing death squad activity throughout the country. However, because of jurisdictional and resource limitations, the efforts of the Federal Government had an uneven and limited impact in many of the states where human rights violations are most common. The Government continued its interministerial campaign against child labor, which has lowered the incidence of child labor by roughly 24 percent since 1996.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—Extrajudicial killings continued to be a serious problem throughout the country. The uniformed police summarily executed suspected criminals rather than apprehend them and then filed false reports that the suspects were resisting arrest. The Government's failure to investigate, prosecute, and punish police who commit such acts creates a sense of impunity that continues to encourage human rights abuses. Harsh conditions in prisons and rioting led to the death of inmates (see Section 1.c.).

The lack of accountability and the inefficient criminal justice system allow such impunity to continue. All crimes less serious than murder committed by uniformed police officers against civilians remain in the military justice system. In May an investigation into Sao Paulo's special courts for uniformed police uncovered 1,107 "missing" and "delayed" cases against uniformed police charged with crimes against civilians that include murder and torture. A newspaper that had access to 300 cases under investigation found 100 murder charges among them, some delayed for up to 12 years. Equally long delays allowed many cases of torture and lesser charges to

expire due to statutes of limitations. This probe was the closest scrutiny ever of the special police courts and resulted in the authorities bringing criminal charges against two court officials.

Human rights activists believe that the 1996 law (known as the "Bicudo" law) giving civil courts jurisdiction over intentional homicide committed by uniformed police officers has had limited success. Civil prosecutors review only the most egregious and clear-cut cases. In less prominent cases, the decision whether a policeman committed an intentional homicide is based on a routine investigation performed by the police force itself. Almost without exception, the police investigators conclude that suspects were "resisting arrest." In 1995—the last year before the implementation of the new law—police courts convicted 23 percent of officers tried for homicide. In 1998 civilian courts convicted 48 percent of officers charged with homicide. The comparable rate for civilians tried for murder in Sao Paulo is 50 percent.

Police often were members of vigilante groups and death squads that were responsible for killings. In addition, uniformed and civil police involvement in criminal activity is widespread. Throughout the country, police were implicated in crimes ranging from killing for hire and kidnaping to drug trafficking and extortion. In October the Federal Government created a special Center to Combat Impunity, staffed by Justice Ministry officials and Federal Police agents, due to the widespread involvement of police, judicial, and elected authorities throughout the country in organized crime and the intimidation of potential witnesses, including death squad activity, which was exposed by a federal parliamentary committee of inquiry into narcotics trafficking. Public officials and civic leaders at every level, including President Cardoso, have criticized the climate of impunity in that contributes to ongoing acts of violence and crime committed by the police.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.).

Police killings of street children continued (see Section 5).

Harsh or dangerous prison conditions, official negligence, poor sanitary conditions, and a lack of medical care led to a number of deaths in prisons. Inmates at juvenile detention facilities rioted over 20 times during the year. Four inmates were killed during one of the riots in December (see Section 1.c.).

The office of the newly installed police ombudswoman in Rio de Janeiro state received 427 complaints in April, its first month of operation. Complaints against the uniformed police accounted for 70 percent of that total. Police homicides roughly doubled in Rio de Janeiro from 1997 to 1998, where police killed 511 persons through October of that year. According to an earlier Institute for Religious Studies (ISER) study, Rio de Janeiro police killed half of their victims with four or more bullets and shot the majority of victims in either the shoulders or the head; 40 cases clearly demonstrated execution-style deaths, where police first immobilized the victims and then shot them at point-blank range. In 64 percent of the cases examined, the victims were shot in the back.

According to the Sao Paulo state government, the uniformed and civil police killed 664 persons during the year. This reflects an increase of 28 percent over 1998. Off-duty officers were responsible for 224 of the killings, or 34 percent. Sao Paulo's civil police killed 87 persons during the year, an increase of 47 percent from 1998. According to the Sao Paulo police ombudsman, more than half of the victims had no prior police records, a fact that he believes casts doubt on police claims that most shooting victims were resisting arrest.

The Ombudsman for Public Security in Para state reported a total of 27 cases of suspected extrajudicial killings by members of the state police forces through November, compared with 30 cases in 1998.

Four uniformed police officers await trial in a civil court for the highly publicized killing of three young men aged 14, 17, and 21 in Sao Paulo on February 17 (Ash Wednesday). The officers arrested the victims for fighting, beat them, and were seen leading them into a forested area near where the bodies were found 2 weeks later. Each victim was shot once in the head. The perpetrators are charged with aggravated triple homicide, abuse of power, and hiding bodies.

The authorities arrested five uniformed police officers in the March 31 shooting deaths of two persons, one of whom was mentally disabled, in Sao Paulo's Jardin Alba slum. The officers, who said that the victims resisted during a drug search, allegedly shot Jose Nunes da Silva, a disabled 22-year-old, several times in the back. They also killed 28-year-old Ednaldo Gomes do Nascimento, a bricklayer. Witnesses said that the officers dragged the bodies into their police car after the shooting and fired several shots around the area to simulate a shootout. The authorities charged the policemen with aggravated homicide.

The authorities accused three uniformed police officers in Sao Paulo of the April "lynching" death of 20-year-old Ricardo Galvao, who was shot, stabbed, and beaten.

Galvao was last seen in a police vehicle after being caught trying to steal a car. The police involved were charged with homicide and awaited trial at year's end.

The authorities placed three uniformed police officers under investigation in the August 7 killings of two men whom they suspected of stealing their police motorcycle. The day after the motorcycle was stolen, the officers returned to the neighborhood, out of uniform, and harassed and threatened residents about the theft. Thiago Henrique Prado and Joao Martins Rissi were shot in the head soon thereafter while riding a motorcycle similar to the stolen police motorcycle. One of the victims was found clutching his identification document, the first item that police demand to see.

In August the authorities placed three uniformed police officers in custody awaiting trial for killing two youths by shooting them in the head and leaving another for dead in Sao Bernardo do Campo, Sao Paulo. A third victim survived by feigning death and was placed in the witness protection program. The officers awaited trial at year's end.

In December the uniformed police of the Federal District shot and killed one person and blinded two others while attempting to disperse a peaceful demonstration by public employees protesting for higher wages at the headquarters of the public works administration. The leadership of the uniformed police claimed immediately after the incident that the police had only used rubber bullets, but the autopsy of the deceased demonstrator showed that he had been killed by live fire. The Governor of the Federal District, Joaquin Roriz, dismissed the secretary for public security and the uniformed police's head of the special operations battalion as a result of the incident.

In Natal in the state of Rio Grande do Norte, in February an unidentified assailant killed Antonio Lopes, a transvestite also known as "Carla". Carla had succeeded in carrying out a private investigation of the 1996 killing of human rights activist Gilson Nogueira, also in Natal. As a result of Carla's efforts, federal police found the weapon used in Nogueira's killing in the home of a civil police officer linked to the Golden Boys death squad.

In January a state judge reinstated four uniformed police who had been suspended from the police force after being charged in the drowning death of a transvestite prostitute in 1998. At year's end, they still awaited trial. The four abducted two transvestite prostitutes, took them to a nearby beach, and ordered them at gunpoint to enter the rough surf. The surviving victim identified the assailants and entered a privately operated witness protection program. The four policemen claimed that they were acting under orders from superiors, but no supervising officers were interrogated or investigated regarding the incident.

The Supreme Military Court annulled on technicalities eight uniformed policemen's military convictions of bodily harm and professional negligence. The policemen were involved in the highly publicized March 1997 killing and extortion incident in Sao Paulo's Vila Naval neighborhood. The defendants' 1998 convictions for homicide and abuse of authority were not affected. The police officers are to be retried, but the courts must retry them within 4 years of the date that the crime was committed (July 1997). The Sao Paulo state supreme court also called for a retrial of Otavio Gambra, also known as "Rambo." A civil court had sentenced Gambra to 65 years in prison for the killing of Mario Jose Josino in the Vila Naval incident. Human rights monitors observed that all the annulments were based on technical grounds and predicted that the policemen will be convicted again in the retrials.

In June a civil court absolved 4 uniformed police of murder in the controversial 1997 killings of 3 persons during an attempt to remove 440 squatter families from Sao Paulo's "Fazenda da Juta" housing project. The police operation was broadcast on television and criticized by many for the use of excessive force. The ruling found that the poorly prepared police fired in self defense after violent provocation. A team of 500 well-equipped shock troops removed the squatters easily the next day after this initial attempt failed. Both the prosecution and defense held that the evidence did not support charges of homicide against the officers. The investigation determined that one officer who faced charges was not present at the scene.

In August a civil trial jury in the city of Belem acquitted 3 uniformed police officers in command of the unit responsible for the 1996 the massacre of 19 landless workers at Eldorado de Carajas in the Amazonian state of Para. Human rights activists and President Cardoso criticized this verdict as a significant setback in the effort to change the climate of impunity regarding police crimes. Prosecutors filed separate motions asking that the verdict be annulled based on the evidence presented at the trial, that the judge be removed from the case on grounds of bias, and for a retrial because of faulty instructions given by the judge to the jury. At year's end, appellate court decisions on all three motions were still pending. National Human Rights Secretary Dr. Jose Gregori announced that he would consider bringing federal charges against the three officers if the verdict were not overturned. The

trials of the remaining 147 uniformed police officers under their command continue (3 police initially charged had charges against them dropped), but prosecutors see little hope of convictions if the acquittals of their commanding officers stand. The start of the trial had been delayed for over a year due to procedural appeals by several of the defendants and the change of venue of the trial from the city of Maraba at the request of prosecutors.

In October a judge granted a prosecution motion for a change of venue for the trial of the commanding officer and 10 other uniformed police officers charged with intentional homicide in the August 1995 massacre of nine squatters in Corumbiara, Rondonia. Two police also died in the incident. Two squatters also are charged with intentional homicide for the deaths of the police. Prosecutors dropped charges against nine police, two of the squatters, and two landowners. The trial is scheduled to take place in the state capital of Porto Velho in June 2000.

In November a jury in the state of Rio de Janeiro acquitted former military policeman Valdeir Rezenda of participation in the 1993 massacre of 21 residents of the Vigario Geral neighborhood in Rio de Janeiro. In August a jury found former military policeman Roberto Cezar do Amaral guilty of one count of murder in the massacre. Amaral received a 6-year sentence, most of which he already had served. In October a jury found former uniformed policeman Adilson Saraiva da Hora guilty and sentenced him to 72 years in prison for the massacre. Juries acquitted former uniformed policemen William Alves and Julio Cesar Braga in September and August, respectively. Of the 32 police initially charged in the case, 13 have been acquitted, 4 convicted, and 13 await trial. Two died before coming to trial. As a result of tape recordings made among the original group of police tried while in prison, the authorities brought charges against an additional 19 officers; at year's end, they also awaited trial.

Retired police colonel Ubiratan Guimaraes, having exhausted his appeals in June, is to stand trial in civil court for his role in the deaths of 111 inmates during an October 1992 riot in Sao Paulo's Carandiru prison. Guimaraes would be the first policeman at the rank of colonel to face a civilian jury under the Bicudo law. On May 26, a Sao Paulo court again delayed a hearing for 28 police charged with prisoner beatings during the Carandiru riot. In August the judicial authorities transferred the cases of 85 other uniformed policemen also accused of involvement in the killings from the Sao Paulo state supreme court to a lower court. Justice officials expect this transfer to delay the trial by 2 more years. Due to the statute of limitations, it is likely that the charges of assault against the prisoners will expire; however, the remaining group may be tried for homicide.

Over one-fifth of Sao Paulo's uniformed police officers have received some kind of community police training under the state's community policing initiative. Initiated in December 1997, the program is expected to take 10 years to implement fully. Under the program, high-ranking police officials meet with citizens' consultative groups weekly. The uniformed police also instituted a policy of "recycling" policemen involved in shootings, removing them from patrols for 6 months and offering them counseling.

The International Committee of the Red Cross (ICRC) continued its human rights training courses for high-ranking state military police officers at the Federal Police Academy in Brasilia. A total of 800 military police have been trained in basic techniques including the apprehension and interrogation of criminal suspects without recourse to excessive or unnecessary force. The program is scheduled to run until September 2000. The results then are to be reviewed by the independent Center for the Study of Violence at the University of Sao Paulo. The military police in Rondonia state already have incorporated the ICRC program into their general police training program.

Death squads in which the police are involved contribute significantly to the level of violence and lawlessness, according to public security officials. Human rights groups reported the existence of organized death squads linked to the police forces that target suspected criminals and persons considered undesirable (such as street children) in almost every state. A report on death squads issued by the committee for human rights of the Federal Chamber of Deputies in June highlighted death squad activity with police involvement in the states of Bahia, Rio Grande do Norte, Mato Grosso do Sul, Mato Grosso, Amazonas, Para, Paraiba, Ceara, Espiritu Santo, and Acre. The report stated that death squads "arise because of the loss of credibility in the justice and public security institutions and the certainty of impunity as the result of the incapacity of the institutions that have jurisdiction in resolving the problem." The report indicated that death squad activity appears to be declining except in Bahia. According to human rights activists there, executions attributable to death squads numbered 63 for the first 4 months of the year, compared with 104 for all of 1998 and 93 in 1997.

In October uniformed police in Salvador, Bahia, arrested Robelio Lima dos Santos after an attempted bank robbery in which he was wounded in the pelvis. Although dos Santos was alive when placed in a police vehicle, he arrived at the hospital dead with three shots in his throat. As a result of witness testimony, including that of a photographer who took pictures of Santos while he was still alive, the authorities arrested four uniformed police; they awaited trial at year's end.

In August the Governor of Espiritu Santo (the state with the highest rate of homicide), stated in a press interview that death squad activity involving the police contributed significantly to the level of violence in the state. A state police investigation and a state parliamentary committee of inquiry reported that an informal organization, the "Squad le Cocq" involving police, judicial, and elected authorities, including Jose Carlos Gratz, president of the state assembly, was responsible for the vast majority of organized crime in the state.

In Rio Grande do Norte, Maurilio Pinto de Medeiros, a civil policeman who has occupied positions as high as the second ranking official in the state Ministry for Public Security, is accused of leading a death squad called the Golden Boys that is responsible for at least 51 killings in recent years. In Amazonas, a group known as "The Firm," involved in kidnaping, torture, extortion, and child prostitution, reportedly operated with the support of the state secretary for public security.

An investigation instigated by the former president of the supreme court of Acre state and carried out under the auspices of the CDDPH amassed evidence that former Acre military police chief and former state deputy Hildebrando Pascoal headed a crime ring and death squad in that Amazonian state linked to at least 30 murder and torture cases previously suspended by state authorities for lack of evidence. Charges against Pascoal include the kidnaping—with the collusion of military police officers from Piaui—and murder of the suspected killer of Pascoal's brother, and the kidnaping of the victim's wife and children in an attempt to locate the victim. A congressional committee of inquiry also established Pascoal's control of narcotics trafficking within the state. A witness who testified before that committee identified the site of a mass grave in Acre that federal authorities believe Pascoal's organization used to dispose of at least eight murder victims. Pascoal's election to the federal Chamber of Deputies in October 1998 conferred on him parliamentary immunity from all prosecution. However, in October the Chamber voted to remove Pascoal's immunity, and the police subsequently arrested him. At year's end, he was in prison and awaited trial on charges of murder; additional charges of narcotics trafficking and electoral violations were pending.

In 1998 human rights monitors visiting the morgue in Maceio, Alagoas state, found that the bodies of 12 persons, who allegedly were the victims of a death squad that included members of the police, were missing. The authorities had been investigating the group, known as the Uniformed Gang, because most of its members reportedly were police officers. They arrested more than 60 police officers, and the courts sentenced 3 policemen to 6-year prison terms for illegal possession of machine guns. At year's end, various charges were pending in Alagoas against many of the other 57 officers arrested in this case.

State and federal authorities in the state of Mato Grosso do Sul failed to resolve the case of 5 uniformed policemen implicated in 11 death-squad style killings committed in 1997. A state legislator monitoring the investigation believed that these policemen committed at least 40 such homicides. In a separate incident, the authorities charged one of the five with killing for hire.

The authorities also failed to conclude the investigation of the May 1996 death squad killings in the Franco da Rocha neighborhood of Sao Paulo, although no charges have been filed in connection with the case. Witnesses identified five uniformed police officers as having arrested four men who were found dead a few hours later. Franco da Rocha is one of Sao Paulo state's poorest communities and the location of a clandestine dumping site for the victims of death squads. Since 1993 at least 212 bodies have been found there, including 50 victims killed by bullets to the head. Progress in the investigation has been hampered by difficulty in identifying bodies whose heads or hands were amputated.

Several persons were killed in conflicts involving the settlement of disputes of land ownership and usage. The Rural Landless Worker's Movement (MST) continued its campaign of legal occupation of lands identified as unproductive and illegal occupation of land not yet so designated. MST activists destroyed private property during some occupations, including the burning of an historic farmhouse in Sao Paulo in June. The Catholic Church's Pastoral Land Commission (CPT), the country's foremost entity monitoring human rights in rural areas, released in October its report on rural violence covering 1998. The report presents a mixed picture of the overall human rights climate relating to the country's land conflicts. Killings of landless activists increased to 47 in 1998, compared with 30 in 1997, while at-

tempted murders rose from 37 to 46. Cases of torture rose from 5 to 35, but less serious indicators of aggression fell sharply. The report notes increased actions by the Government to remove activists from illegal settlements resulting in increased confrontations and destruction of property and homes, but also notes that the pace of agrarian reform outstripped new MST occupations, contributing to a less violent climate overall.

The CPT's report concludes that the climate of impunity enjoyed by landed interests as a result of the "fragile" justice system and the collusion of local political interests continues to encourage serious human rights abuses of landless activists, including murder and torture. However, the report also notes that the tactics of the land reform movement have led to a self-perpetuating cycle in recent years, whereby increased confrontation and tension have led to increased government attention, encouraging in turn more land occupations.

In June the Government launched a toll-free service, "Call Land and Peace" for citizens wishing to report situations of possible conflict in rural areas as a result of confrontations over land issues.

Unidentified gunmen killed the brother of a local MST leader on March 31 in Parana state. Eduardo Anghinoni was shot while visiting his brother, MST leader Celso Anghinoni, in an MST camp in Querencia do Norte. Local MST leaders claimed that the murder was politically motivated and that Eduardo was the true target. The MST blamed members of the Rural Democratic Union (UDR), a landowners' lobby, for the killing. The police arrested three suspects in April but later released them due to insufficient proof. At year's end, the police had made no further progress.

In April 1998, an employee of a local landowner reportedly shot and killed MST leader Sadi Padillo in Abelardo Luz, Santa Catarina. The local Labor Party president charged that an armed militia paid by local landowners had targeted MST leaders for murder. Padilla had led a group of 300 families who occupied a local holding but who had left peacefully after reaching an agreement with the Government's land reform agency. The CPT reported that 26 landless activists were killed through November of that year. In December 1998, Sao Paulo state police reported finding the bodies of two MST members with bullet wounds in their heads and signs of torture. They had been leaders of a group of 180 peasant families who occupied land in September near Sao Jose dos Campos in northeastern Sao Paulo state. Such killings usually go unpunished, because the landowners thought to be responsible for many of them reportedly control the police in isolated areas and intimidate local judges and lawyers with violence and threats of violence.

The Government delayed the trial of MST leader Jose Rainha from December until March 2000, after prosecutors failed to serve proper notice of the trial date to Rainha and his attorneys. In 1997 a court convicted Rainha of the 1989 killings of landowner Jose Machado Neto and police officer Sergio Narciso da Silva. In August 1998, a federal appeals court upheld the decision of the state supreme court of Espiritu Santo to move the retrial of MST leader Jose Rainha to the state capital of Vitoria. A jury in the small, rural town of Pedro Canario, Espiritu Santo, sentenced Rainha to 26 years for the killing. The jury convicted Rainha even though the prosecution presented no material evidence and witnesses testified to Rainha's presence 1,500 miles away from the scene of the crime. Since Rainha's sentence exceeded 20 years, he was automatically entitled to a retrial.

A 1997 court decision sentenced police investigator Celso Jose da Cruz to a 516-year jail term for involvement in the killings of Machado Neto and Narciso da Silva; Cruz appealed the verdict and awaited a retrial at year's end. Twenty-nine other policemen charged as codefendants in the case still were awaiting trial.

According to human rights activists monitoring the case, proceedings have stalled against the former mayor of Rio Maria, in the state of Para, who was charged with the 1985 murder of Joao Canuto, the first president of the rural workers' union in Rio Maria. Canuto's daughter, Luzia Canuto, received death threats as a result of the case. In June 1998, the Inter-American Commission on Human Rights (IACHR) criticized the Federal Government for failing to prosecute the crime.

The four suspects charged with manslaughter in the burning of Pataxo Indian leader Galdino Jesus dos Santos still awaited trial at year's end. In 1998 an appellate court upheld a 1997 court decision to prosecute for manslaughter rather than murder. In 1999 a superior court ruled that the defendants would be tried by a jury, and the defense appealed the decision. At year's end, a ruling on the appeal was pending. Dos Santos died in April 1997 after the suspects set him on fire while he was asleep on a public bench.

Vigilante groups and death squads, which often included police officials, were also responsible for killings.

The National Secretariat for Human Rights sponsors training programs in human rights, carried out in cooperation with federal and state entities and national and international organizations, in most states. The Secretariat administers a human rights training program for policemen in cooperation with Amnesty International in 10 states. Human rights groups maintain that the effect of these programs has been limited, at best. However, human rights activists in many states reported increased willingness of police authorities to address their concerns and to deal with problems brought to their attention.

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

In 1995 Congress passed legislation recognizing and assigning government responsibility for the deaths of political activists who "disappeared" during the military regime while in the custody of public officials, and obligating the Government to pay indemnities of between $100,000 and $150,000 (200,000 to 300,000 reias) to each of the families. In September 1997, President Cardoso signed a decree awarding reparations to the families of 43 such persons. A commission created by the law continued to evaluate requests for, and authorize payment of, indemnities.

In May Sao Paulo officials announced the reopening of an investigation to identify 1,048 skeletons found in a hidden mass grave in 1990. Before this inquiry was suspended in 1998, medical examiners had identified the remains of five individuals who disappeared during the military regime.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, there are frequent credible reports that police torture and beat criminal suspects to extract information, confessions, or money. Victims generally are poor, uneducated about their rights, and afraid to come forward due to fear of reprisals. The Government estimated in 1994 that fewer than 10 percent of cases of mistreatment by police are reported.

The Government appointed Joao Batista Campelo director of the Federal Police in June, but he resigned days later following allegations that he had supervised the torture of a suspect during an interrogation that he conducted in 1970.

The Sao Paulo state police ombudsman received 356 complaints through the first 6 months of the year alleging torture, abuse, or mistreatment. This represented a slight decrease from the same period in 1998, when the ombudsman received 380 such complaints. Allegations of torture or abuse represented 14 percent of all complaints received, compared with 24 percent the previous year. The ombudsman's office believes that many cases are not reported.

In September the Globo newspaper in Rio de Janeiro published the results of an investigation into allegations of torture by Rio de Janeiro state police. The police opened a total of 53 investigations regarding complaints of torture against police authorities since the 1997 torture law came into effect. Only one of those inquiries, which was suspended officially, had been concluded. The Globo report identifies several patterns, including the use of electric shock, beatings with iron bars, and sexual abuse including sodomy with foreign objects. The report notes that the police classified such incidents as "abuse of authority and physical assault," offenses far less serious than torture. As a result of Globo's reporting, the state government ordered an independent review of the 53 cases, and the Federal Government established a task force to review Rio de Janeiro police practices.

In November in Alagoas state, a court convicted eight former civil policemen of torture and sentenced them to prison in the case of Jose Joaquim Araujo, a suspect who was in police custody in April. The civil police arrested him on suspicion of killing a civil policeman, but 3 days later, another person confessed to the killing. Araujo charged that more than 20 police participated in beating him in an attempt to force him to confess. Only 10 hours after being released from prison, Araujo was killed. The authorities immediately dismissed nine civil policemen and the two commanding officers of the precinct where Araujo was held.

Sao Paulo officials were investigating allegations that investigative police of Sao Paulo's 26th police district humiliated and beat prisoners in May after inmates secretly audiotaped 20 police officers and 2 guards beating them and threatening to kill them. In response to these and other allegations, in October Sao Paulo state authorities announced creation of a special service to receive complaints of torture and violence committed by investigative and uniformed police.

In July an investigator who works with police officers accused a civil (investigative) police supervisor and two detectives of torturing suspects in a police station in Campo Largo, Parana. The investigator presented tape recordings of torture sessions to a police investigative body. Police chief Marcos Antonio de Oliveira and detectives Moacir Santos Silva and Fernando de Freitas are accused of torturing a victim, who was recorded for 11 minutes screaming and pleading for the officers to stop. The victim gave a deposition and underwent a medical exam to determine the

cause of various scars and wounds. The police officers deny any involvement and accuse the investigator of inventing the allegations of torture.

In testimony before the Federal Chamber of Deputies' human rights committee in April 1998, a member of the National Conference of Catholic Bishops' Prison Pastoral Commission criticized the abusive practices of two special units of the Sao Paulo civil police—the special operations group and the armed unit for the prevention of robberies and assaults.

No judgment has been handed down in the case of Otavio dos Santos Filho, who allegedly died as a result of torture at Sao Paulo's Depatri jail. Dos Santos was beaten severely in October 1998, when he insisted on receiving medical treatment for a kidney infection. Dos Santos' death certificate states that he died of a general infection, but relatives claim that photographs they took of his body show clear evidence of torture and beatings. In December the Folha de Sao Paulo newspaper reported that police authorities had taken no disciplinary or investigative action regarding 107 cases of torture and beating that took place in the Depatri jail in February 1998 and were confirmed by the Police Medical Institute.

In 1997 civil policemen in Belem, Para state, under the command of Captain Clovis Martins de Miranda Filho, accosted Hildebrando Silva de Freitas, who apparently failed to pay a bribe for a liquor license for his bar. At Captain de Miranda's direction, as many as 10 police officers severely beat and sexually abused de Freitas. In September 1998, an internal police investigation concluded that de Freitas had suffered severe physical injury and did not contest the testimony of the witnesses who corroborated his account, but declared there to be no connection between his injuries and the officers who had confronted him. At year's end, the case was under review by the Para state prosecutors' office. De Miranda has brought a defamation suit against the state ombudsman for public security in Para for statements that she allegedly made to the press regarding the case. The state has declined to bear the costs of the ombudsman's defense.

Police violence against homosexuals continued (see Section 5).

There continue to be numerous credible reports of state police officials' involvement in crime, including revenge killings and intimidation and killing of witnesses involved in testifying against police officials.

In the first 6 months of the year, the Sao Paulo state police ombudsman received 256 complaints (representing 10 percent of total complaints) of extortion, illicit enrichment, or corruption. These figures represent an 181 percent increase from the same period in 1998, when the ombudsman received 141 such allegations.

Prison conditions range from poor to extremely harsh. Severe overcrowding was prevalent, especially in larger cities. Amnesty International stated that the prison system was "in crisis" in a comprehensive report on prisons released in June. According to Ministry of Justice figures for 1998, 88,926 prisoners, roughly 85 percent of the prison population, were kept in substandard conditions. Of that total, 70,681 were serving sentences in jailhouses and police lock-ups, rather than penitentiaries. The situation was most critical in the states with the largest prison populations, including Sao Paulo, Rio de Janeiro, Bahia, Rio Grande do Sul, and Pernambuco. Most penal authorities in these states do not have the resources to separate minor offenders from adults and petty offenders from violent criminals. Prison riots were frequent occurrences. Discipline is difficult to maintain under such conditions, and prison officials often resort to inhuman treatment, including torture.

Poor working conditions for prison guards aggravate substandard prison conditions and encourage corruption. The director of Sao Paulo's Carandiru prison (the largest in the country) told representatives from Amnesty International that many cases of torture and use of excessive force result in part from employees' working conditions. An investigation of the more than 1,100 employees of Sao Paulo's prison at the end of 1998 showed that 241 had criminal records themselves. The majority of the charges against them were for crimes committed while working at the prison and ranged from drug trafficking and threats to assisting in escapes. The state secretary of penitentiary administration was aware of the guards' criminal pasts and allowed them to continue working.

Prisons do not provide adequate protection against violence inflicted by inmates on each other. Prisoners are subject to extremely poor health conditions as well. Scabies and tuberculosis, diseases not common in the general population, are widespread in Sao Paulo prisons. The Ministry of Justice estimates that 10 to 20 percent of the national prison population is HIV positive. Denial of first aid and other medical care is sometimes used as a form of punishment.

The Amnesty International prison report was based on 33 visits to prisons in 10 states. In December 1998, Human Rights Watch also issued a comprehensive report entitled "Behind Bars in Brazil," based on an intensive review of prison conditions in eight states. Both reports meticulously detail inhuman conditions and systematic

and wide-ranging abuses of human rights throughout the prison system. Among the most serious charges detailed are the commonplace undocumented and uninvestigated deaths of inmates at the hands of authorities or other prisoners, and the routine use of torture against inmates by both guards and police officers.

Overcrowding in Sao Paulo's prisons and police detention centers, which house roughly 40 percent of the country's prisoner population, is a critical human rights problem. Sao Paulo's prisoners exceed the intended capacity of the state's prisons by almost 22 percent; roughly 49,400 prisoners occupy space designed for around 40,500. Half of the 32,000 prisoners in the state's police stations and holding facilities already have been sentenced and should be in state penitentiaries, but remain in temporary facilities due to lack of space. Although state prison capacity increased by 50 percent with the opening of 21 new jails since 1998, intake of new inmates into the older facilities took up 90 percent of the additional new capacity.

In November 1998, President Cardoso approved a law authorizing alternative sentencing for nonviolent offenders, aimed in part at easing prison overcrowding. In its prison report, Amnesty International noted that the states of Rio Grande do Sul and Mato Grosso do Sul have imposed noncustodial sentences effectively, but pointed out that in states such as Rio de Janeiro alternative sentencing has not been implemented effectively. In Sao Paulo, while 8 percent of convicted criminals are eligible, only 1.3 percent serve alternative sentences. Since 1997 the Government has created capacity for an additional 30,000 spaces, a 43 percent increase in total capacity. While the total prison population grew 14.8 percent since 1997, prison overcrowding has decreased by 7.3 percent. However, the Government has suspended plans for the construction of 52 new prisons.

Women's facilities in Sao Paulo's penitentiary system are even more overcrowded than those for men. Facilities built to accommodate 600 female inmates hold 1,055. The state's prison expansion program did not include provisions for additional space for women.

In August a court in Minas Gerais state convicted three military police and a jail warden of torturing prisoners who had attempted a jailbreak from the Ibia prison in February 1998. The authorities charged them under the 1997 law against torture, and the court sentenced each of the accused to 4 years in prison.

A recent study by the U.N. Latin American Institute for Crime Prevention and Treatment of Criminals reported that between 1994 and 1997, 59 individuals died and 374 were injured in 225 "prison incidents" in Sao Paulo state. These numbers refer to riots only and do not include deaths or injuries from disease or abuse.

Two prison riots on August 8 and 9 in Jundiai, Sao Paulo state, left 3 prisoners dead and 13 wounded. During the riots, 120 private security guards from around the city surrounded the prison and prevented the escape of the 277 inmates (housed in a prison designed for 120). Upon several prisoners' requests, a municipal judge reevaluated their cases, releasing 8 who already had served their sentences and transferring 20 to other prisons.

In May, June, July, and October a series of over 20 riots and escapes occurred in Sao Paulo state youth detention centers, finally leading to the closure and demolition of the "Imigrantes" complex, the largest of the facilities. Before its closure, the Imigrantes complex housed 1,200 youths, although its designed capacity was 350. The Sao Paulo governor personally took charge of the State Foundation for the Care of Juveniles (FEBEM) crisis in October, transferring the minor inmates from the Imigrantes complex to other facilities and announcing a plan to construct several smaller centers, which would allow the state to separate violent and nonviolent juveniles. Teenage inmates brutally tortured and killed four fellow inmates during the biggest and most violent of a serious of riots at Sao Paulo's largest youth detention facility (see Section 1.a.).

In April the authorities suspended four FEBEM guards from the Tatuape complex after a Catholic priest filed a complaint charging that guards beat 49 of 75 juvenile offenders. The priest alleged that the minors were beaten with metal bars and wooden sticks. The incident occurred after some of the victims escaped and were recaptured. A judge specializing in youth offenders was investigating the case. Although the authorities were unable to identify the individuals responsible for this abuse, during the last months of the year they were conducting about 30 criminal investigations of FEBEM employees for beating inmates.

During an August 23 search of the Imigrantes FEBEM complex, a group of judges, public prosecutors, and children's advocates found dozens of weapons believed to be used for torturing inmates. The wooden and metal bats were hidden behind furniture and under insulation in an "employees only" area. A Catholic priest involved in the investigation said that there were 69 youths in the facility who showed signs of torture. The president of FEBEM acknowledged the problem and said that he would try to determine which employees were involved. The presi-

dent of the employees' union said that the weapons were hidden simply to keep them out of the youths' hands.

It is government policy to permit prison visits by independent human rights monitors, and state prison authorities generally observe this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to Amnesty International, which reported no significant problems in gaining access to state-run prison facilities. By contrast, Human Rights Watch noted in preparing its prison report in 1998 that gaining access to prisons was "surprisingly difficult," and that barriers ranged from outright denial of access to the use of procedural delays. Only three states of the eight investigated—Amazonas, the Federal District, and Rio Grande do Norte—made their prisons completely accessible to Human Rights Watch. In 1998 the governor of Ceara withdrew a 1997 decree that barred members of the Catholic Church's prison ministry from entering prisons in that state after a prison riot in Fortaleza.

d. *Arbitrary Arrest, Detention, or Exile*.—The law prohibits arbitrary arrest and detention, and the Government generally observes this prohibition; however, police continued at times to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority. The authorities usually respect the Constitutional provision for a judicial determination of the legality of detention, although many convicted inmates are held beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. However, groups that work with street children claim that the police sometimes detain street youths illegally without a judicial order or hold them incommunicado.

Human rights monitors allege that civil and uniformed police regularly detain persons illegally to extort money or other favors, citing the Vila Naval incident of 1997 (see Section 1.a.) as only the most notorious example.

The Government does not use forced exile.

e. *Denial of Fair Public Trial*.—The judiciary is an independent branch of government; however, it is inefficient, subject to political and economic influence, and plagued by problems relating to lack of resources and training of officials. In many instances, lower-income, less-educated citizens make limited use of the appeals process that otherwise might ensure the right to fair trial.

The judicial system, with the federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organize their own judicial systems but must adhere to the basic principles in the Constitution. There is also a system of specialized courts that deal with police, labor, elections, juveniles, and family matters.

Defendants in criminal cases arrested in the act of committing a crime must be charged within 30 days of their arrest, depending on the crime. Other defendants must be charged within 45 days, although this period can be extended. Defendants for all but the most serious crimes have the right to a bail hearing. Based on the police investigation leading to the formal charges, prosecutors prepare an indictment for the review of a judge, who determines if the indictment meets the legal requirements to bring the accused to trial. A judge and jury try persons accused of capital crimes, attempted homicide, or more serious charges. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They further have the right to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal superior court to contest whether a decision was inconsistent with the decision of a court in another state or infringes on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial in the same court.

Special police courts have jurisdiction over state uniformed police (except when charged with intentional homicide); the record of these courts shows that conviction is the exception rather than the rule. A study of police homicides in Rio de Janeiro state in 1993–96 found no instance of a conviction in 301 cases (see Section 1.a.). These courts (which are separate from the courts-martial of the armed forces, except for the final appeals court) are composed of four ranking state uniformed police officials and one civilian judge. With too few judges for the caseload, there are backlogs, and human rights groups note a lack of willingness by police to investigate fellow officers.

In 1996 the President signed legislation giving ordinary courts jurisdiction over cases in which uniformed police officers are accused of intentional homicide against civilians. However, except for the most egregious or scandalous cases, the internal police investigation determines if the homicide was intentional, and the police tribunal decides whether to forward a case to a civil court for trial. As a result, few cases are referred to the civil courts. The first case to result in the conviction of an

officer based on charges of intentional homicide occurred in 1998, when a Sao Paulo court convicted Otavio Gamba in the Diadema roadblock tortures and murders caught on videotape.

In January the federal Senate formed a parliamentary committee of inquiry to examine alleged abuses in the administration of the justice system and to consider reform proposals. In a speech before the Order of Brazilian Attorneys in July 1998, President Cardoso criticized the slowness and poor administration of the justice system and said that reform was imperative. The president of the federal Supreme Court complained in a 1997 press interview about the volume of appeals that by law the Supreme Court must review. It takes 8 years to reach a definitive decision in the average case, a delay the Supreme Court president considered unjust. At the appellate court level, a large backlog of cases hinders the courts' ability to ensure fair and expeditious trials.

Defendants are entitled to counsel and must be made fully aware of the charges against them. According to the Ministry of Justice, approximately 85 percent of prisoners cannot afford an attorney. In such cases, the court must provide one at public expense; courts are supposed to appoint private attorneys to represent poor defendants when public defenders are unavailable, but often no effective defense is provided. Juries decide only cases of willful crimes against life, including crimes by police; judges try all others.

The right to a fair public trial as provided by law generally is respected in practice, although in rural areas the judiciary generally is less capable and more subject to influence. Similarly, local police are often less dutiful in investigating, prosecutors are reluctant to initiate proceedings, and judges find reasons to delay when cases involve gunmen contracted by landowners to eliminate squatters or rural union activists.

After a series of confrontations between police and rural activists illegally squatting on private land in the southern state of Parana in early 1999, the CDDPH examined charges in June and July by landless advocates that state authorities aggressively prosecuted crimes committed by landless protesters and ignored crimes committed by police and armed agents hired by landowners. As a result of the inquiry, the National Human Rights Secretary publicly called on the state secretary for public security to treat all parties in rural disputes evenhandedly and to prosecute crimes committed by police and landowners with full vigor.

Low pay, combined with exacting competitive examinations that in some years eliminate 90 percent of the applicants, make it difficult to fill vacancies on the bench. The system requires that a trial be held within a set period of time from the date of the crime. However, due to the backlog, old cases frequently are dismissed. According to a former judge, this encourages corrupt judges to delay certain cases purposely, so that they can be dismissed. Lawyers often drag out cases as long as possible in the hope that an appeals court might render a favorable opinion and because they are paid according to the amount of time that they spend on a case.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for freedom from arbitrary intrusion into the home. Wiretaps authorized by judicial authority are permitted. The law regulating the conditions under which wiretaps may be used appears to strike a fair balance between giving the police an effective law enforcement tool and protecting the civil liberties of citizens. The inviolability of private correspondence is respected.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution prohibits all forms of censorship and provides for freedom of speech and a free press, and the authorities respect these rights in practice.

Newspapers and magazines, which are privately owned, vigorously report and comment on government performance. Both the print and broadcast media routinely discuss controversial social and political issues and engage in investigative reporting. Most radio and television stations are privately owned; however, the Government has licensing authority, and politicians frequently obtain licenses. Current or former congressmen, some of whom are or were members of the committee that oversees communications, own many television and radio stations. It is difficult to determine how many media outlets are indirectly controlled by politicians, since concessions often are registered in the names of family members or friends linked to them. In addition, the Government regularly approves transfers of concessions already granted to other individuals with little oversight.

The penalty for libel under the 1967 Press Law—a prison term—is considered extreme by judges and rarely is imposed. Press criticism has described it as an archaic and authoritarian law inherited from the military regime. In a report issued in Oc-

tober 1998, the National Association of Journalists (ANJ), which represents 115 separate press organizations, claimed that the threat of prohibitive fines and jail sentences discouraged freedom of the press. The ANJ cited two judgments made during the year against publishers that amounted to hundreds of thousands of dollars and included jail terms of several months.

Complex electoral campaign laws regulate the broadcast media and prescribe complicated arrangements to apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and nonappeal provisions of the regulations are designed to enforce discipline and to ensure that remedies are applied in a timely matter. Media and free speech advocates generally accept the manner in which the campaign laws are enforced.

Foreign publications are widely distributed; prior review of films, plays, and radio and television programming is used only to determine a suitable viewing age.

The National Federation of Journalists (FENAJ), the Brazilian Press Association, and the ANJ have documented and criticized a number of violent attacks, including killings, and threats against journalists in retaliation for investigative reporting on organized crime, police corruption, government fraud, and human rights abuses. The ANJ cites impunity for crimes committed against journalists and uneven and inappropriate application of the Press Law as impediments to the functioning of a free press without censorship. In its annual report, FENAJ documented 3 retaliatory homicides of journalists and 10 additional cases of death threats and assault in 1998. Charges have been brought in none of these cases.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble peacefully, and the Government respects this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occur frequently.

In December police shot and killed one person and blinded two others who were taking part in a protest organized by striking public workers in Brasilia. Due to public criticism over use of such force by police to control the protest, the Federal District governor demanded the resignations of the state secretary for public security and the chief of the uniformed police's special operations division (see Section 1.a.).

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

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. There is no favored or state religion. All faiths are free to establish places of worship, train clergy, and proselytize, although the Government controls entry into Indian lands.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—There are no restrictions on movement, except entry into protected Indian areas, nor are there any restrictions on emigration or return. However, a parent is not allowed to leave the country with children without the permission of the other parent.

On March 31, the mayor of Corumba, Mato Grosso do Sul state, expelled 27 indigents from the city by force only days before a visit by the President. Human rights groups charged that the actions by the mayor and five police officials constituted kidnaping and private imprisonment. The mayor justified his action by saying that the town could not support its 150 indigents and that the 27 he removed were not really town residents. According to the media, many cities in Sao Paulo state allow indigents to stay for only 12 hours before the city buys them one-way tickets out of town.

In July 1997, the Government passed legislation with provisions for asylum and refugee status intended to conform to the principles of the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol. The Government provides first asylum and cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens age 18 to 70, except for military conscripts who may not vote.

It is voluntary for minors age 16 to 18, for the illiterate, and for those age 70 and over.

Women have full political rights under the Constitution and are increasingly active in politics and government; however, they remain underrepresented in both fields. Cultural, institutional, and financial barriers continue to limit women's participation in political life. The number of female candidates for office in the 1998 national elections roughly doubled, compared with the number in 1994, according to statistics released by the Supreme Electoral Court. Women constituted 12.3 percent of the total candidates. However, their representation in the national Congress decreased from 7.6 percent to 6.1 percent after the 1998 elections; 29 women were elected to the 513-seat Chamber of Deputies, and 5 to the 81-seat Senate. There is 1 woman in the 29-member Cabinet. In May the President appointed the first woman to the 11-member Supreme Court.

Diverse ethnic and racial groups, while free to participate politically, are not represented in government and politics in proportion to their numbers in the general population.

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

A number of local and national human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Federal officials generally are cooperative and responsive to their views. Federal and state officials, in light of insufficient resources, in many instances actively solicit the aid and cooperation of NGO's in addressing human rights problems. However, human rights monitors on occasion are threatened and harassed due to their efforts to identify and have action taken against human rights abusers, especially members of the state police forces (see Section 1.a.).

Established in April 1997, the Justice Ministry's National Secretariat of Human Rights oversees implementation of a 1996 action plan to address human rights abuses. The Secretariat administered or sponsored programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous people, the elderly, and the disabled. The Secretariat was reviewing its programs in light of its experiences in its first 2 years in order to increase its effectiveness. In 1998 the National Human Rights Secretary, Dr. Jose Gregori, received the U.N. human rights prize for his role in implementing the plan and his accomplishments on behalf of human rights, dating back to his cooperation with groups trying to restore democracy during the period of military rule.

In December the Government released the first National Report on Human Rights, independently prepared by the Center for the Study of Violence at the University of Sao Paulo. The National Secretariat for Human Rights, the University of Sao Paulo, and the U.N. Development Program co-sponsored the preparation of the report. The report is a comprehensive account of the human rights situation in each state, and provides information on health, education, public security, and labor conditions. The report also provides a list of human rights monitors and advocates in each state.

Two attorneys working for a human rights group in Aracatuba, Sao Paulo state, received death threats after successfully prosecuting three police officers who were convicted of torture and homicide. The caller gave the attorneys 15 days to leave town or they would be killed. The lawyers asked for police protection and refused to leave the city.

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

Discrimination on the basis of sex, race, religion, or nationality is against the law, but women, blacks, and indigenous people continued to experience discrimination. The International Labor Organization (ILO) notes that important differences in wages exist to the detriment of women and blacks, particularly in rural areas. The Government passed a law in May 1997 that provides prison penalties and fines for racist acts, including promulgation of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin. Several individuals have been charged with racism since the law's enactment, mostly for the use of racial slurs.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. In January police officials in Rio de Janeiro reported incidents of gangs attacking patrons of known homosexual bars and nightclubs. The Rio de Janeiro state secretariat for public security instituted a telephone hot line, which persons could call

for information regarding acts of violence against homosexuals. The secretariat also instituted a training course for the police in dealing with homosexuals. The Gay Group of Bahia (GGB), the country's best known homosexual rights organization, and Amnesty International have in the past 6 years documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in other cities including Salvador, Belo Horizonte, and Brasilia. In some cases these gangs included police officers.

The GGB maintains that increasing numbers of homosexuals are being killed because of their sexual orientation. However, the data compiled by the GGB and its claims that violence against homosexuals is rising cannot be confirmed, as they are based on a selective sampling of press and other reports and because the motive for the crime is not always clear. Information from the GGB and other homosexual rights groups clearly indicates that transvestite prostitutes, the most visible homosexual group, are at a greater risk of violence than other homosexuals. Police routinely extort money from transvestites and often beat or kill those who fail to cooperate (see Section 1.a.). Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. In past years, flagrant abuses by the police in the states of Alagoas and Bahia have been reported.

Women.—The most pervasive violations of women's rights involved sexual and domestic violence, which are both widespread and vastly underreported. There is a high incidence of physical abuse of women. Most major cities and towns have established special police offices to deal with crimes of domestic or sexual violence against women; such offices total over 200. Rapes reported to the police in the state of Rio de Janeiro increased 45 percent in the period between 1994 and 1998, the last year for which data were available, according to the state secretariat for public security. Both state authorities and women's rights activists agree that a large number of rapes go unreported. According to a study carried out in two middle class neighborhoods in Rio de Janeiro in 1998, only 10 percent of women who had suffered violent attacks reported them to the police. The Sao Paulo Center for Assistance to Female Victims of Sexual Violence reported that 400 women sought the center's intervention in rape cases after receiving no help from the police in 1998. In rural areas, abused women have little recourse since there are no specialized offices available to them. Trafficking in women for the purpose of forced prostitution is also a serious problem (see Section 6.f.).

Men who commit crimes against women, including sexual assault and murder, are unlikely to be brought to trial. Although the Supreme Court in 1991 struck down the archaic concept of "defense of honor" as a justification for killing one's wife, courts are still reluctant to prosecute and convict men who claim that they attacked their wives for infidelity. Preliminary results from a study done by an academic at the Catholic Pontifical University of Sao Paulo indicate that 70 percent of criminal complaints regarding domestic violence against women are suspended without a conclusion. Only 2 percent of criminal complaints of violence against women lead to convictions. In June 1998, the National Movement for Human Rights reported that female murder victims were 30 times more likely to be killed by current or former husbands or lovers than by others. The state of Rio de Janeiro opened two shelters for victims of domestic violence during the year, bringing the total number in the state to four.

The Constitution prohibits discrimination based on sex in employment or pay and provides for 120 days of paid maternity leave. However, the provision against wage discrimination rarely is enforced. According to statistics released in 1998 by the International Confederation of Independent Unions, women are paid on average 44 percent less than men. According to government statistics released in August 1998, women with a high school education or less earn, on average, 63 percent of the salaries earned by men with the same level of education. Black women earned on average 26 percent of a white male's salary. A 1998 study by a sociologist showed that women who started working in positions in which they earned twice the minimum wage advanced in pay after 10 years to a wage of seven times the minimum wage. Men starting in the same positions earned 2.6 times the minimum wage and advanced to a wage of 10.9 times the minimum wage after 10 years. A Ministry of Labor survey reported that the average starting salary for high school educated women in Sao Paulo was one-third less than the average starting salary for high school educated men.

In response to the Maternity Leave Law, some employers seek sterilization certificates from female job applicants or try to avoid hiring women of childbearing age. In an effort to end such practices, President Cardoso signed a law in 1995 that prohibited employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates. Employers who violate the law are subject to a

jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest paid employee.

Children.—Millions of children continue to suffer from the poverty afflicting their families, must work to survive, and fail to get an education. Schooling is free and compulsory for the first six grades and is available in all parts of the country. The education system does not exclude any groups; however, 1.5 million children between 7 and 14 years of age do not attend school.

According to data released by the U.N. Children's Fund (UNICEF) in June, 21.1 million children and adolescents, or 35 percent, live in poverty. More than 2.9 million children age 14 and under continue to work; 583,000 of whom were between the ages of 5 and 9. Many of these children work together with their parents, most often in agriculture, under conditions approximating forced labor or debt bondage (see Sections 6.c. and 6.d.). Many other children beg on the streets of cities. A UNICEF report published in June estimated that 50,000 children nationwide work in garbage dumps sorting trash for re-use.

According to the most recent government figures released in November, the number of children working has decreased steadily since 1993, while the number of children attending school has increased. The Federal Government administers a total of 33 programs under 5 separate ministries aimed at combating child labor. The Ministry of Labor's program for the eradication of child labor provided supplemental income or "school scholarships" to the families of 147,000 children in rural areas who in return must attend school. According to the Government, an additional 202,000 children living in urban areas benefit from similar programs administered by municipalities. The city of Belo Horizonte announced in March that a similar pilot program, cosponsored by UNICEF and implemented in 1996, had served 1,500 children, achieved a success rate of 92 percent. The cities of Olinda and Sao Bernardo do Campos also started similar programs. Participating families received the equivalent of $60 a month in return for which their children had to attend school regularly. However, in November the Federal District government suspended the school scholarship program, one of the country's first, originally adopted by the previous administration and considered by UNICEF and children's advocates as widely effective.

According to research undertaken by UNICEF, the nation significantly lowered its rates of child mortality and malnutrition and made progress in access to education; however, UNICEF noted that not all the goals for progress in specific health categories for the year 2000 would be reached.

There are no reliable figures on the number of street children, some of whom are homeless, but the majority of whom return home at night. Disparities in the numbers of children living in the street reported by children's rights activists indicate the difficulty of arriving at accurate estimates. The Center for the Defense of Children and Adolescents (CEDECA) in Belem, in the state of Para, reported that in 1998 a total of 2,328 youths under the age of 18, totaling 0.5 percent of the youth population, spent their days in the streets. CEDECA estimated that 97 of those youths lived permanently in the streets. CEDECA estimated that the total number of street children in Belem declined by 33 percent from 1993, while the number of youths living in the streets declined by 62 percent.

In Rio de Janeiro, an organization aiding street children estimated in 1997 that 30,000 frequent the streets by day but probably less than 1,000 sleep there. In Sao Paulo, NGO's aiding street children estimated that some 12,000 children roam the streets by day and that from 3,000 to 5,000 of them live permanently on the streets. In Salvador, Bahia, NGO's estimated that the number of children who sleep in the streets was less than 1,000, although this number fluctuates widely during the weeks between Christmas and Carnival, when children from the region are attracted to the city by the large number of tourists and festivals. CEDECA in Belem also noted wide fluctuations in the population of street children as a result of the celebration of local festivals.

NGO's in Rio de Janeiro have made 28 shelters available for homeless children, but some children prefer the freedom and drugs that street life offers. Drug use, particularly glue sniffing and crack, is increasingly prevalent among street children. One dose of poor quality crack sells for $0.55 in downtown Sao Paulo. NGO's report that extreme poverty at home or sexual abuse by fathers and stepfathers are the principal reasons so many children choose to live in the streets. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes within their own homes. An IBGE study reported that 47 percent of Sao Paulo street children come from families that earn less than $200 ((350 reias) per month. Nationwide, the Inter-American Development Bank estimated that some 30 million children live below the poverty line and increasingly come from households headed by women.

Because street children have a high rate of drug use and have been involved in assaults and robberies, a significant portion of the public supports harsh police measures against them, viewing the issue as one of crime and security, not human rights. CEDECA in Salvador attributes the vast majority of unresolved homicides of children in the Salvador region to the action of police and death squads.

According to statistics released by the Government in November, homicide remains the leading cause of death among 15- to 19-year-olds. Previous statistics from UNICEF and the IBGE showed that the homicide rate within this age group more than tripled between 1980 and 1997. Among children between the ages of 10 and 14, homicide accounted for 5.1 percent of all deaths in 1998. According to the ISER, in Rio de Janeiro the rate of homicides of children ages 10 to 14 rose 34.4 percent and the rate of youths ages 15 to 19 rose 30.6 percent between 1996 and 1998. During the same period, the general rate of homicide decreased. Within a 2-month period in May and June, a total of four youths were killed in public areas in the city of Rio de Janeiro. The CEDECA in Belem reported a 40 percent increase in the incidence of violence against children under the age of 18 in Para state during 1990–97. The majority of the victims were between 15 and 18 years of age.

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

A study released in March by the Information Network for Violence, Exploitation, and Sexual Abuse of Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, states that government efforts to combat sexual exploitation of children need to be better tailored and coordinated (see Section 6.f.). It cites 40 separate programs in the country operated by national and international NGO's, some in partnership with government entities, but notes that most of the programs face shortfalls in resources and personnel. In association with the Ministry of Justice, the NGO ABRAPIA has since 1997 operated a telephone hot line to register complaints of sexual abuse against children and adolescents. The ABRAPIA also administers the "SOS-child" program in Rio de Janeiro state that registers complaints of domestic abuse against children and provides medical and social assistance.

In April Sao Paulo civil police identified a child prostitution ring in the suburb of Guarulhos that exploited girls as young as age 11. The ring counted on the complicity of nightclubs, motels, hotels, and even the girls' parents. Police claimed that the girls' parents were involved in the scheme and received part of their daughters' earnings.

In June federal authorities charged eight persons with operating a child prostitution ring in the city of Teresina, capital of the state of Piaui. Among the accused clients of the ring were police officers. In September civil police in Alagoas uncovered a child prostitution ring involving local judicial authorities. In October civil police in Maranhao uncovered a child prostitution ring involving police, judicial authorities, and elected authorities.

In October police in Campo Grande, Mato Grosso do Sul state, arrested three persons accused of running a brothel using girls between the ages of 13 and 16 (see Section 6.f.).

People with Disabilities.—The Constitution contains several provisions for the disabled, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that work with the disabled report that state governments failed to meet the legally mandated targets for educational opportunities and work placement. A 1991 law stipulates that all businesses with over 200 employees must reserve 2 percent of their vacancies for the disabled. In August labor officials in the Federal District launched an information campaign to encourage firms to comply with the law and warned that firms not complying could be fined.

The National Human Rights Secretariat sponsored a "City for Everyone" program in cooperation with municipal governments and national and international NGO's that focused on providing better access for the disabled to public areas and public transport. However, little progress in elimination of architectural barriers to the disabled has been made. In August the government in Rio de Janeiro state mandated that bus companies must make a specific number of buses on certain routes accessible to wheelchair users within 3 months. By year's end, 6 percent of the cities' bus fleets had been adapted for wheelchair use; however, no intercity or interstate buses had been modified.

According to the Federal Ministry of Education, in 1997 only 5 percent of the estimated 6 million school age children with disabilities had access to specialized instruction. Throughout the country, only 43 percent of school districts offer special instruction for disabled children. In the nine states in the northeast, only 24 percent of school districts offer special instruction.

Indigenous People.—The Constitution grants the indigenous population of approximately 330,000 broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, the Government has fallen short of securing these rights for indigenous people in practice. The Government estimates that over half live in poverty in communities whose traditional ways of life are threatened on a variety of fronts. The number of indigenous citizens receiving food assistance in the southern states of Sao Paulo and Rio Grande do Sul exceeded the total indigenous population at the time of the 1995 census in those states. The greatest number of beneficiaries reside in Mato Grosso do Sul state, where 42,000 persons of a total indigenous population of 45,300 receive food assistance.

Indigenous leaders and activists complain that indigenous peoples have only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources for health care, other basic services, and protection of indigenous reserves from non-Indians. Illegal mining, logging, and ranching are serious problems on Indian land.

The National Indian Foundation (FUNAI) is responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI; it is organized into 52 regions whose directors are appointed directly by the FUNAI president.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. During the year, the Government demarcated 6 areas totaling about 3,000 square miles. At year's end, the Government had completed demarcation of roughly 79 percent of the total area of identified indigenous territory. Of the total of 561 identified indigenous areas, 205 remain to be demarcated legally. Identified indigenous territory comprises 11 percent of the national territory.

The Government estimates that 208 of the total of 561 identified indigenous lands are used illegally by non-Indians for mining, logging, and agriculture. Non-Indian invaders destroy the environment and wildlife, spread disease, and provoke violent confrontations. FUNAI admits that it does not have the necessary resources to protect indigenous lands from encroachment. In 1996 the Federal Government officially demarcated a 2,500 acre indigenous area in Rio Grande do Sul belonging to the Caingangue Indians. However, non-Indians who have occupied the land for years continued to charge the Indians rent to farm their land.

Due partly to the Government's failure to provide adequate medical care as required by law, indigenous people have suffered epidemics of malaria, measles, and tuberculosis. According to the chief of FUNAI's medical department, 60 percent of the indigenous population suffers from a chronic disease such as tuberculosis, malaria, or hepatitis. In certain areas of the Amazon region, up to 80 percent of the population are affected. Illegal mining in the Amazon has led to the doubling of the incidence of malaria in the period 1994–98. FUNAI estimates that 75 percent of the affected population is indigenous. The infant mortality rate among the Yanomami in 1997 was 13 percent, while infant mortality among non-Indian residents was only 1.5 percent. According to health workers' unions, poor working conditions and lack of resources from the Government make it very difficult for health workers to travel into indigenous areas to provide sufficient medical care.

FUNAI also has been unable to provide mandated health care and other basic services. Hoping to improve the level of health care provided to indigenous people, in June the Government transferred that responsibility from FUNAI to the Ministry of Health.

In October police in Pernambuco arrested and then subsequently released for lack of evidence a suspect in connection with the May 1998 killing of Francisco "Chicao" de Assis Araujo. Indigenous rights activists criticized the release, noting that the suspect was identified after extensive assistance from an eyewitness. Araujo was a prominent campaigner for the indigenous population in his home state of Pernambuco. He had defended the land claims of his tribe, whose lands are being encroached upon by ranchers.

In December 1998, the Federal Government issued a decree recognizing the original boundaries of the Raposa Serra do Sol indigenous area in the Amazonian state of Roraima, overturning a controversial decision made in 1996 by the Justice Minister to limit and alter the shape of the reserve. However, in April a state court upheld a claim brought by local landowners and economic interests and suspended the demarcation process. Indigenous activists claim that the Government's failure to carry out the December 1998 decree and allocate resources for the area's final demarcation was a political concession to local economic and political interests who then were able to influence the state court. The demarcation of Raposa Serra do Sol has been pending since 1992.

The Constitution provides Indians with the exclusive use of the soil, waters, and minerals on indigenous lands, subject to congressional authorization. In granting authorization, the Constitution stipulates that the views of the affected communities must be considered and that the communities also must "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands has been pending before the Congress since 1995. The Catholic Church-affiliated Indigenous Missionary Council (CIMI) criticized the regulations within the legislation that would provide for indigenous groups' approval of mining concessions and their participation in the profits from mining, on the grounds that they do not sufficiently address the constitutional rights of indigenous people.

Landowners brought a civil action to the Supreme Court against a lower court ruling in Bahia that restored demarcated land of the Caramuru-Catarina Paraguacu reserve to the Pataxo Ha-Ha-Hae tribe. At year's end, no trial date had been set. Some tribe members began separate negotiations with landowners, who under FUNAI regulations may receive "indemnification for benefactors of good faith" in demarcation disputes. However, tensions remain extremely high in the area. In November Indians occupying part of the reserve held by farmers fired on and killed two uniformed police who had been dispatched to dislodge them. The Indians immediately fled the area, but one was subsequently charged with homicide. The state government dispatched more than 150 uniformed police to secure the area.

No charges have been filed in the case of mass sterilizations promoted among women of the Pataxo tribe of Bahia by federal Deputy and medical doctor Roland Lavigne in exchange for votes during his 1994 electoral campaign. Pataxo women were reluctant to have children because of the general level of poverty in their community, and campaign workers reportedly convinced them that sterilization was the only effective form of birth control. CIMI claims to have confirmed independently that Lavigne sterilized at least 56 Pataxo women over the last 4 years. In the small settlement of Itaju do Colonia, all 10 of the women of childbearing age of the Pataxo Ha-ha-hae tribe were sterilized. CIMI reported that Lavigne paid campaign workers according to the number of Pataxo women brought to area hospitals. Pataxo leaders claimed that the sterilizations were a deliberate program of genocide intended to eliminate their tribe and free their land for farmers who illegally occupy the Pataxo reserve. Pataxo leaders requested federal police protection in August after receiving threats from farmers who are settled on their land. Federal and state authorities continue their investigation into the case.

Religious Minorities.—Leaders in the Jewish community expressed concern over the appearance of anti-Semitic material on Internet websites compiled by neo-Nazi groups.

National/Racial/Ethnic Minorities.—Although racial discrimination has been illegal since 1951, darker skinned citizens say that they frequently encounter discrimination. Legislation in force since 1989 specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. A 1997 amendment to this law added prohibitions against and jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported several arrests of persons charged with using racial slurs during the year. In April a judge sentenced a woman in the city of Porto Alegre to 4 months in prison for using an ethnic slur against her neighbor.

An Afro-Brazilian woman in the city of Salvador, Bahia, filed suit against the authorities of a carnival group after they allegedly refused to allow her to join because of her race. The publicity surrounding the case led to other allegations of race discrimination in the organization of Salvador's carnival activities. As a result, more than 40 carnival groups subsequently adopted a voluntarily code limiting their grounds for denying prospective members and prohibiting denial on the grounds of race.

In Sao Paulo human rights activists continued to express concern because of discrimination against blacks and poor persons from the northeast by neo-Nazi groups in the south. A group of human rights activists led by the chairman of the Sao Paulo state assembly's human rights committee called for investigation into the use of the Internet by racist organizations to disseminate illegal propaganda. The chairman identified the National Socialist Union for Sao Paulo and the National Front for Order and Progress as two of the groups. One human rights activist who monitors the Internet indicated that the number of neo-Nazi sites decreased during the year. In August 1998, a university student in Sao Paulo was charged under the anti-discrimination law with disseminating racially offensive materials on the Internet.

According to research carried out by the Inter-Union Department of Statistics and Socioeconomic Studies in 1998, Afro-Brazilians had higher rates of unemployment, earned less, and enjoyed less job stability than white Brazilians in each of the five

largest metropolitan regions where data were gathered. In the region of Salvador, Bahia, which has the highest percentage of Afro-Brazilians of any metropolitan region, unemployment among Afro-Brazilians was 45 percent higher than among whites (the difference among heads of household was 75 percent). In Sao Paulo, Afro-Brazilian unemployment was 41 percent higher than among whites and 64 percent higher among heads of households. Afro-Brazilian men earned on average between 62 percent and 70 percent of the average salary earned by white men in the five regions surveyed. Afro-Brazilian women earned on average between 33.5 and 47 percent of the average salary of a white man.

According to a government-sponsored study released in April by the Institute for Applied Economic Research (IPEA), whites are more than twice as likely as blacks to expand a small business successfully. When levels of education and experience are equivalent, whites are still 33 percent more likely to expand their businesses. The IPEA study indicates that self-employed blacks earn 64 percent less than their white counterparts, while black business owners earned 54 percent less than their white counterparts. Illiteracy is also a problem: 32 percent of blacks are illiterate, compared with 14 percent of whites. Of 30,000 students at the University of Sao Paulo in 1997, only about 1,000 were black.

A much higher percentage of blacks are convicted by courts than whites, according to professor Sergio Adorno of the University of Sao Paulo's Nucleus for the Study of Violence. Adorno analyzed 500 criminal cases judged in Sao Paulo courts in 1990 and found that 60 percent of whites able to afford their own lawyers were acquitted, while only 27 percent of blacks who hired lawyers were found not guilty.

In September 1997, the Federal Government's Interministerial Working Group for the Valorization of the Black Population issued 29 recommendations, including the creation of affirmative action programs for university admissions and government hiring. The group is charged with proposing public policies to increase the participation and access of Afro-Brazilians in society. The National Secretariat for Human Rights adopted some of the group's recommendations in the national human rights program and planned to incorporate many others in its revision of the National Human Rights Plan.

Section 6. Worker Rights

a. *The Right of Association.*—The Labor Code provides for representation of all workers (except members of the military, the uniformed police, and firemen) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. The sole bureaucratic requirement for new unions is to register with the Ministry of Labor, which by court decision must accept the registration and record it.

Under a restriction known as "unicidade" (one per city), the code prohibits multiple unions of the same professional category in a given geographical area. The 1988 Constitution freed workers to organize new unions out of old ones without prior authorization of the Government, but retained other provisions of the old labor code. All elements of the labor movement as well as the International Confederation of Free Trade Unions (ICFTU) criticize the retention of unicidade. The Government has promised to end unicidade, but by year's end it had not yet introduced any such legislation.

Unicidade has proven less restrictive in recent years, as more liberal interpretations permitted new unions to form and, in many cases, to compete with unions and federations that already had enjoyed official recognition. In practice, unicidade is enforced by the system of labor courts, which retain the right to review the registration of new unions and to adjudicate conflicts over their formation. This often can result in complicated jurisdictional quarrels. A splinter group used the principle of unicidade to resist a consolidation movement by the Workers' Unitary Central (CUT) and formed its own metalworkers' local in the ABC industrial suburbs of Sao Paulo in 1995. The dispute lasted 3 years before a court settlement was reached. The settlement, approved by a majority of the members of the unions involved, provided for the reincorporation of the dissident union into the Sao Paulo ABC metalworkers' union.

Unions are independent of the Government and of the political parties. The leadership of major unions is distinct and independent from that of the political parties. In general, the major unions support left-of-center parties and in some instances form formal alliances with left-of-center parties to advocate or carry out protest acts regarding specific issues. Approximately 25 percent of the work force is organized, with well over half this number affiliated with an independent labor central. Intimidation of rural labor union organizers and their agents continues to be a problem.

The Constitution provides workers with the right to strike (except for the military, police, and firemen). Enabling legislation passed in 1989 stipulates that essential

services must remain in operation during a strike and that workers must notify employers at least 48 hours before beginning a walkout. The Constitution prohibits government interference in labor unions, but provides that "abuse" of the right to strike (such as not maintaining essential services, or failure to end a strike after a labor court decision) is punishable by law. The Constitution specifies the right of public employees to strike, subject to conditions enacted by the Congress. Since the Congress has yet to pass the complementary legislation, labor and legal experts debate the limits of the right to strike for public employees. In practice, the Government has not interfered with their right to strike.

Autoworkers, truckers, doctors in public health facilities, teachers, and municipal transit workers struck during the year. Formerly, the courts almost automatically ruled strikes abusive; in recent years the courts have applied the law with more discretion. The 1989 strike law prohibits dismissals or the hiring of substitute workers during a strike, with certain exceptions, provided that the strike is not ruled abusive.

Although the law makes no provision for a central labor organization, three major groups have emerged: the Workers' Unitary Central, the Workers' General Confederation (CGT), and the Forca Sindical (FS). A fourth central, the Social Democratic Union (SDS), was founded in September 1997. The centrals do not have legal standing to represent professional categories of workers, but all three centrals effectively can acquire such standing by affiliating with existing statewide federations or nationwide confederations, or by forming new federations and confederations.

Unions and centrals freely affiliate with international trade union organizations. All three major centrals are affiliated with the ICFTU.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize. With government assistance, businesses and unions are working to expand and improve mechanisms of collective bargaining. However, the scope of issues legally susceptible to collective bargaining is narrow. The labor court system exercises normative power with regard to the settlement of labor disputes, discouraging direct negotiation. The Cardoso Government made expansion of collective bargaining one of its major objectives in the labor sector.

In mid-1995 the Cardoso administration promulgated a provisional measure that simultaneously ended inflation indexing of wages, allowed for mediation of wage settlements if the parties involved so desired, and provided greater latitude for collective bargaining. Unions have welcomed these changes, since previously the Labor Court and the Labor Ministry had responsibility for mediation in the preliminary stages of dispute settlement. In many cases free negotiations set wages; labor court decisions set them in others. Under the provisional measure, parties now may choose mediation freely.

The ILO notes that important differences in wages continue to exist to the detriment of women and blacks, particularly in the rural sectors (see Section 5).

The Constitution incorporates a provision from the old Labor Code that prohibits the dismissal of employees who are candidates for or holders of union leadership positions. Nonetheless, dismissals take place, with those dismissed required to resort to a usually lengthy court process for relief. In general, the authorities do not enforce effectively laws protecting union members from discrimination. Union officials estimate that only 5 percent of such cases reaching the labor court system are resolved within days through a preliminary judicial order. The other 95 percent generally take 5 to 10 years (and sometimes longer) to resolve.

Labor law applies equally in the free trade zones. The unions in the Manaus free trade zone, like rural unions and many unions in smaller cities, are relatively weaker vis-a-vis industry than unions in the major industrial centers.

c. *Prohibition of Forced or Compulsory Labor.*—Although the Constitution prohibits forced labor, there continue to be credible reports of forced labor in many parts of the country. Forced labor is most common in charcoal production and agriculture. The majority of cases occur when employers recruit laborers from population centers and transport them long distances to remote areas where escape is difficult. The Catholic Church's Pastoral Land Commission reported 14 cases of forced labor in 5 different states involving more than 600 workers in 1998. The number of cases of forced labor reported to the CPT has declined in the period 1996–98 (also see Section 6.d.).

State police acknowledge that overseers or owners of many farms withhold pay from migrant laborers and use force to retain and intimidate them, but assert that such violations fall within the jurisdiction of the Federal Ministry of Labor. Federal labor and police officials state that cooperation with state police regarding labor violations is improving but far from optimum.

The Federal Government's Executive Group to Combat Forced Labor (GERTRAF), coordinated by the Ministry of Labor, includes representatives from five different

ministries and is administered in six regions throughout the country, so that local enterprises cannot rely on friendly local authorities to escape punishment. The enforcement arm of GERTRAF is the Special Group for Mobile Inspection, which consists of over 3,100 agents. During 1995–97, the teams carried out more than 400 raids and uncovered more than 130,000 persons working under conditions of varying degrees approximating forced labor. In 1998 the group carried out 64 raids and uncovered 3,531 persons working in conditions of forced labor. Ministry of Labor officials admit that enforcement has been hampered by the remoteness of the areas in which forced labor is practiced and the difficulty of arriving in these areas without alerting those employing illegal labor. However, they say that the mobile inspectors have refined their tactics and greatly improved their enforcement abilities.

Government officials and labor activists say that widespread poverty, low levels of education, and lack of awareness of worker's rights greatly complicate the effort to combat forced labor. Additionally, freed workers are often afraid to testify against those who recruited and supervised them and are unable to remain in the region in order to testify. Thus the authorities often have found it difficult to identify and locate the owners of farms or businesses that exploit forced labor. In 1997 the CUT initiated a 24-hour hot line with a toll-free number for reporting instances of forced labor. The Government passed legislation in December 1998 further defining forced labor and prescribing specific penalties for those convicted under the law.

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

The law prohibits forced and bonded labor by children, but it is not enforced adequately. Labor organizations continue to allege that in mining and the rural economy thousands of workers, including minors, are hired on the basis of false promises, and subjected to debt bondage and to violence if they try to escape.

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

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Government amended the Constitution in December 1998 to raise the minimum working age from 14 to 16 years. Under the amendment, apprenticeships may begin only at age 14. However, the authorities rarely enforce additional legal restrictions intended to protect working minors under age 18, and the problem is widespread.

The law requires permission of the parents for minors to work, and working minors must attend school through the primary grades. Schooling is free and compulsory for the first six grades, and available in all parts of the country. The majority of children remain in school until age 14. The law bars all minors from night work, work that constitutes a physical strain, and employment in unhealthful, dangerous or morally harmful conditions. However, the Government estimates that 60,000 children work in unhealthful conditions.

Despite these restrictions, official figures state that roughly 2.9 million children age 14 and under were employed, accounting for 4.2 percent of the work force. Many children are forced by economic necessity to work alongside their parents in cane fields, cutting hemp, or feeding wood into charcoal ovens; frequent accidents, unhealthy working conditions, and squalor are common in these cases.

The problem of child labor is serious. The small number of available inspectors limit enforcement of restrictions. Inspection suffers from a lack of resources, and as with forced labor, inspectors generally act on the basis of complaints and tips concerning the use of child labor. Employers illegally using child labor have been fined heavily for their offenses.

The Government's national forum for the prevention and eradication of child labor, a program administered by the Labor Ministry in partnership with national and international NGO's, has been effective in significantly reducing child labor. According to government figures released in April, the number of child laborers has decreased over 26 percent since 1996 (see Section 5).

A report published by the Sergipe state government in 1997 stated that 10,000 children and adolescents between the ages of 6 and 18 were part of the labor force in the orange-growing region, with 54 percent between the ages of 7 and 14. Sergipe officials have acknowledged that the problem of child labor is widespread, and the state launched a federally funded program in May 1998 aimed at encouraging families to keep children in school rather than at work in the orange groves.

Sugar cane growers illegally employ children and adolescents ranging from 7 to 17 years of age, many cutting cane with machetes. The charcoal industry, hemp cultivators in the northeast, and orange growers all have used illegal child labor. Children also perform various tasks in the mining and logging industries in the Amazon region. In addition, although both the Government and the industry have made strong efforts to eliminate it, there is still some child labor in the shoe industry.

The private sector and particularly the Toy Manufacturers' Foundation for Children's Rights (ABRINQ) have been active in trying to remedy many of these abuses. ABRINQ reached an agreement with the Sao Paulo state sugar producers to remove child labor from that industry. In addition, ABRINQ persuaded Abecitrus, the citrus export organization, to agree to remove child labor from its operations. Because of ABRINQ's efforts, Volkswagen and General Motors, as well as other automakers, are studying the role of child labor in charcoal production, which is used to produce the cast iron and steel used in cars. Both manufacturers agreed to cease using products in which child labor is an element.

ABRINQ has emphasized not just ending child labor but also putting children into good-quality schools. The shoe manufacturers in the city of Franca, with the help of ABRINQ, virtually eliminated child labor there and enhanced the educational opportunities of children whom they formerly employed. A similar project with Ministry of Labor direction has been successful in removing child labor from the shoe industry in Rio Grande do Sul. In Mato Grosso do Sul, a government-sponsored project has taken children from the charcoal industry there to the classroom, with parents receiving roughly the equivalent of the child's monthly earnings as long as the child attends school. The project, which began with 1,000 children, has been expanded to involve nearly 2,500. In Rio Grande do Sul, encouraged by the ABRINQ model, unions representing tobacco growers, local cigarette manufacturers, and several international tobacco companies initiated a similar project in April targeted at farm families who use their own children in tobacco cultivation.

Because of the success of the program in Mato Grosso do Sul, the Ministry of Labor expanded the program to the sugar producing regions of Pernambuco, where 20,000 children participate, and to the hemp-growing area of Bahia, which has a program for more than 8,000 children. In addition, the Ministry has begun a program to raise public consciousness concerning child labor, which ministry officials consider the key to eradication of the problem.

The law prohibits forced and bonded labor for all workers, including children; however, enforcement varies considerably depending on the location.

e. *Acceptable Conditions of Work.*—The minimum wage is approximately $70 (136 reais) a month, which is not sufficient to provide a decent standard of living for a worker and family. A 1997 study by the Interunion Department of Socioeconomic Studies and Statistics concluded that the minimum wage was only slightly more than one-fourth that is necessary to support a family of four. Many workers outside the regulated economy, particularly in the rural northeast, earn less than the minimum wage.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The Constitution provides for pay and fringe benefits and establishes new protection for agricultural and domestic workers, although not all provisions are enforced. All workers in the formal sector receive overtime pay for work beyond 44 hours, and there are prohibitions against excessive use of overtime.

Unsafe working conditions are prevalent throughout the country. Fundacentro, part of the Ministry of Labor, sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry has insufficient resources for adequate inspection and enforcement of these standards. There are also credible allegations of corruption within the enforcement system. If a worker has a problem in the workplace and has trouble getting relief directly from an employer, the worker or union can file a claim with the regional labor court, although in practice this is frequently a cumbersome, protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings do occur, and legal recourse usually requires years for resolution. While an individual worker does not have the legal right to depart a workplace when faced with hazardous conditions, workers may express such concerns to the internal committee, which would conduct an immediate investigation.

f. *Trafficking in Persons.*—The law prohibits the transport of persons for illicit reason within and outside the country; however, trafficking in persons, including women and children, in, to, and from the country is a problem.

The Federal Police arrested several suspects in the capital of Brasilia, and in the states of Goias, Rio de Janeiro, and Ceara, involved in recruiting women to work as prostitutes in Barcelona and other parts of Spain. The police also reported that women have been trafficked to Japan to work as prostitutes. Women sent to Europe and Israel by trafficking rings reportedly often are denied their liberty and forced to work under inhumane conditions. Police officials stated that in most cases women who are recruited by trafficking organizations understand that they are to work as

prostitutes, but that they are lied to about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or as household servants. Women's rights activists in the states of Para and Maranhao reported that women from these states were recruited actively to work as prostitutes in The Netherlands or Germany, usually for limited periods while remaining legally in those countries with tourist visas. During the first 6 months of the year, police in Spain apprehended 2 Brazilian traffickers and 103 Brazilian victims of trafficking in raids across that country.

Sexual exploitation of children and child prostitution remained a significant problem throughout the country. The CECRIA report released in March indicated that patterns of sexual exploitation of children correspond to the distinct economic and social profile of the country's region. In the northern Amazonian region, sexual exploitation of children centers around brothels that cater to mining settlements. In the large urban centers, children, principally girls, who leave home because of abuse or sexual exploitation often prostitute themselves on the streets in order to survive. In the cities along the northeast coast, sexual tourism exploiting children is prevalent, and involves networks of travel agents, hotel workers, taxi drivers, and others who actively recruit children and even traffic them outside the country. Child prostitution also is developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. In port cities, crews from cargo vessels are a primary clientele. The report notes that although trafficking develops in part to meet the demands of foreigners, the local population sustains it.

In October police in Campo Grande, Mato Grosso do Sul state, arrested three persons accused of running a brothel using girls between the ages of 13 and 16. Four of the girls were Paraguayan. The owners of the brothel allegedly seized the girls' documents to impede their return home and forged new documents to prove that the girls were over age 18. One of the Paraguayan girls told the police that she was to be auctioned at the brothel the following weekend.

CANADA

Canada is a constitutional monarchy with a federal parliamentary form of government. Citizens periodically choose their representatives in free and fair multiparty elections. The judiciary is independent.

Elected civilian officials control the federal, provincial, and municipal police forces. The armed forces have no role in domestic law enforcement except in national emergencies. Laws requiring the security forces to respect human rights are observed strictly, and the courts punish violators.

Canada has a highly developed, market-based economy. Laws extensively protect the well-being of workers and provide for workers' freedom of association.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The Constitution and laws provide effective avenues for legal redress of complaints. Problems include discrimination against aboriginals, the disabled, and women. There was an increase in anti-Semitic harassment. The Government continues to take serious steps to address private acts of violence against women.

RESPECT FOR HUMAN RIGHTS

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

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

The controversy over the 1995 shooting death of an aboriginal activist at Ipperwash, Ontario continued. In April a police officer was found guilty of criminal negligence causing death in the shooting and was sentenced to 2 years' community service under the supervision of a parole officer (see Section 5). The officer is appealing that conviction, while the victim's family is pursuing claims for damages in the civil courts. Because of the ongoing civil and criminal processes surrounding the incident, the provincial government has rejected calls for an inquiry into the shooting. The Federal Government also has rejected requests for an inquiry. Meanwhile, the Federal Government is continuing the process of ceding the neighboring military base to tribal control. As part of the agreement, the Federal Government is to return lands appropriated in 1942 under the War Measures Act and provide funds for community development and environmental cleanup.

A controversy arose in March 1998 after a Royal Canadian Mounted Police (RCMP) officer shot and killed a woman and her child on the Tsuu T'ina reserva-

tion. The officer was called to assist a tribal police officer and a social worker, who had responded to a domestic dispute, and fired in response to high-powered rifle fire from the woman. The province of Alberta, where the incident took place, commissioned an independent investigation by the British Columbia attorney general's office that was reviewed further by a respected former Alberta judge. The reviews determined that criminal charges against the officer were not warranted. A separate judicial inquiry begun in 1998 continued with the participation of reservation representatives to determine the causes of the incident and how future incidents could be prevented.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government observes these prohibitions in practice.

In May 1998, the chief of the armed forces announced an investigation into credible allegations made by a number of women serving in the armed forces that, in previous years, they had been subjected to rape, sexual harassment, and sexual abuse by their military colleagues. In addition to a special hot line established in 1998, the Minister of Defense in June 1998 established an Ombudsman to provide a means for conflict resolution for military members and civilian employees who believe that they have been treated unfairly. The Advisory Board on Canadian Forces Gender Integration and Employment Equity was established in November 1998. The Ministry also created a new military police complaints commission, which came into force on December 1 and a new armed forces grievance board that is scheduled to come into effect on March 1, 2000. The office of the Ombudsman reported in September that one-half of the 604 cases before it had been resolved.

Toronto police continued a review of procedures following public complaints about the use of strip searches and body cavity searches in several routine arrests. The review determined that there were isolated incidents of unnecessary searches. Toronto police authorities determined that the policy was still appropriate, but that officers required additional training in determining when such searches are appropriate.

An official investigation continued concerning the use by police of pepper spray to break up demonstrations that blocked the access road to the November 1997 Asia Pacific Economic Cooperation (APEC) conference in Vancouver, (see Section 2.a.). At year's end, a Public Complaints Commission inquiry continued to explore potential responsibility for the police action, including the role of senior government officials.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors. During the year, Ontario made changes to the facilities of the Don jail and improved inmate services, including its units for religious foods, special needs, health care, and psychological problems. Inquiries from the Ontario human rights ombudsman about jail conditions declined from 1998.

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

e. *Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process and vigorously enforces the right to a fair trial.

The court system is divided into federal and provincial courts, which handle both civil and criminal matters. The highest federal court is the Supreme Court, which exercises general appellate jurisdiction and advises on constitutional matters.

The judicial system is based on English common law at the federal level as well as in most provinces; in the province of Quebec, it is derived from the Napoleonic Code. Throughout the country, judges are appointed. In criminal trials, the law provides for a presumption of innocence and the right to a public trial, to counsel (free for indigents), and to appeal. The prosecution also can appeal in certain limited circumstances.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law generally prohibits such practices, government authorities scrupulously respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government respects these rights in practice. However, the Supreme Court has ruled that the Government may limit free speech in the name of goals such as ending discrimination, ensuring social harmony, or promoting gender equality. The court ruled that the benefits of limiting hate speech and promoting

equality are sufficient to outweigh the freedom of speech clause in the Charter of Rights and Freedoms.

Journalists occasionally are banned from reporting some specific details of court cases until a trial is concluded, and these restrictions, adopted to ensure the defendant's right to a fair trial, enjoy wide popular support. Some restrictions on the media are imposed by provincial-level film censorship, broadcasters' voluntary codes curbing graphic violence, and laws against hate literature and pornography. The Charter of Rights and Freedoms provides for free speech and free press, but both the Criminal Code and human rights legislation have established limits. Inciting hatred (in certain cases) or genocide is a criminal offense. The Supreme Court has set a high threshold for such cases by specifying that these acts must be proven willful and public. The Broadcasting Act, which prohibits programming containing any abusive comment that would expose individuals or groups to hatred or contempt, has not yet been challenged in the courts. The Human Rights Act also prohibits repeated communications by telephone that expose a person or group to hatred or contempt. Human rights groups are exploring the possibility of extending this prohibition to the Internet, arguing that the Internet should be considered "telephonic communications" and therefore covered under the Human Rights Act. At year's end, the Human Rights Tribunal was examining whether a specific web site exposed Jews to hatred or contempt on the basis of their race, religion, or ethnic origin.

In February 1998, the RCMP Complaints Commission announced its decision to hold a public interest hearing on police behavior while providing security to the APEC leaders meeting in Vancouver in November 1997. The hearing began in September 1998. RCMP officers used pepper spray to break up small crowds of protesters who had blocked the only access road to a meeting site and had torn down a security barricade. The protesters allege that their right to free speech was infringed by the RCMP's actions. The protesters also allege that the arrest of one of their leaders prior to the meeting on charges (which subsequently were dropped) of temporarily deafening an RCMP officer with a loudspeaker were a further violation of the arrested individual's rights under the Charter of Rights and Freedoms. The investigation resumed in January after a suspension in November 1998 due to allegations that the process had become tainted by political interference from the Solicitor General. At year's end, a specially appointed commission continues to investigate various aspects of the incident. These points include whether actions taken by police were justified by the security risk and whether political considerations such as direct influence from senior political leaders may have played a role in determining the level of RCMP response to protestors' actions. No interim conclusions have been announced by the commission (see Section 1.c.).

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for these rights, and the Government respects them in practice.

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

In July a one-person Board of Inquiry ruled that it was discriminatory to require recitation of the Lord's Prayer in Saskatoon public schools. Saskatchewan joined Canada under the terms of the Saskatchewan Act, which forms part of the provincial constitution, permitting prayer and Bible readings. As a result of the ruling, the Lord's Prayer is not recited in Saskatoon public schools. The Saskatoon School Board began public hearings on the issue in the fall, but the Saskatoon Education Department has not filed a legal appeal.

In March the government-mandated Proulx task force submitted a report on religion in schools to the Quebec National Assembly. Its 14 recommendations include abolishing Catholic and Protestant status for public schools and creating secular public schools instead with religion studied from a cultural perspective. Publicly funded support services would be provided for students of all faiths. School boards are scheduled to respond to the Quebec government by July 1, 2001.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation*.—The law provides for these rights, and the Government respects them in practice. The law provides for the grant of asylum and refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and extends first asylum. There were no reports of the forced expulsion of persons with a valid claim to refugee status. Canada is a resettlement country, and as of September the Government projected granting 40,600 to 41,800 claims for refugee status during the year.

In 1997 almost 1,000 Czech Roma claimed refugee status. The Government continued to process these claims for refugee status and has not forcibly deported any

of the asylum claimants. During the year, 737 Czech Roma were granted asylum, while 78 were denied it.

During the summer, approximately 600 Chinese arrived illegally by boat off the coast of British Columbia and sought refugee status. While most of the persons from the first such boat were released pending their refugee hearings, only a few of those released appeared for their hearings. Because the majority of the early refugee claimants who were released failed to appear for their hearings, a much larger percentage of refugee claimants from subsequent boats were regarded as risks for flight and remanded into custody pending their refugee claim hearings. Many of those in custody have protested their detention, and legal groups are attempting to force the Government to release all refugee claimants pending their hearings. Detained refugee claimants have pressed their demands through civil disobedience and hunger strikes. During one such event in December, a refugee claimant refused to move when directed to do so, and eventually guards forcibly removed him. Law enforcement authorities state that he suffered minor bruises during the incident; the refugee claimant stated that prison officials beat him for no reason, and he has initiated a lawsuit. At year's end, the matter was subject to a formal inquiry.

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

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

A significant body of opinion in the Province of Quebec, represented by the party that governed the province throughout the year, continues to maintain that Quebec has the right to withdraw from the confederation if that decision proves to be the democratically expressed will of the people of Quebec, and that it is only Quebeckers who have the right to make this decision. In response to a reference on the question from the Federal Government, the Supreme Court ruled in August 1998 that a unilateral declaration of independence by Quebec would be illegal under Canadian and international law. However, the Court added that the Federal Government and other provinces would be obliged to negotiate Quebec's separation in good faith if a clear majority of Quebeckers voted to separate on the basis of a clearly phrased question. In December the Government tabled legislation in Parliament specifying that the Parliament has the right to review any question posed in a provincial referendum to determine whether the question is clear and any subsequent majority vote large enough to obligate the Government to negotiate the terms of succession. The draft legislation also contains a list of issues that must be negotiated including debt, assets, liabilities, minority rights, aboriginal rights, and borders.

Women play a significant role in government and politics, although they are underrepresented in proportion to their percentage of the population. In the Parliament, 59 of 301 members in the House of Commons are women, and 32 of 104 senators are women. Women hold 7 seats in the 28-person Cabinet. In November a woman was appointed for the first time as Chief Justice of the Supreme Court.

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

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

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

The Charter of Rights and Freedoms provides for equal benefits and protection of the law regardless of race, national or ethnic origin, color, religion, sex, age, or mental or physical disability. These rights generally are respected in practice; however, there are some charges of discrimination in this multicultural society.

Women.—The law prohibits violence against women, including spousal abuse, but it remains a problem. According to Statistics Canada, 3 in 10 women currently or previously married or living in a common-law relationship have experienced at least 1 incident of physical or sexual violence. The health and economic costs of violence against women have been estimated to be $2.7 billion (Can $4.2 billion) annually.

The Criminal Code prohibits criminal harassment (stalking) and makes it punishable by imprisonment for up to 5 years. The law prohibits sexual harassment, and the Government enforces this provision.

Women are well represented in the labor force, including business and the professions. Employment equity laws and regulations cover federal employees in all but the security and defense services. In June 1998, the Human Rights Tribunal ruled that the Federal Government must pay back wages to workers in underpaid posi-

tions (predominantly female) under the concept of equal pay for work of equal value. The Government appealed, based on the methodology used to calculate wages owed, but lost and agreed to the settlement in October.

Women have marriage and property rights equal to those of men. Women head over 85 percent of single parent households. Child support reforms in 1996 and 1997 include: Amendments to the income tax act to eliminate child support from the custodial parent's taxable income and the tax deduction available to payers of child support; amendments to the divorce act to establish fairer and more consistent child support payments; measures to strengthen enforcement; and an enhanced income supplement for lower-income families.

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Federal and provincial regulations protect children from abuse, overwork, and discrimination and penalize perpetrators of such offenses.

There is no societal pattern of abuse of children. Changes to the law in 1997 strengthened tools to combat child prostitution and prohibited female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health.

In the 1930's, 1940's, and 1950's, when Maurice Duplessis was premier of Quebec, approximately 5,000 to 6,000 children were placed in orphanages and psychiatric institutions. Many of the 3,000 still alive claim that they were victims of beatings, electric shock treatment, and sexual abuse; some were labeled as mentally deficient. In the fall, the orphans formed a Committee of Sympathizers to seek restitution for the abuse suffered. On September 15, the head of the Roman Catholic Church in Quebec denied that any abuse had occurred, but Premier Lucien Bouchard apologized to the survivors and offered them approximately $2.25 million (Can $3.3 million) or approximately $683 (Can $1,000) each. They did not accept. A 1997 Quebec report suggested approximately $41 to $54.7 million (Can $60 to 80 million) as appropriate compensation from the Government, the Church, and the medical establishment.

People with Disabilities.—There is no legal discrimination against disabled persons in employment, education, or in the provision of other state services. Nevertheless, the Government continues to receive numerous complaints regarding societal discrimination against disabled persons and has instituted programs to discourage such discrimination. Disabled persons are underrepresented in the work force; they make up 2.7 percent of the federally regulated private sector work force, but those capable of working total 6.5 percent of the population. The law mandates access to buildings for persons with disabilities, and for the most part the Government enforces these provisions.

Changes to the Human Rights Act and Criminal Code that came into force in 1998 require employers and service providers to accommodate special needs of people with disabilities, provided that it does not constitute an undue hardship. The Criminal Code now makes the sexual exploitation of persons with disabilities in situations of dependency a criminal offense.

In June the province of Alberta announced that it would compensate the nearly 500 surviving persons who were sterilized without their consent under a policy aimed at residents of mental institutions. More than 2,000 Albertans were sterilized between 1928 and 1972 under the Alberta Sterilization Act, which was repealed in June 1972. By December 21, the Alberta Government had fewer than 20 sterilization claims outstanding; officials expect all claims to be settled by early 2000.

Indigenous People.—The treatment of aboriginal people continued to be one of the most important human rights problems facing the country. Disputes over land claims, self-government, treaty rights, taxation, duty-free imports, fishing and hunting rights, and alleged harassment by police continued to be sources of tension on reserves. Aboriginal people remain underrepresented in the work force, overrepresented on welfare rolls and in prison populations, and more susceptible to suicide and poverty than other population groups.

In January 1998, the Federal Government issued its response to the 1996 report of the Royal Commission on Aboriginal Peoples intended to restore aboriginal communities and restructure their relationship with the Federal Government. The Minister of Indian Affairs read an official "Statement of Reconciliation" that apologized for past wrongs committed by the Federal Government. The Aboriginal Action Plan also includes a commitment of approximately $400 million (Can $600 million) for aboriginal programs. The program was developed in consultation with aboriginal political leadership but was criticized by some groups for not going far enough to ameliorate past rights violations.

Treaty rights for aboriginals are recognized in the Constitution, and the Government is currently engaged in discussions with aboriginal groups on various treaty

issues. A number of Supreme Court cases, including cases regarding treaty rights in fishing and residential school survivors, have bolstered the rights of indigenous people and made the Federal Government responsible for settling a wide variety of claims. The Government continued to work at resolving these issues.

The Federal Government is involved in self-government negotiations with over 350 First Nations. Aboriginal rights in British Columbia (B.C.) are poorly defined. Until its 1998 agreement with the Nisga'a, B.C. had not concluded treaties with any of the aboriginal groups that occupied the area prior to the arrival of settlers, since becoming a province of Canada in 1871. Many of the province's more than 100 aboriginal groups have outstanding claims for land, self-government, and other rights. In 1997 the Supreme Court strengthened the legal position of aboriginal groups in B.C. In what is known as the Delgamuukw decision, the Court found that the provincial and federal governments must consult with aboriginal groups on all land use and resource decisions affecting areas claimed as tribal homelands. This ruling gave aboriginal groups a significant say in the use of vast tracts of the province although title to the land never has been established formally in treaties.

In August 1998, the Federal and British Columbia Governments concluded a treaty with the Nisga'a people who live in northwestern B.C. Although the treaty is not considered to be a precedent for the more than 50 other sets of negotiations underway in B.C., the treaty is a significant development. The treaty will result in the Nisga'a receiving control over 765 square miles of tribal lands, a cash settlement, fishing and timber-cutting rights, and certain rights to limited self-government. At the same time, the treaty eventually would end a range of special tax breaks and other benefits available under the status quo. The treaty was ratified by the Nisga'a people in November 1998 and by the provincial legislature in the spring. It was debated and passed by Parliament in December. Debate within the Parliament was heated on a number of topics, including whether the Nisga'a should be given rights on the basis of race and the rights of nonaboriginal people residing on tribal lands. Although the B.C. legislature ratified the treaty, two groups expressed their intention to challenge the treaty in court. These legal challenges include one from a political party that contends that the treaty should have been submitted to a referendum and one from the Gitanyow, an aboriginal band located near the Nisga'a, who contend that the treaty awarded more than 85 percent of their traditional tribal lands to the Nisga'a. At year's end, neither case had made legal progress.

The Stoney reserve west of Calgary gave up control of its finances to federal Indian Affairs officials in 1997, following widespread allegations of political corruption, financial mismanagement, sexual assaults, and abuses connected with social service agencies. At year's end, control of Stoney reserve finances remains under government management—in this case by third party managers. Meetings between the Government and the Stoney nation continue, and another meeting was scheduled for January 2000. The Stoney reserve is 1 of 12 aboriginal reserves where federal officials have assumed control as interim managers.

Quebec's Indian peoples remain overwhelmingly opposed to separation from Canada and deeply distrust the separatist government of the province. Despite the Quebec Prime Minister's recent overtures to the leaders of the Cree and Inuit nations, surveys indicate that most of Quebec's 60,000 Indians would favor partition of the province in the event of Quebec's separation from Canada. Indian leaders maintain that a sovereign Quebec would treat Indians as another ethnic minority instead of as sovereign nations within the territory of the province. To address these sentiments and respond to a pending lawsuit, the Quebec government agreed with the Cree and Mohawk tribes in 1998 to initiate negotiations regarding longstanding grievances over timber resources, public rights of way on tribal lands, and management of development in the James Bay region. In March Quebec gave the Mohawks increased fiscal rights and powers. The first summit between Quebec's First Nations and the provincial government in 11 years was held in June to establish a permanent policy forum to resolve ongoing issues. During the year, the Government focused on negotiations over a commission to set up a political entity (Nunavik) for Quebec's Inuit. The commission, based on an agreement signed November 5, has Inuit, Quebec, and federal representatives.

In May representatives of the Government of Newfoundland and Labrador, the Federal Government, and the Labrador Inuit Association initialed a land claims agreement for the Inuit. The plan provides for land, water rights, self-government, and an economic development plan that includes sharing revenues from subsurface developments.

In September the Supreme Court overturned Nova Scotia aboriginal Donald Marshall's conviction for catching and selling fish eels out of season and without a license. In doing so, the court ruled that the 18th century treaties between the aboriginals and the British Crown gave the First Nations rights currently not ac-

commodated by fishery regulations. The Court ruled that the Federal Government must give treaty beneficiaries access to the fisheries sufficient to enable them to earn a moderate livelihood. The Court also found that this right is subject to regulation and subsequently reemphasized this point in a separate explanation of its decision. There was some violence against aboriginals by nonaboriginals, following aboriginal efforts to exercise their new rights by trapping lobsters in October prior to the normal season. The Supreme Court's decision to interpret the 18th century treaties liberally has encouraged aboriginals involved in a number of court cases seeking access to economic benefits from natural resources such as logging, mining, and energy.

The Supreme Court's clarification of the Marshall case ruled out the possibility of aboriginals using the case to gain commercial rights in the forestry sector. However, test cases now are progressing through the court systems in New Brunswick and Nova Scotia that involve aboriginals being tried on charges of illegally harvesting timber on crown land.

Religious Minorities.—The League for Human Rights of B'nai Brith in Canada (headquartered in Toronto) reported that there were 240 incidents of anti-Semitic harassment in 1998—a 14 percent increase from 1997. The League attributed the increase to the movement of hate groups from big cities to smaller towns for recruiting efforts and other activities, as police hate crime units crack down in urban areas. The League continues to express concern over the growth of anti-Semitic activity on the Internet.

National/Racial/Ethnic Minorities.—The narrow defeat of the 1995 Quebec sovereignty referendum left unresolved the concerns of French-speaking Quebeckers about their minority status in Canada, while sharpening the concerns of English-speaking Quebeckers about their minority status. The separatist Parti Quebecois provincial government of Quebec stated that it would hold another sovereignty referendum only under "winning conditions." The Supreme Court ruled in August 1998 that a unilateral declaration of independence would be illegal, but that the Federal Government and other provinces would be obligated to negotiate Quebec's separation if a clear majority of Quebeckers voted to change their relationship with Canada on the basis of a clearly phrased referendum question (see Section 3).

Some English-speaking and native groups in Quebec assert the right to keep parts of Quebec in Canada in the event that Quebec declares independence. Despite personal meetings and other overtures by Quebec's Prime Minister to aboriginals and the English-speaking community, both groups remain distrustful of the separatist government of Quebec. Many members of these communities fear that their rights would be infringed by a sovereign Quebec.

The Constitution protects the linguistic and cultural rights of minorities. Despite Canada's federal policy of bilingualism, English speakers in Quebec and French speakers in other parts of Canada generally must live and work in the language of the majority.

A case currently before the Supreme Court is expected to clarify the number of students required to establish minority-language education. A finding in favor of the minority-language claimants could lead to demands for minority-language schools in various parts of the country.

In Quebec language laws restrict access to English-language, publicly funded schools through grade 11 to children whose parents were educated in English in Canada and to short-term residents. Local law stipulates that French is the working language of most businesses and must be predominant in bilingual commercial signage.

The English-speaking minority of Quebec, representing 9 percent of the population of the province and 16 percent of the population of the city of Montreal, continues to protest restrictions placed on English-language use. In 1997 the Quebec provincial government reestablished a French language inspection office that had been abolished in 1993. However, in October a Quebec court judge struck down a key section of the province's language law that requires French lettering to be twice as large as English lettering on commercial signs, stating that French is no longer in jeopardy in Quebec. The Quebec provincial government is appealing the decision, and the law remains in force until the courts issue a final ruling. English speakers also expressed concerns over the increasing scarceness of health services and public schooling in their language.

Provinces other than Quebec often lack adequate French-language schooling, which is of concern to local Francophones, although French-language schools and French immersion programs are reported to be thriving in all three prairie provinces.

Section 6. Worker Rights

a. *The Right of Association.*—Except for members of the armed forces, workers in both the public and private sectors have the right to associate freely. The Labor Code protects these rights for all employees under federal jurisdiction, while provincial legislation protects all other organized workers.

Trade unions are independent of the Government. Of the civilian labor force, 29.5 percent is unionized.

All workers have the right to strike, except for those in the public sector who provide essential services. The law prohibits employer retribution against strikers and union leaders, and the Government enforces this provision.

Numerous strikes occurred across the country during the year. Notable strikes included: Calgary Herald employees in Alberta; grain handlers in Alberta and Manitoba; Cape Breton municipal employees in Nova Scotia; rotating strikes by doctors in British Columbia; strikes at nearly all B.C. ports that effectively closed seaports for 10 days; nurses in Quebec in July; and subway and bus workers in Toronto, Ontario in April.

Unions are free to affiliate with international organizations.

b. *The Right to Organize and Bargain Collectively.*—Workers in both the public (except for some police) and the private sectors have the right to organize and bargain collectively. While the law protects collective bargaining, there are limitations, which vary from province to province, for some public sector workers providing essential services.

The law prohibits antiunion discrimination and requires employers to reinstate workers fired for union activities. There are effective mechanisms for resolving complaints and obtaining redress.

All labor unions have full access to mediation, arbitration, and the judicial system.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor, including that performed by children, is illegal, and there were no known violations.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Child labor legislation varies from province to province. The Federal Government does not employ youths under 17 years of age while school is in session. Most provinces prohibit children under age 15 or 16 from working without parental consent, at night, or in any hazardous employment. These prohibitions are enforced effectively through inspections conducted by the federal and provincial labor ministries. Education is compulsory through age 15 nationwide.

The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Standard work hours vary from province to province, but in all the limit is 40 or 48 a week, with at least 24 hours of rest.

Minimum wage rates are set in each province and territory, and range from $3.59 to $4.93 (Can $5.25 to Can $7.20) per hour. Ontario and Alberta have a minimum wage rate for youths lower than their respective minimums for adult workers. A family whose only employed member earns the minimum wage would be considered below the poverty line.

Federal law provides safety and health standards for employees under federal jurisdiction, while provincial and territorial legislation provides for all other employees. Federal and provincial labor departments monitor and enforce these standards. Federal, provincial, and territorial laws protect the right of workers with "reasonable cause" to refuse dangerous work.

e. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, the Government prosecutes such offenses as violations of immigration policies. The Government is conducting a legislative review of the Immigration Act. There have been several widely reported cases of smuggling and trafficking, including hundreds of Chinese who arrived illegally by ship in British Columbia during the summer (see Section 2.d.).

CHILE

Chile is a multiparty democracy with a constitution that provides for a strong executive and a bicameral legislature. Approved by referendum in 1980 and amended in 1989, the Constitution was written under the former military government and establishes institutional limits on popular rule. President Eduardo Frei, a Christian Democrat, began his 6-year term in 1994, which expires in March 2000. At that time, Ricardo Lagos, winner of the January 16, 2000, presidential runoff election,

is to take office. International and domestic observers found both the December 12 presidential elections and the subsequent runoff election to be free and fair. The National Congress consists of 120 deputies and 48 senators. The government coalition of four major parties controlled the lower house. An opposition coalition, including several independents and many of the 10 nonelected Senators, shared control in the upper chamber, although the Senate president was from the ruling coalition. Former President General Augusto Pinochet assumed a lifetime Senate seat in March 1998. Turnover in the courts continued to diminish strongly the influence of military-era appointees over the constitutionally independent judicial branch.

The armed forces are constitutionally subordinate to the President through an appointed Minister of Defense but enjoy a large degree of legal autonomy. Most notably, the President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) have primary responsibility for public order, safety, and border security. The civilian Investigations Police are responsible for criminal investigations and immigration control. Both organizations—although formally under the jurisdiction of the Ministry of Defense, which prepares their budgets—are under operational control of the Ministry of Interior. The security forces, mainly the police, committed a number of human rights abuses.

The export-led free-market economy experienced its first setback after years of expansion. Growth moderated and final figures were expected to show a contraction of 1.1 percent for the year, with inflation at 2.3 percent. The most important export remained copper; salmon, forestry products, fresh fruit, fish meal, and manufactured goods also were significant sources of foreign exchange. Unemployment averaged 10.8 percent for the year. From 1987 to 1998, the percentage of the population living below the poverty line decreased from 45 to 22 percent. Annual per capita gross domestic product was approximately $4,500.

The Government generally respected its citizens' human rights; however, problems remained in some areas. The most serious cases involved killings, torture, brutality, police use of excessive force, and physical abuse in jails and prisons. The due process rights of detainees were not always respected. Violence and discrimination against women and violence against children are problems. Discrimination against the disabled and minorities persists. Indigenous people remain marginalized. Child labor is a problem.

Almost all other human rights concerns are related to abuses committed during the former military government. The bulk of these abuses occurred between 1973 and 1978, although a number took place after this period. A July Supreme Court decision expanded the possibilities for clarifying cases involving persons who disappeared. The court ruled that lacking legal proof of death, disappearances that occurred in the 1973–78 period (covered by the Amnesty Law) must be considered as continuing kidnapings, thus potentially falling outside the amnesty period. The court's ruling stated that only after the circumstances surrounding a disappearance are clarified, and the legal death of the person who disappeared is proven to have fallen within the 1973–78 timeframe, can application of the Amnesty Law be considered. Nonetheless, military authorities continued to resist a full accounting of the fate of those who were killed and who disappeared, and some cases continued to be stifled by the judiciary. There were several important legal decisions made in regard to high profile investigations of such past human rights abuses, including the Caravan of Death and Operation Albania cases.

In October 1998, the United Kingdom detained retired General Pinochet pending resolution of a Spanish extradition request on charges of torture, kidnaping, genocide, and murder. A series of court rulings by the Law Lords denied Pinochet's effort to avoid an extradition hearing, but limited the charges against him to abuses occurring after December 8, 1988. Pinochet's extradition hearing began on September 27. On October 8, a British magistrate determined that Pinochet could be extradited, but Pinochet appealed this decision. At year's end, legal maneuvering continued, and Pinochet remained under house arrest in the United Kingdom.

Nearly 60 human rights cases have been filed in Chile against Pinochet and are under active investigation. However, some in the human rights community are skeptical about the possibility of bringing Pinochet to trial and convicting him of a crime if he were to return. General Pinochet's continuing detention, along with advances in a number of human rights cases and the July Supreme Court ruling, contributed to the continuing societal reexamination and the intensified public and private discussion of what, if anything, could and should be done to deal with the sometimes conflicting demands for truth, for justice, and for national reconciliation. There were renewed efforts to reach a human rights understanding during the year, including at a "dialog table" organized by Defense Minister Edmundo Perez Yoma that brought together military officers and human rights attorneys for the first time

since the return to democracy. At year's end, such discussions continued, and the judicial system continued to investigate and either prosecute or close pending human rights cases.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There were no reports of political killings; however, the police killed two persons during the year.

A police officer allegedly shot and killed University of Tarapaca student Daniel Menco Prieto in Arica during a May 19 student demonstration called to protest the size of the government budget devoted to higher education. The authorities brought charges against the police officer for the shooting; at year's end, the matter remained in the legal system.

On September 1, the authorities arrested two San Antonio Carabineros for their alleged responsibility in the death of Jonathan Moya Jara. On August 8, Moya's partially clothed and lifeless body had been found with its head buried in sand. The two Carabineros allegedly detained Moya illegally, citing a repealed law that allowed the police to stop, question, and detain persons based upon "suspicion" (see Section 1.d.). At year's end, the case remained in the courts.

The courts sentenced four police officers in February to 10 years and 1 day in prison for the death of taxi driver Raul Palma Salgado, who died on January 12, 1998, while in police custody, due to torture. The four officers are appealing the decision, and the case remained in the courts at year's end. Palma's family has filed a $1.2 million (600 million pesos) compensation claim against the State. The Committee for the Defense of People's Rights (CODEPU) identified Palma's death as the third instance of suspects dying while in police custody due to torture or excessive force since 1990.

The case of 25-year-old Claudia Alejandra Lopez, a University of Christian Humanism Academy student shot under unclear circumstances during 1998 demonstrations in Santiago on the anniversary of the September 11, 1973 coup, also remained under investigation.

In December 1996, Pedro Soto Tapia, a 19-year-old military conscript, disappeared from his regiment at San Felipe after having written letters to his family describing mistreatment at the hands of superior officers. In March 1997, his remains were found in a cave in San Felipe, accompanied by what was purportedly a suicide note. On May 26, 1998, the judge handling the case closed the investigation for the second time, ruling that he had been unable to determine the circumstances of Soto's death. However, the case was reopened in July when a witness appeared who claimed to have seen six persons beat Soto Tapia on his military base on the evening of December 15. Fifteen former recruits interviewed following the witness's claim were unable to corroborate it. On November 9, the investigating judge again closed the case. At year's end, Soto Tapia's family was considering its legal options (see Section 1.c.).

After having been closed temporarily since 1996, an appeals court reopened on November 30 the investigation into the September 1989 murder of Movement of the Revolutionary Left (MIR) leader Jecar Nehgme.

Important advances were made in clarifying events surrounding Operation Albania, the June 1987 killings of 12 Manuel Rodriguez Patriotic Front (FPMR) members. Judge Hugo Dolmestch reconfirmed in January charges of use of unnecessary violence against those implicated in the case, denying a motion to increase the charges to aggravated homicide. Due to a normal judicial rotation, another jurist, Milton Juica, replaced Dolmestch in March. On October 29, the authorities charged retired generals Hugo Salas Wenzel and Humberto Leiva with this crime. They accused Wenzel, Director of the National Intelligence Center (CNI) in 1986–88, of being an author of the crime, and Leiva, CNI Subdirector in 1987, of covering up the incident. At the same time, the authorities detained six other former CNI agents; one of whom, Major Emilio Neira, was still on active duty. Judge Juica also increased the charges against the 10 persons detained earlier from unnecessary violence leading to death to kidnaping and homicide. On November 15, the authorities also detained retired Captain Nernan Miquell for his role in the case. In September the press reported that unknown persons allegedly linked to the former security services threatened Rafael Castillo, a prominent investigator for the Investigations Police. He reportedly also received threats in August 1998 when former CNI agents were charged in the Operation Albania case (see Section 4).

In November eight former CNI agents, including Alvaro Corbalan, were charged with the September 1986 murder of journalist Jose Carrasco. Five of the eight persons charged in this case also have been named in the Operation Albania investiga-

tion. Carrasco's killing took place 2 days after a failed assassination attempt against General Pinochet and was widely believed to have been in reprisal for that act.

Efforts by Spanish Judge Baltazar Garzon to have former President and retired General Pinochet extradited from the United Kingdom to Spain for his alleged responsibility in the deaths, torture, and disappearances that took place during the military dictatorship continued. On January 18, a Law Lords panel convened to rehear Pinochet's appeal that he enjoyed sovereign immunity and should be freed immediately from house arrest and allowed to return to Chile. A November 1998 Law Lords ruling against Pinochet had been set aside in December of that year following an appeal that one of the deciding judges had not revealed a potential conflict of interest involving links with one of the parties supporting the Spanish request.

In a complex decision on March 24, the new Law Lords panel found that General Pinochet had been arrested in connection with certain extraditable crimes under British law, did not enjoy sovereign immunity with respect to the alleged crimes, and that extradition proceedings could begin. However, the panel also ruled that the extradition request only could invoke charges of torture and conspiracy to torture related to incidents after December 8, 1988, the date the United Kingdom (following both Chile and Spain) ratified the International Convention Against Torture. This initially limited the charges against Pinochet to one 1989 case of alleged police torture leading to death and one count of conspiracy to torture, but Judge Garzon subsequently amplified his complaint to include many other alleged instances of abuse.

On April 15, the British Home Secretary decided to allow the extradition process to proceed, and Pinochet's extradition hearing began on September 27. On October 8, a British magistrate determined that Pinochet could be extradited; the retired general appealed this ruling. At year's end, legal maneuvering continued, and Pinochet remained under house arrest in England.

Investigations in Spain resulted in no new action regarding Operation Condor, an undercover operation in which several military governments in the region, led by Chile, cooperated to eliminate leftist opponents. Judge Garzon and a colleague had collected evidence and taken testimony regarding human rights violations in Chile and Argentina during the military dictatorships.

Former Chilean intelligence agent Enrique Arancibia Clavel continued to be detained in Argentina, charged with involvement in the 1974 car bombing in Buenos Aires that killed former army chief Carlos Prats and his wife Sofia Cuthbert. The case was reopened in 1992 as a result of a petition filed by the Prats family containing new evidence; Arancibia was detained in 1996. In January Arancibia petitioned for his release based on an Argentine law stating that no one can be held in preventive detention for more than 2 years. The court rejected his petition, stating that the law's release provision was not automatic; each case had to be reviewed on its own merits.

On April 9, charges against Arancibia were broadened to include "illicit association;" the court also reaffirmed the Chilean Government's right to participate in the trial as a coplaintiff. Upon issuance of this ruling, attorneys for the Prats family asked that General Pinochet and several former senior officials of DINA (the army intelligence branch during the military regime), including retired generals Manuel Contreras, Pedro Espinoza, Raul Iturriaga Neumann, and Jose Zara Holger, and civilian Jorge Iturriaga Neumann, also be charged in the case. (Contreras and Espinoza are serving prison terms for the 1976 killings in the United States of former Foreign Minister Orlando Letelier and his assistant Ronni Moffitt.)

In mid-May attorneys for those newly implicated—with the exception of Pinochet who did not have legal representation—asked to have the statute of limitations invoked. In mid-August the Argentine judge handling the case, Maria Servini de Cubria, sent an official request to Pinochet in London asking that he name an attorney for this hearing. The judge noted that if Pinochet did not name a legal representative, one would be appointed. Arguing that it wanted to focus its energies on the actual prosecution of Arancibia, the Chilean Government declined to take part in this phase of the legal proceedings. In December the judge ruled that Contreras and Espinoza could be included in the case; Contreras and Espinoza appealed this ruling. At year's end, decisions were pending on the other defendants who tried to invoke the statute of limitations; oral proceedings against Arancibia had yet to begin.

On March 30, a Santiago appeals court ordered the reopening of the case involving the 1982 death of labor leader Tucapel Jimenez and the related 1983 homicide of carpenter Juan Alegria Mundalca. Investigating Judge Sergio Valenzuela Pinto had closed the case on November 6, 1998, by ruling that there was insufficient evidence to bring anyone to trial. In reopening the investigation, the appeals court ordered the detention of 12 persons, including retired General Ramses Arturo Alvarez Scoglia and several former intelligence officers.

Acting on a petition by the Government's Council for the Defense of the State, on April 9, the Supreme Court replaced Valenzuela Pinto, who had been criticized for his handling of the case since taking it on in 1982, with Sergio Munoz Gajardo. In the months that followed, Judge Munoz charged five other persons; the authorities held two of these individuals and granted bail to the others. On May 27, the Supreme Court approved a request by Munoz to send a list of questions to Pinochet in London seeking clarification of what the retired general knew about Tucapel Jimenez' death. At year's end, these questions had not yet been presented to Pinochet.

In mid-September Judge Munoz ordered 2 further high-profile detentions, bringing the total number of persons charged to 19. He ordered retired General Humberto Gordon, former CNI director and army representative on the military junta in 1986–88, and retired Brigadier Roberto Schmeid, former CNI chief for Santiago, detained on complicity charges. A September 21 Santiago appeals court ruling reduced the charges against Gordon to involvement in covering up the crime, but did not order him released. Two days later, in a split decision, a Supreme Court panel reinstated the complicity charges. Gordon was released on bail on November 12; at year's end, 16 of 19 persons implicated in the crime were free on bail, 2 still were detained and extradition of another from France was being sought.

The authorities took retired air force Colonel Edgar Ceballos Jones, who led air force intelligence and the "joint command" in the years following the coup, into custody following a January 25 appeals court ruling. The court ordered Ceballos detained for his alleged role in the 1974 death of Alfonso Carreno Diaz and the disappearance the same year of Jose Luis Baenza Cruces. In June Ceballos filed to have his case transferred to the military justice system; the Supreme Court rejected this petition on September 23. Ceballos was released on bail on October 11; at year's end, legal proceedings were continuing.

The daughter of Carmelo Soria, a Spanish citizen working for the United Nations who was killed in Santiago on July 14, 1976, appeared before the Inter-American Commission on Human Rights (IACHR) in March, charging the State with denial of justice in her father's case due to an August 23, 1996, amnesty ruling closing the investigation. In 1997 the Soria family rejected a compensation offer from the Government.

On April 19, a Concepcion military court detained five former CNI agents for the August 23–24, 1984, murders of eight MIR members. In 1997 a military court had closed the case, ruling that the deaths occurred during an armed confrontation. However, a September 1998 Supreme Court ruling ordered the case reopened.

In a compensation case, a Santiago civil court awarded approximately $1.2 million (600 million pesos) to the mother of five MIR members who were killed or who disappeared between 1974 and 1976. The compensation was awarded for "moral damages." At year's end, the Government was considering whether to appeal.

In early October, Italy requested the extradition of retired General Manuel Contreras for his role in the attempted killing of Bernardo Leighton. Along with another Chilean, Contreras was convicted of the crime in absentia in Rome in 1995 and sentenced to 20 years in prison. On December 1, Judge Juan Guzman charged Contreras, along with former officers Marcelo Moren Brito and Armando Fernandez Larios, with the October 1974 disappearance of Communist Party member David Silberman Gurovich. The law precludes the extradition of any person being processed for a local crime, although the Italian request remained pending at year's end.

While most allegations of human rights abuses are directed at now-retired officers, some alleged perpetrators remain on active duty. For example, Army General Sergio Espinoza Davies, who commanded the U.N. Observer Mission along the India-Pakistan border, was accused of being involved in an October 1973 "war council" that sentenced five socialists to death without due process. Following the U.N.'s announcement that it would investigate the charges against him, the Government consulted with the United Nations. The issue became moot when General Espinoza Davies, promoted to Army Inspector General, returned to the country in December 1998.

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

The major human rights controversy involved past disappearances and efforts by political factions and the judiciary to interpret the 1978 Amnesty Law in such a way as to achieve truth, justice, and national reconciliation. As interpreted under the so-called Aylwin doctrine (named after former President Patricio Aylwin), the courts should not close a case involving a disappearance until either the body is found or credible evidence is provided to indicate that an individual is dead. A version of this doctrine began to take hold in the court system, but its application was uneven, and some courts continued the previous practice of applying the 1978 Amnesty Law to disappearances without conducting an investigation to locate the missing person's remains or identify the perpetrators. Of the 1,289 individuals who disappeared

under the military regime, the remains of 244 have been found and identified; over 1,000 have yet to be found.

The agency in charge of the compensation program for the families of those executed or who disappeared reported in mid-June that since 1992 the State had provided over $95 million in benefits. Survivor benefits include pensions, educational subsidies, and other assistance.

In December 1998, a Supreme Court panel overruled a 1997 application of the Amnesty Law to the August 1974 disappearance of Alvaro Miguel Barrios Duche. The Supreme Court ruled that the law only could be applied following the completion of a full criminal investigation and the identification of the guilty parties; it ordered the military court to begin an investigation. This doctrine remains controversial, and jurisprudence in this area was unsettled at year's end.

On June 9, Investigating Judge Guzman ordered the detention of retired General Sergio Arrellano Stark, who led the September–October 1973 Caravan of Death responsible for at least 72 killings. Guzman also ordered the detention of former military officers Sergio Arredondo, Marcelo Moreno, Patricio Diaz, and Pedro Espinoza (already in jail for the Letelier-Moffitt murders). In December Judge Guzman granted Arellano's bail request subject to appeals court approval. The appeals court rejected Arellano's request for bail, and at year's end Arellano was considering his legal options. Guzman charged the 5 men with aggravated kidnaping in the disappearances of 19 persons. In July the Supreme Court refused to dismiss the case against the former officers.

In ordering Arellano and the four others detained, Guzman resorted to controversial interpretations of the Amnesty Law and kidnaping statutes. The judge ruled that since the death of those 19 persons who disappeared during the Caravan had not been proven legally, the kidnapings must be presumed to continue and, therefore, the crime may fall beyond the period covered by the amnesty. Consistent with this interpretation, a proven 1973–78 death falls under the Amnesty Law; Guzman granted amnesty to five other former officers involved in the Caravan on these grounds.

A July Supreme Court ruling on a habeas corpus petition brought by the detained former officers explicitly supported Guzman's detention of the five on aggravated kidnaping charges and noted that the investigation into the disappearances had to be exhausted prior to the consideration of a grant of amnesty. In August family members of those executed or who disappeared during the Caravan period petitioned the Santiago appeals court to raise the charges against those detained to homicide and to revoke the amnesty granted to the five other former officers. On August 26, the appeals court declined to increase the charges against the five detained officers and declined to charge those not detained with homicide. In making its determination on the five persons who were not detained, the court ruled that there was insufficient evidence of their involvement in the murders; it did not reaffirm the amnesty decree.

The court further ordered that Armando Fernandez Larios, one of the five former officers granted amnesty by Judge Guzman, be charged with aggravated kidnaping and that his extradition be sought. In March the family of Winston Cabello Bravo, 1 of 16 persons executed in Copiapo in October 1973 during the Caravan of Death, filed a civil suit in a foreign country for damages against Fernandez. As of year's end, an extradition request for Fernandez had not yet been presented.

On October 5, Judge Guzman asked the Supreme Court to send a list of questions to General Pinochet in London seeking information on what he knew about the Caravan of Death, the structure of the DINA, and other human rights matters. On November 3, Guzman announced that Pinochet's response, received a day earlier, did not directly answer the questions. Instead, Pinochet sent back a short note stating that his detention in the United Kingdom prevented his access to the material necessary to respond to the questions.

On May 25, the authorities detained former DINA agent Basclay Zapata (also known as "El Troglo") for his alleged involvement in the May 1974 disappearance of two MIR members. On June 3, the Supreme Court rejected an appeal by Zapata to be released; he remained under arrest at year's end.

The Vicariate of Solidarity Document and Archive Foundation reported that in the first half of 1999, courts revoked three prior amnesty rulings. An amnesty ruling was overturned in another instance, but the case was closed temporarily due to lack of evidence. Several other previous cases in which amnesty was granted are being appealed.

Prior to 1998, the Supreme Court sometimes had ruled that when judges receive criminal complaints related to actions by armed services members in the period covered by the amnesty (September 11, 1973 to March 10, 1978), they were required to close the case immediately without further investigation. Court rulings in 1998

and 1999 called this determination into question, without completely ruling out the possibility that cases could be closed.

Military courts, in particular, continued to be prone to close cases. Nonetheless, on January 18 the highest military court revoked a lower military court amnesty ruling in the illegal arrest case of Arsenio Poupin, declaring that the perpetrators of the crime had not been identified. Vice Minister of Government at the time of the coup, Poupin was arrested in La Moneda on September 11, 1973 and later disappeared. While the military court did order the case temporarily closed due to lack of evidence, the finding leaves open the possibility of a future reopening.

In September 1998, the Supreme Court revoked an amnesty granted by a lower court covering the 1974 disappearance of MIR member Pedro Enrique Poblete Cordoba on the basis that the Geneva Convention (on internal conflicts) was applicable. This is the only Supreme Court or appeals court ruling that has interpreted the Geneva Convention as applicable to the military era, overriding the Amnesty Decree.

In a subsequent 1998 case similar to Poblete's, the Supreme Court declined to invoke the Geneva Convention. An August Santiago appeals court panel also declined to address the Geneva Convention issue in a Caravan of Death ruling, despite the plaintiffs' arguments that the convention should be invoked.

The Social Aid Foundation of Christian Churches (FASIC), the CODEPU, and other human rights organizations have several denial-of-justice cases pending before the IACHR regarding previously closed disappearance and execution cases. Denial of justice cases based on application of the Amnesty Law also have been filed with the United Nations Commission on Human Rights (UNCHR). The most recent of these was filed in April, alleging that justice had been denied in the disappearance case of Eduardo Paredes Barrientos, an adviser to deposed President Salvador Allende and once head of the Investigations Police. An August 1998 Supreme Court ruling had upheld a previous amnesty finding in Paredes' case.

In 1998 France joined Spain in seeking the extradition of General Pinochet from the United Kingdom, based on the disappearance of three French citizens in 1973–77. Switzerland and Belgium also filed extradition requests for Pinochet in 1998.

Investigations of military-era detentions and disappearances of persons at Colonia Dignidad (renamed "Villa Baviera"), a secretive German-speaking settlement 240 miles south of Santiago, led to an April 28 detention order issued by Judge Guzman against Paul Schaefer for the kidnaping and disappearance of Alvaro Vallejos. Schaefer, already wanted by the authorities on other charges, remained a fugitive at year's end. The 34,000-acre enclave, inhabited by 350 persons, was founded by the 78-year-old Schaefer, who immigrated from Germany in 1961 with 300 followers.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids the use of illegal pressure on detainees; however, the CODEPU has received reports of abuse and mistreatment by both the National Police and the Investigations Police. When requested by other human rights organizations or family members, CODEPU lawyers visit detainees during the interrogation (see Section 1.d.) and represent some suspected terrorists in court. The CODEPU continues to investigate alleged use of excessive force against detainees. The Minister of Interior asks the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often do not result in arrests, due in part to the reluctance of judges to pursue the issue vigorously.

The Human Rights Office of the Metropolitan Legal Aid Office, an arm of the Justice Ministry, released a report in March noting that it had attended 815 persons in 1998, twice the number seen the previous year. The report further stated that the Legal Aid Office presented 70 cases to civilian or military courts in 1998; 42 cases were filed in 1997. Of the more recent cases, 48 were lodged against National Police officers for abuses, while 7 cases involved the Investigations Police, and 6 involved military personnel. The remainder involved various government civilian authorities and private security guards.

In July 1998, a new law entered into effect that clarified the illegality of any use of force against persons detained by the police. The law provides that if a member of the police force uses torture or unlawful coercion, either physical or mental, or orders them to be applied, or uses them against a person under arrest or detention, the officer would be sentenced to imprisonment. Officers who know about the abuse and have the necessary power and authority to prevent or stop it also would be considered accessories to the crime if they fail to do so (see Section 1.d.).

Human rights groups continue to claim that military recruits sometimes are mistreated. The Commission on Juvenile Rights (CODEJU), a nongovernmental organization (NGO) claimed on November 5 that it had received 380 complaints of recruit mistreatment in the previous 5 years. This statement followed the October 29 departure from an Iquique military base of recruits Leonardo Guerra Leandro and Mario Jesus Basaubre. Once home Guerra claimed that he was mistreated on the base;

Basaubre committed suicide at home on October 30. In response, the army announced that its preliminary investigation backed the recruits' claims of mistreatment and promised to take administrative and disciplinary action against those allegedly involved. The army also referred the matter to the local military prosecutor. The recruits' families filed a criminal complaint charging the base's second in command and two other soldiers with responsibility for the mistreatment. The army stated Basaubre's suicide was the third by a soldier during the year; there was one suicide in the ranks in 1998, five suicides in 1997, and six in 1996.

On November 9, the investigating judge again closed the case of Pedro Soto Tapia, a 19-year-old military conscript who alleged mistreatment in 1996 and whose remains were found in March 1997. At year's end, Soto Tapia's family was considering its legal options (see Section 1.a.).

There was no new information available on the case involving 14 military conscripts who were reportedly beaten during a military exercise in 1998. One corporal involved in the incident was removed from the military and was awaiting trial at the end of 1998.

At year's end, the court of appeals had not yet ruled on the August 1997 filing by attorneys for Carmen Gloria Quintana that appealed efforts by the Government to set aside a compensation award of approximately $600,000 that the IACHR had recommended for Quintana in 1988. Army captain Pedro Fernandez Dittus set fire to Quintana and her companion Rodrigo Rojas Denegri while they were participating in a protest against the military regime in 1986. Rojas died 4 days later, while Quintana survived with severe and disfiguring injuries.

In September a press report indicated that unknown persons threatened Rafael Castillo, a prominent investigator for the Investigations Police on Operation Albania, as well as the Letelier, Prat, and Leighton killings.

Prisons are often overcrowded and antiquated, but conditions are not life threatening. Food meets minimum nutritional needs, and prisoners may supplement the diet by buying food. Those with sufficient funds often can rent space in a better wing of the prison. Prison guards have been accused of using excessive force to stop attempted prison breaks. Although most reports state that the guards generally behave responsibly and do not mistreat prisoners, several prisoners have complained of beatings. There were 422 minors in adult prisons, according to 1998 figures (see Section 5).

The maximum security prison housed 56 inmates until early February, most of them charged with, or convicted of, terrorism. In February these prisoners were transferred to other penitentiaries while repairs were done to the facility and security measures upgraded. The prisoners complained that they were beaten and abused during the move; the Government denied this, but admitted that prisoners were handcuffed and that tear gas was used. On June 6, a Santiago appeals court, while recognizing that the inmates did not cooperate with the transfer, ruled that prison guards used excessive force. The court ordered prison authorities to abstain from using such force in the future. Prison authorities appealed the finding to the Supreme Court.

On March 29, 44 prisoners were returned to the maximum security prison; the other 12 remained in different penitentiaries. These prisoners continue to complain that strict security measures, restriction of visitors, hidden cameras, and rigid regulations violate their rights. In 1997 the Ministry of Justice confirmed that there were listening devices in prison cells but asserted that they were never used.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The authorities generally respect constitutional provisions for arrest and detention; however, detainees are not always advised promptly of charges against them, nor granted a speedy hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. The law does not permit a judge to deny such access; police authorities generally observe these requirements.

In practice many detainees are not promptly advised of charges against them and are not granted a timely hearing before a judge. At the end of 1998, 7 percent of the general prison population of 26,449 was under investigation but not charged with a crime; 44 percent were charged with an offense and were awaiting trial or had been convicted and were awaiting sentencing; and 49 percent were serving sentences.

In July 1998, a new law entered into force that eliminated the right of the police to stop persons, demand identification, and arrest them based on suspicion that they may have committed a crime. (This right to arrest persons on suspicion often was

used against minors.) The new law also requires police to inform those detained of their rights and to expedite notification of the detention to family members. The law also deals with physical abuse by police against detained persons (see Section 1.c.). A case filed in July 1998 involving the new law remains in the courts.

On September 1, the authorities arrested two San Antonio Carabineros for their alleged responsibility in the death of Jonathan Moya Jara; prior to his death, the two policemen allegedly detained Moya illegally, citing the repealed Suspicion Law (see Section 1.a.).

The Constitution provides for the right to legal counsel, but this is a reality primarily for those who can afford to pay. The poor, who account for the majority of cases, may be represented by law students doing practical training (who often are overworked), on occasion by a court-appointed lawyer, or by a lawyer from the Government's legal assistance corporation. The Constitution allows judges to set bail.

There were no cases of forced exile.

e. *Denial of Fair Public Trial.*—The Constitution calls for a judicial system independent of the other branches of government; however, while the judiciary, and particularly the Supreme Court, has been dominated in the past by appointees of the former military regime, turnover in the courts has led to a significant diminution of that influence.

Cases decided in the lower courts can be referred to appeals courts and ultimately to the Supreme Court. Criminal court judges are appointed for life. In December 1997, constitutional reforms were approved that set 75 as the age limit for Supreme Court justices, gave the Senate the power to approve presidential nominees to the Court, and increased the Court's membership from 17 to 21. Of the 21 justices on the Supreme Court, only 3 were appointed under the military regime. The Supreme Court prepares lists of nominees for vacancies on the Supreme Court and appeals courts, from which the President makes nominations. The Supreme Court continues to work with the other branches of government on broad judicial reform.

The jurisdiction of military tribunals is limited to cases involving military personnel. If formal charges are filed in civilian courts against a member of the military, including the National Police, the military prosecutor asks for, and the Supreme Court often grants, military jurisdiction. This is of particular consequence in the human rights cases from the period covered by the 1978 Amnesty Law. In addition, military courts have the authority to charge and try civilians for defamation of military personnel and for sedition. Rulings by military tribunals can be appealed to the Supreme Court. The army's Auditor General, Fernando Torres Silva, who was appointed during the military regime, was replaced in April. Human rights groups had accused Torres Silva of actively opposing investigations into cases involving alleged abuses under the military regime.

In September 1997, President Frei signed a judicial reform law that created the post of Attorney General and a related ministry that is expected to be in full operation by 2003. Congress passed enabling legislation for the Ministry in September, and the President signed it into law on October 8. On November 17, the Senate confirmed Guillermo Piedrabuena to a 10-year term as the first Attorney General. The judicial reform law provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges and magistrates the narrower function of judging the merits of evidence presented to them. The Government has designated two regions to begin gradual implementation of the reform. Training and administrative preparations began during the year, with the first oral trials expected in December 2000.

Based on the Napoleonic Code, the criminal justice system does not provide for trial by jury, nor does it assume innocence until proven otherwise. Criminal proceedings are inquisitorial rather than adversarial. The Constitution provides for the right to legal counsel, but the poor do not always get effective legal representation (see Section 1.d.).

There were no reports of political prisoners, although the inmates in Santiago's maximum security prison who have been convicted of terrorist acts routinely claim to be political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions. A 1995 privacy law bars obtaining information by undisclosed recording, telephone intercepts, and other surreptitious means, as well as the dissemination of such information, except by judicial order in narcotics-related cases.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights. The press

maintains its independence, criticizes the Government, and covers issues sensitive to the military, including human rights. However, investigative journalism is still a rarity.

Two major media groups control most of the print media, which are largely independent of the Government. The State is the majority owner of La Nacion newspaper, but it is editorially independent. A new privately owned Santiago-area daily, El Metropolitano, began publishing in May.

The electronic media also are largely independent of government control. The Television Nacional network is state-owned but not under direct government control. It receives no government subsidy and is self-financing through commercial advertising. It is editorially independent and is governed by a board of directors appointed by the Senate. Members reflect various political viewpoints, and the board encourages the expression of varied opinions over the network.

Under the State Security Law of 1958, it is a criminal offense to besmirch the honor of state institutions and symbols, such as the Congress, the Supreme Court, the military services, the flag, and the President. Military courts have the authority to charge and try civilians for defamation of military personnel and for sedition, but their rulings can be appealed to the Supreme Court. Human Rights Watch has criticized these restrictions on freedom of expression and information, as has the OAS Special Rapporteur for Freedom of Expression; he visited the country in June and called for changes to the law.

In 1996 Congress passed a privacy law that set penalties for those who infringe on the private and public lives of individuals and their families. At the time of the law's passage, journalists argued vigorously that applying it to media reporting would have a chilling effect on freedom of the press. As yet this privacy law has not been applied to the media. There have been unsuccessful attempts to incorporate language and penalties similar to those in the privacy law into a draft press law.

On January 21, 1998, the authorities jailed two journalists in a libel case brought against them by Supreme Court Justice Servando Jordan under provisions of the State Security Law. They were released on bail the following morning. Although a lower court rejected the charges against the two journalists and an appeals court reaffirmed this decision in June, on September 16, 1998, another appeals court reinstated the case. The two journalists spent the night of September 16 in jail before being released on bail. The case remained in the legal system until June 29, when the judge investigating the case absolved the two journalists. A Santiago appeals court confirmed this ruling on September 8. Jordan appealed the ruling to the Supreme Court and the case was under review at year's end.

On April 13, the "Black Book of Chilean Justice," by Alejandra Matus, went on sale in Santiago. On April 14, Supreme Court Justice Jordan, who was mentioned negatively in the book, filed charges against Matus under the State Security Law and asked to have all copies of the volume seized. Responding to Jordan's suit, a Santiago appeals court judge ordered all copies of the book seized from the publisher, Editorial Planeta, and from book stores. After seizure of the book, the La Tercera newspaper and the Planeta publishing house each placed the prohibited text on the Internet, using foreign servers. The book also was published in Argentina. On May 14, the Supreme Court declined to order release of the seized volumes while Jordan's complaint continued in lower courts.

After becoming aware of the lawsuit, Matus left the country. The charges against her, and seizure of the book, were widely criticized. The President called on the legislature to modify the State Security Law to ensure freedom of expression and, on October 7, the Chamber of Deputies approved modifications in the law; at year's end action still was pending in the Senate. In early October, Matus presented her case before the IACHR.

On June 16, Editorial Planeta general manager Bartolo Ortiz and chief editor Carlos Orellana were detained for their role in publishing Matus' book. They were released on bail 2 days later. The OAS Special Rapporteur criticized their detention and the seizure of Matus' book during his June visit. On July 30, a Santiago appeals court dismissed the case against Ortiz and Orellana. On September 16, the Supreme Court affirmed the lower court decision, rejecting a petition from Jordan to overturn the appeals court finding.

The 1980 Constitution established a Film Classification Council (CCC) with the power of prior censorship. The council has banned over 50 films and approximately 700 videos. Local and foreign film distributors regard the CCC's screening process as insufficiently transparent. The Lawyers Association for Public Liberties petitioned the IACHR to object to censorship of the film "The Last Temptation of Christ;" the Commission ruled against the Government and the case is now before the Inter-American Court.

The National Television Council (CNT), created by legislation in 1989 and supported with government funding, is charged with assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role is to regulate violence and sexual content in both broadcast and cable television programming. Films and other programs judged by the CNT to be excessively violent or to have obscene language or sexually explicit scenes can be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming makes the CNT's job all but impossible. The CNT issues occasional warnings to networks and cable service providers and sometimes obliges them to postpone the showing of certain films until after 10 p.m. It also occasionally levies fines. In July the CNT fined the La Red television station for "harming the dignity" of a municipal employee during a news spot. Debate continues over the CNT's role.

The courts can prohibit media coverage of legal cases in progress but do so rarely. Courts issued two gag orders involving criminal cases in 1998, but both were overturned on appeal. On January 8, journalist Paula Afani was detained for 6 hours for failing to reveal her sources in a criminal case, but the arrest order was overturned quickly.

The press has begun using foreign Internet web sites to publish articles when gag orders are issued.

The Government does not restrict academic freedom. In May students demonstrated to protest the size of the Government's budget allocation for higher education; a police officer allegedly killed one student protester (see Section 1.a.).

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

As is traditional in the month of September, a number of demonstrations took place related to the anniversary of the 1973 coup, among other issues. In an early September student demonstration near the University of Arcis, a Carbinero was burned badly by a Molotov cocktail allegedly thrown by an 18-year-old student who was later taken into custody. On September 22, a court dismissed charges against the student on grounds of insufficient evidence.

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

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. All denominations practice their faiths without restriction. Church and state are officially separate; however, the Roman Catholic Church receives official preferential treatment.

Many of the approximately 2 million Protestants, who represent about 12 percent of the population, assert that the Government discriminates against them, based upon differing legal status afforded to non-Catholics. They cite the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education given in public schools. To remedy this situation, the lower house of Congress unanimously approved a bill to afford greater legal equality among all churches late in 1997. The Senate approved an amended version of the bill in July, and it entered into force in October. The new law allows other religious bodies to have a status that provides that a church cannot lose its juridical status administratively; for the Catholic Church, the law reaffirms that it cannot have its status questioned at all.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice. For minor children to leave the country, either alone or with only one of their parents, they must have notarized permission from the nonaccompanying parent(s).

The law includes provisions for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of provision of first asylum has not arisen.

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

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

Chile is a constitutional democracy, and citizens have the right to change their government through periodic elections. There is universal suffrage for citizens 18 years of age and over. Free and fair presidential elections were held on December 12, with a runoff on January 16, 2000.

The Government still operates under some political restraints that were imposed by the military regime. Under the 1980 Constitution, various national institutions—

including the President, the Supreme Court, and the National Security Council (the latter acting in part on nominations by the armed forces)—appoint an additional nine senators (beyond those elected) to 8-year terms. Nine newly appointed institutional senators took their seats in March 1998 along with former President Pinochet, who became a senator-for-life. (Upon leaving office in March 2000, President Frei becomes eligible for a seat as a senator-for-life.) The legislative branch, with the exception of the institutional senators, is elected freely and is independent from the executive branch.

The former military government wrote the 1980 Constitution and amended it slightly in 1989 after losing a referendum on whether General Pinochet should stay in office as president. The Constitution provides for a strong presidency and a legislative branch with limited powers. In addition, it includes provisions designed to protect the interests of the military and the conservative political opposition. These provisions include limitations on the President's right to remove military service chiefs (including the chief of the army); an electoral system that gives the second-place party (or coalition) in each district disproportionate representation in Congress; and the provision for nonelected institutional senators. The Government has called for modification of these provisions, which it views as "authoritarian enclaves" left over from the previous regime; the opposition has pledged to fight to retain what it views as important checks and balances in the system of government; however, during the year the opposition indicated a willingness to consider some changes.

Women have had the right to vote in municipal elections since 1934, in national elections since 1949, and are active in political life at the grassroots level. Women make up a majority of registered voters and of those who actually cast ballots; however, they are underrepresented in government and politics. There were 13 women among the 120 deputies, 2 in the 48-seat Senate, and 2 among the 20 cabinet ministers. No women serve among the 21 Supreme Court justices. The level of female participation in government is not increasing markedly.

The approximately 1 million indigenous people have the legal right to participate freely in the political process, although relatively few are active politically. One member of Congress is of indigenous descent.

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

Several nongovernmental human rights organizations are active. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. The FASIC is also very active on the full range of human rights issues. The CODEPU provides legal counsel to some claiming that they are being accused of politically related crimes and to victims of human rights abuses. Domestic NGO's state that the Government cooperates with their efforts to investigate accusations of human rights violations. Many international NGO's follow local human rights issues closely.

During the year threats occasionally were made against human rights activists. The Government provided protection as appropriate and none of the threats was carried out. On November 4, burglars entered the CODEPU's offices and stole computers and printers.

In September a press report indicated that unknown persons threatened Rafael Castillo, who had in the past investigated human rights abuses associated with Operation Albania, as well as the Letelier, Prat, and Leighton killings for the Investigations Police. The unconfirmed report indicated that he also received threats in August 1998 when former CNI agents were charged in the Operation Albania case.

In May 1998, President Frei advocated the creation of a "national defender of citizens," a state body that would receive complaints about abusive government acts; however, the executive branch had not forwarded legislation to Congress to create this entity by year's end.

In April the UNCHR issued a report that criticized the Amnesty Law, the existence of nonelected senate members, and the lack of a divorce law. The Government cooperated with the Commission's work, providing a submission to the group expressing its views.

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

The Constitution provides for equality before the law, but it does not ban specifically discrimination based on race, sex, religion, or social status.

Women.—The most serious violations of women's rights involved sexual and domestic violence. The public is becoming increasingly aware of the extent of physical abuse of women. The National Women's Service (SERNAM), created in 1991 to com-

bat discrimination against women, found in a 1996 study of more than 12,000 reports of domestic violence that 3 years after the Law on Intrafamily Violence went into effect, only 1 in 5 accusations resulted in judicial action. The study indicated that spouses or domestic partners were responsible for 88 percent of family violence, and that 63 percent of the reports involved physical attacks. It showed that in nearly three-quarters of reported cases of domestic violence, the accusation led to a positive change in the domestic situation regardless of the judicial outcome. The SERNAM also conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

The courts may order counseling for those involved in intrafamily violence. In 1997 there were approximately 61,000 reports of domestic violence. The Citizens' Peace Foundation indicated that there were 993 cases of rape reported to the police in 1997, and 1,052 in 1998. It is believed that a majority of rape cases go unreported. On July 2, a new law took effect that increased the penalties for sexual abuse. The legislation includes clauses to facilitate proof of the crime and protect the privacy and safety of the woman making the charge. The new law also overturned 100-year-old legislation that permitted a man charged with rape to be released if he asked the victim to marry him and she accepted.

The Constitution was amended on June 16 to emphasize the principle of equality between men and women and now states that "persons are born free and equal in their dignity and rights" (rather than using the generic term "men").

Nonetheless, legal distinctions between the sexes still exist. The law permits legal separation but not divorce, so those who wish to remarry must seek annulments. Since annulment implies that a marriage never existed under the law, former spouses are left with little recourse for financial support. Although a recent law created conjugal property as an option in a marriage, some women saw this as a step backward, since the law on separate property (which still exists) gives women the right to one-half their husbands' assets but gives husbands no rights to assets of a wife. Despite heavy opposition from the Catholic Church, the Chamber of Deputies approved a divorce bill in September 1997; the bill still is awaiting Senate action.

Another SERNAM study in 1997 found that the average earnings of female heads of household are only 71 percent of those of male heads of household. Women with no schooling averaged a salary that was 87 percent of their male counterparts without schooling, while female heads of household with university training averaged only 57 percent as much as their male counterparts. The SERNAM has a pilot program that provides occupational training and child care in an effort to alleviate this disparity. The Labor Code provides benefits for pregnant workers and recent mothers. Employers do not have the right to ask women to take pregnancy tests prior to hiring them; legislation prohibiting this practice took effect in November 1998.

Children.—The Government provides free education through high school; education is compulsory from first through eighth grade.

Violence against children is a problem. A mid-year report by the National Minors Service (SENAME) noted that it had handled the cases of 5,453 mistreated children through June; 583 of these cases were judged severe enough to be presented to legal authorities. The SENAME reported that cases of abuse brought to its attention totaled 9,723 in 1998 and 7,676 in 1997. In October the SENAME reported that 22 percent of child abuse cases brought to court were dismissed without investigation; SENAME stated that this was a large improvement over the 90 percent figure prevalent in the 1980's. A 1996 SENAME survey indicated that sexual abuse of minors occurs, but that few cases are reported. A report from the La Morada Corporation for Women released in May estimated that there are 20,000 cases of sexual abuse of children every year. Of such cases, only 10 percent go to trial and only 3 percent result in the accused receiving a sentence.

A 1996 U.N. Children's Fund (UNICEF) report stated that 34 percent of children under 12 years of age experience serious physical violence, although only 3.2 percent of the victims of intrafamily violence reported to the national police family affairs unit were below the age of 18. A 1994 Law on Intrafamily Violence was designed in part to deal with this problem. According to UNICEF, some form of corporal punishment is used by one or both parents in 62 percent of households. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 are in the work force. The Catholic Church's study estimated that some 50,000 children under age 15 are working (see Section 6.d.).

Investigations of child abuse at Colonia Dignidad, the secretive German-speaking settlement 240 miles south of Santiago founded in 1961 by Paul Schaefer continued. Police conducted several unsuccessful searches throughout the year for the 78-year-old Schaefer. In August the authorities detained six persons, following the July appearance of a minor missing for 2 years who last had been seen at the Colonia and was feared to have been sexually abused by Schaefer. They released one of these

persons on September 16, after a Supreme Court decision that he had not been involved in the crime; another received bail on October 11. Two persons, including the child's father and a former CNI agent, had been detained earlier in the disappearance.

A joint SENAME-UNICEF study in 1995 estimated that there were 4,200 child prostitutes between the ages of 6 and 18 in the country. UNICEF estimated in June that this figure had grown to roughly 10,000.

By law, juvenile offenders (i.e., those under the age of 18) are segregated from adult prisoners. The Government had reduced the number of minors in adult prisons from 6,630 in 1992 to 346 in 1997, although this figure reached 422 by the end of 1998.

Congress approved a law in September 1998, which took effect in late 1999, that gives illegitimate children the same legal rights (e.g., of inheritance) as those enjoyed by children born to a married couple.

People with Disabilities.—Congress passed a law in 1994 to promote the integration of the disabled into society; the Government's National Fund for the Handicapped has a small budget to encourage such integration. The 1992 census found that 288,000 citizens said that they had some form of disability. The disabled still suffer some forms of legal discrimination; for example, blind persons cannot become teachers or tutors. Although a 1994 law requires that new public buildings provide access for the disabled, the public transportation system does not make provision for wheelchair access, and the newest subway line in the Santiago metropolitan area provides facilitated access for the disabled only in some areas.

Indigenous People.—According to the 1992 census, nearly 1 million persons, slightly less than 7 percent of the population, consider themselves as indigenous. The Mapuches from the south constitute over 90 percent of the indigenous population, but there are small Aymara, Atacameno, Huilliche, Rapa Nui, and Kawaskhar populations in other parts of the country. A committee composed of representatives of indigenous groups participated in drafting the 1993 law that recognizes the ethnic diversity of the indigenous population and gives indigenous people a voice in decisions affecting their lands, cultures, and traditions. It provides for eventual bilingual education in schools with indigenous populations, replacing a statute that emphasized assimilation of indigenous people. However, out of the population that identifies itself as indigenous, about one-half remain separated from the rest of society, largely because of historical, cultural, educational, and geographical factors. In practice, the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources is marginal. Indigenous people also experience some societal discrimination.

The National Corporation for Indigenous Development (CONADI) was created in 1994, and indigenous people directly elected representatives to this body in 1995 and again in November. It advises and directs government programs that assist the economic development of indigenous people.

The Government announced a renewed effort in June to have Congress approve a constitutional reform that would recognize explicitly the existence of indigenous people and the State's responsibility for promoting respect for their culture. However, Congress has not yet passed the constitutional reform, which has been pending since 1991.

In August the U.N. Committee for the Elimination of Racial Discrimination suggested that the Government consider formally apologizing to, and compensating, indigenous people for their historical treatment. The committee also suggested that the Constitution be changed explicitly to outlaw racial and ethnic discrimination.

In the first decision of its kind, a Temuco appeals court ruled on September 10 that an indigenous employee fired from a municipal job had been discriminated against by her immediate superior. The court based its ruling on the Indigenous Law, which outlaws discrimination on the basis of "origin and culture."

Several Mapuche families continued to object to exchanging traditional lands for other property as part of the Ralco hydroelectric project. The eight families involved continued to object to ENDESA's effort to have them resettled. In a related case, on September 8 a Santiago civil court ordered major construction on the project be suspended pending resolution of a suit filed by two Mapuches alleging that the preconstruction environmental impact statement was improperly done. On October 1, an appeals court overturned the suspension on further construction. At year's end, the matter remained before the courts.

In early March, the authorities arrested two foreigners for alleged participation in an indigenous demonstration against the dam in Bio Bio province and ordered them expelled. A March 15 Supreme Court ruling overturned the expulsion orders.

Land disputes between Mapuche Indian groups and private forestry companies arose throughout the year, leading to several arrests of Mapuches who committed

violent acts. Beginning in May, a group of 300 Mapuches marched 420 miles to Santiago demanding the return of land rights and more political autonomy.

National/Racial/Ethnic Minorities.—Chile assimilated a major European migration in the 1800's and a major Middle Eastern and Croatian migration in the early part of the 1900's. Smaller racial and ethnic minority groups (Chileans of Asian descent and African-Chileans) experience some societal intolerance.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form unions without prior authorization and to join existing unions. The work force is estimated at 5.7 million persons, of whom 3.7 million are salaried. The latest available statistics place union membership at approximately 655,000, or roughly 12 percent of the entire work force. A 1995 law provides government-employee associations with the same rights as trade unions. However, this right is not enjoyed by police or military personnel, nor by employees of state-owned companies attached to the Ministry of Defense. Members of unions are free to withdraw from union membership.

The 1992 Labor Code permits nationwide labor centrals, and the Unified Workers Central (CUT), the largest and most representative of these, legalized its status in April 1992. Labor unions are effectively independent of the Government, but union leaders usually are elected from lists based on party affiliation and often receive direction from parties' headquarters. There are no restrictions on the political activities or affiliations of unions or union officials. Registering a union is a simple process.

Employees in the private sector have the right to strike; however, the Government regulates this right and some restrictions remain. The law proscribes employees of some 30 companies—largely providers of essential services (e.g., water and electricity)—from striking; it stipulates compulsory arbitration to resolve potential strikes in these companies. Public officials do not enjoy this right, although government teachers, municipal, and health workers have struck in the past. There is no provision for compulsory arbitration in the public sector.

Employers must pay severance benefits to striking workers and must show cause to fire workers. Employees who believe that they have been dismissed unfairly or dismissed because of their trade union activities file complaints with the Ministry of Labor. If the claim is approved, the employer must make special and additional compensatory payments. The burden of proof rests on the employer in cases in which employees allege illegal antiunion activity.

The CUT and many other labor confederations and federations maintain ties to international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—Despite legal provisions for collective bargaining, most workers negotiate individual contracts. Employers say that this is due to the workers' preference, distrust of union leaders, and loyalty to companies. Union leaders counter that the Labor Code—which does not allow union shops—prevents successful organization in many sectors. Employers also may include a clause in individual employment contracts that bars some classes of supervisory employees from collective bargaining. Employees may object to the inclusion of such clauses in their contracts and may appeal to the Ministry of Labor to excise them.

The Ministry of Labor arbitrates about one-half of the complaints it receives. Workers may take unarbitrated cases to the courts. If complainants succeed in proving that they were fired unjustly, the employer must pay discharged employees twice their normal severance payment. There are no statistics available concerning the disposition of complaints of antiunion behavior. There were allegations that employers fire workers for union activity and attempt to avoid a complaint by immediately paying them some multiple of the normal severance pay.

Temporary workers—defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers—may form unions, but their right to collective bargaining remains dependent on employers agreeing to negotiate with unions of temporary workers. Similarly, inter-company unions enjoy the right of collective bargaining only if the employer agrees to negotiate with such a union. Labor Code sanctions against unfair bargaining practices protect workers from dismissal only during the bargaining process. Labor leaders complain that companies invoke the law's needs-of-the-company clause to fire workers after a union has signed a new contract, particularly when negotiations result in a prolonged strike.

In November the Government reactivated long-stalled labor legislation designed to expand collective bargaining, including the facilitation of collective bargaining for temporary workers and across companies and sectors, among other goals. The lower chamber of Congress approved the draft legislation, but the Senate defeated it.

Labor laws apply in the duty-free zones.

c. *Prohibition of Forced or Compulsory Labor*.—The Constitution and the Labor Code prohibit forced or compulsory labor, and it is not known to occur. While the Labor Code does not specifically prohibit forced and bonded labor by children, there were no reports of such practices.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The law allows children between the ages of 15 and 18 to work with the express permission of their parents or guardians. Children 14 years of age also may work legally with such permission, but they must have completed their elementary education, and the work involved may not be physically strenuous or unhealthy. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in 1 day). Labor inspectors enforce these regulations, and compliance is good in the formal economy.

Many children are employed in the informal economy. A government study estimated that 15,000 children between the ages of 6 and 11 and 32,000 children between the ages of 12 and 14 are in the work force. UNICEF estimated that approximately 107,000 children between the ages of 12 and 19 work (see Section 5). An August 1998 Catholic Church study estimated that 50,000 children under the age of 15 worked. The majority of these were males from single-parent households headed by women; among these were children who worked more than 40 hours per week and did not attend school. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. The Labor Code does not specifically prohibit forced and bonded labor by children, but such practices were not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work*.—The law sets minimum wages, and the minimum wage is adjusted annually. This wage is designed to serve as the starting wage for an unskilled single worker entering the labor force and does not provide a worker and family with a decent standard of living. Only 11 percent of salaried workers earn the minimum wage. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. In May 1998, Congress approved the Government's proposal setting an escalating minimum wage through the year 2000; the minimum monthly wage as of June 1 was approximately $175 (90,500 pesos).

The law sets hours of work and occupational safety and health standards. The legal workweek is 48 hours, which can be worked in either 5 or 6 days. The maximum workday length is 10 hours, but positions such as caretakers and domestic servants are exempted. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who voluntarily exchange a work-free day each week for several consecutive work-free days every 2 weeks.

In late 1998, Congress modified the Labor Code to provide domestic employees the same pregnancy benefits as female employees who work outside private homes. The same legislation prohibits employers from requiring prospective female workers to take pregnancy tests.

Occupational health and safety are protected under the law and administered by both the Ministries of Health and of Labor. The Government has increased resources for inspections by over 60 percent since 1990 and targeted industries guilty of the worst abuses. As a result, enforcement is improving, and voluntary compliance is fairly good. A law that became effective in 1996 increased the number of annual occupational health and safety inspections and provided that they be carried out by an expanded Labor Inspection Service in the Ministry of Labor. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. There was a 24-percent decline in reported occupational injuries in 1997, compared with the previous 5 years, although 11 percent of the work force still submitted claims. Workers who remove themselves from situations that they believe endanger their health and safety have their employment protected if a real danger to their health or safety exists.

f. *Trafficking in Persons*.—There are no laws that specifically prohibit trafficking in persons, although it may be prosecuted under other laws. There were no reports that persons were trafficked to, from, or within the country.

COLOMBIA

Colombia is a constitutional, multiparty democracy, in which the Liberal and Conservative parties have long dominated politics. Citizens elected President Andres Pastrana of the Conservative Party and a bicameral legislature controlled by the

Liberal Party in generally free, fair, and transparent elections in 1998, despite attempts at intimidation and fraud by paramilitary groups, guerrillas, and narcotics traffickers. The civilian judiciary is largely independent of government influence, although the suborning or intimidation of judges, witnesses, and prosecutors by those indicted is common.

The Government continued to face a serious challenge to its control over the national territory, as longstanding and widespread internal armed conflict and rampant violence—both political and criminal—persisted. The principal participants were government security forces, paramilitary groups, guerrillas, and narcotics traffickers. In some areas government forces were engaged in combat with guerrillas or narcotics traffickers, while in others paramilitary groups fought guerrillas, and in still others guerrillas attacked demobilized members of rival guerrilla factions. Paramilitary groups and guerrillas attacked at increasing levels unarmed civilians suspected of loyalty to an opposing party in the conflict. The two major guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), consist of an estimated 11,000 to 17,000 full-time combatants organized into more than 100 semiautonomous groups. The FARC and the ELN, along with other smaller groups, exercised a significant degree of influence and initiated armed action in nearly 1,000 of the country's 1,085 municipalities during the year, compared with 700 municipalities in 1998. The major guerrilla organizations received a significant part of their revenues (in the hundreds of millions of dollars) from fees levied on narcotics production and trafficking. Guerrillas and paramilitary groups supplanted absent state institutions in many sparsely populated areas of the national territory. In July 1998, then-President-elect Pastrana met with the FARC's leader, "Manuel Marulanda Velez," and agreed to a demilitarized zone ("despeje") in which the two sides could pursue direct peace talks. In November 1998, the despeje was initiated in 5 southern municipalities, with a total population of approximately 100,000 persons. Security forces completed their withdrawal from the area the following month. In January Marulanda failed to appear for the scheduled formal inauguration of peace talks in the despeje. President Pastrana and Marulanda met again in May and agreed on an agenda for formal negotiations and on procedures for the creation of an international verification commission to monitor both sides' compliance with the terms of the despeje. However, the FARC refused to proceed with the establishment of the commission. Formal Government-FARC peace negotiations began in earnest in October and were underway at year's end, following the Government's concession to the FARC that, at least initially, there be no international verification commission. The Government also held a series of informal discussions with the ELN during the year, but insisted on the ELN's release of the victims of specific mass kidnapings as a condition for undertaking formal negotiations and for demilitarizing a zone in which the ELN could hold its national convention. At year's end, the ELN had not complied with the Government's request and still held captive several dozen of the specified kidnap victims.

The civilian-led Ministry of Defense is responsible for internal security and oversees both the armed forces and the National Police, although civilian management of the armed forces is limited. The security forces include armed state law enforcement, investigative, and military authorities, including the National Police, army, air force, navy, marines, coast guard, the Administrative Department of Security (DAS), and the Prosecutor General's Technical Corps of Investigators (CTI). The army, air force, navy, marines, coast guard, and National Police fall under the direction of the Minister of Defense. The DAS, which has broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President, but is directed by a law enforcement professional. The police are charged formally with maintaining internal order and security, but in practice law enforcement responsibilities often were shared with the army, especially in rural areas. The security forces regularly failed to confront paramilitary groups, and members of the security forces sometimes illegally collaborated with paramilitary forces. The armed forces and the police committed numerous, serious violations of human rights throughout the year.

Despite years of drug- and politically related violence, the economy is diverse and developed. However, the economy has suffered a recession, and there was negative growth of 5 percent in 1999 for the first time in the country's modern history. The Government has privatized many public-sector entities and liberalized trade and financial activity since 1991, and it plans further privatizations. Crude oil, coal, coffee, and cut flowers are the principal legal exports. Narcotics traffickers continued to control large tracts of land and other assets and exerted influence throughout society, the economy, and political life. The official unemployment rate peaked at 20 percent, a record high, although it had declined to 18.1 percent by year's end. Inflation at year's end was 9.2 percent. The Government passed an austere budget to

address the fiscal gap, which was at 6 percent of gross domestic product (GDP), and has prepared reform proposals in areas such as pensions and regional finance. The balance of payments deficit was 4.5 percent of GDP. Income distribution is highly skewed; much of the population lives in poverty. Per capita GDP was approximately $2,100.

The Government's human rights record remained poor; there was some improvement in several areas, and the Pastrana administration took measures to initiate structural reform, but serious problems remain. Government forces continued to commit numerous, serious abuses, including extrajudicial killings, at a level that was roughly similar to that of 1998. Despite some prosecutions and convictions, the authorities rarely brought officers of the security forces and the police charged with human rights offenses to justice, and impunity remains a problem. At times the security forces collaborated with paramilitary groups that committed abuses; in some instances, individual members of the security forces actively collaborated with members of paramilitary groups by passing them through roadblocks, sharing intelligence, and providing them with ammunition. Paramilitary forces find a ready support base within the military and police, as well as local civilian elites in many areas.

On August 12, President Pastrana signed into law a revised Military Penal Code, which includes provisions that unit commanders no longer may judge their subordinates; that an independent judge advocate general corps is to be created; and that troops are to be protected legally if they refuse to carry out illegal orders to commit human rights abuses. However, necessary implementing legislation had not been passed at year's end. Also on August 12, the Government made public the Government's national human rights plan, which includes a provision that permits the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient." The State demonstrated an increased willingness to remove from duty security force officers who failed to respect human rights, or ignored or were complicit in the abuses committed by paramilitary groups. The Government removed four army general officers from service during the year; the generals were under investigation for collaborating with or failing to combat paramilitary groups. A few other state security officers were removed from service or suspended during the year. The military judiciary demonstrated an increased willingness to turn cases involving security force officers accused of serious human rights violations over to the civilian judiciary, as required by a 1997 Constitutional Court ruling; however, concerns about impunity within the military judiciary remained.

Police, prison guards, and military forces continued to torture and mistreat detainees. Conditions in the overcrowded prisons are generally harsh; however, some inmates use bribes or intimidation to obtain more favorable treatment. Arbitrary arrest and detention, as well as prolonged pretrial detention, are fundamental problems. The civilian judiciary is inefficient, severely overburdened by a large case backlog, and undermined by intimidation and the prevailing climate of impunity. This situation remains at the core of the country's human rights problems. The Superior Judicial Council (CSJ) reported in August that 63 percent of crimes go unreported, and that 40 percent of all reported crimes go unpunished. The use of "faceless" prosecutors, judges, and witnesses, under cover of anonymity for security reasons, continued until June 30, in cases involving kidnaping, extortion, narcotics trafficking, terrorism, and in several hundred high-profile cases involving human rights violations. Human rights groups accused these courts of violating fundamental rights of due process, including the right to a public trial. On June 30, a "specialized jurisdiction" replaced the anonymous regional court system. The specialized jurisdiction prosecuted and tried cases of extortion, narcotics trafficking, money laundering, terrorism, and serious human rights violations, including massacres, some homicides, torture, and kidnaping. It permitted the use of anonymous witnesses and prosecutors in exceptional cases that potentially placed their lives in danger.

The authorities sometimes infringed on citizens' privacy rights. Journalists practiced self-censorship. There were some restrictions on freedom of movement. There were unconfirmed reports of security forces harassing or threatening human rights groups. Violence and extensive societal discrimination against women, abuse of children, and child prostitution are serious problems. Extensive societal discrimination against the indigenous and minorities continued. Child labor is a widespread problem. Trafficking in women and girls for the purpose of forced prostitution is a problem. "Social cleansing" killings of street children, prostitutes, homosexuals, and others deemed socially undesirable by paramilitary groups, guerrillas, and vigilante groups continued to be a serious problem.

Paramilitary groups and guerrillas were responsible for the vast majority of political and extrajudicial killings during the year. Throughout the country, paramilitary

groups killed, tortured, and threatened civilians suspected of sympathizing with guerrillas in an orchestrated campaign to terrorize them into fleeing their homes, thereby depriving guerrillas of civilian support. Paramilitary forces were responsible for an increasing number of massacres and other politically motivated killings. They also fought guerrillas for control of some lucrative coca-growing regions and engaged directly in narcotics production and trafficking. The AUC paramilitary umbrella organization, whose membership totaled approximately 5,000 to 7,000 armed combatants, exercised increasing influence during the year, extending its presence through violence and intimidation into areas previously under guerrilla control. Although some paramilitary groups reflect rural residents' desire to organize solely for self-defense, others are vigilante organizations, and still others are actually the paid private armies of narcotics traffickers or large landowners. Popular support for these organizations grew during the year, as guerrilla violence increased in the face of a slowly evolving peace process. The army's record in dealing with paramilitary groups remained mixed. In some locations the army on rare occasions attacked and captured members of such groups; in others it tolerated or even collaborated with paramilitary groups.

The FARC and the ELN regularly attacked civilian populations, committed massacres and summary executions, and killed medical and religious personnel. Guerrillas were responsible for the majority of cases of forcible recruitment of indigenous people and of hundreds of children; they also were responsible for the majority of kidnapings. Guerrillas held more than 1,000 kidnaped civilians, with ransom payments serving as an important source of revenue. Other kidnap victims were killed. In some places, guerrillas collected "war taxes," forced members of the citizenry into their ranks, forced small farmers to sow illicit crops, and regulated travel, commerce, and other activities. The FARC routinely committed abuses against citizens who resided in the despeje zone. Numerous credible sources reported cases of murder, rape, extortion, kidnaping, robbery, threats, detention, and forced recruitment, as well as impediments to free speech and fair trial and interference with religious practices.

Violence and instability in rural areas displaced approximately 288,000 civilians from their homes during the year. The total number of internally displaced citizens during 1995–99 probably exceeded 1 million.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—Political and extrajudicial killings continued to be a serious problem. An estimated 2,000 to 3,000 citizens died in such acts, committed principally by nonstate agents. Members of the security forces continued to commit extrajudicial killings, and the number of such killings was at a level similar to the previous year. For the first 9 months of the year, the Center for Investigations and Popular Research (CINEP), a nongovernmental organization (NGO), reported that security forces were responsible for 24 extrajudicial killings in which the perpetrators could be identified, compared with 21 during the same period in 1998. These included deaths resulting from police abuse of authority. Most of the accused were called before military or, increasingly, civilian courts. There were some reports that police and former security force members committed social cleansing killings.

According to the human rights Ombudsman's office, there were 399 massacres (defined as the simultaneous or nearly simultaneous killing of 3 or more persons outside of combat at a single location or at several nearby locations) during the year. An estimated 1,845 persons were killed in these massacres. The office recorded 235 massacres in 1998, but changed the criteria for describing an attack as a massacre during 1999. The human rights Ombudsman's office attributed culpability for 20 killings to the state security forces.

The human rights delegate of the Attorney General's office received 586 complaints and cases during the year and concluded 285 disciplinary investigations. Among the complaints were 136 of alleged forced disappearances; 103 of torture; and 46 of massacres. The office concluded investigations for alleged infractions committed in previous years by 80 members of the security forces (including 42 members of the National Police, 17 members of the army, and 20 members of the DAS). The office exonerated the accused person in 32 cases and imposed administrative sanctions (e.g. fines, suspensions, dismissals) in 38 cases, including that of 1 army captain for his role in the 1998 Barrancabermeja massacre. The office dropped 10 cases for lack of merit in the latter phases of investigations. Additionally, the office "archived" 191 cases for lack of sufficient evidence. Among those sanctioned were 8 security force officers, including 1 National Police colonel; 11 of the 38 were sanc-

tioned for torture, and 2 were sanctioned for forced disappearance. The office subsequently referred few of those who were sanctioned to the Prosecutor General for criminal prosecution. In November the Attorney General personally ordered Brigadier General Jaime Uscategui removed from service.

During the year, the human rights unit of the Prosecutor General's office pursued 303 criminal processes against members of the security forces, 465 processes against members of paramilitary groups, 149 processes against guerrillas, and 86 processes against civilians. The unit arrested 248 persons during the year, and other state entities arrested a further 87 persons against whom the unit had cases. Another 435 arrest warrants (393 of which were issued by the unit) for persons against whom the unit had cases remained outstanding. The office took action against at least 12 officers for alleged serious human rights abuses.

The National Institute for Forensic Medicine stated in a preliminary report that 22,957 murders occurred during the year, compared with 19,665 during 1998. This represented a marked increase, at 55 deaths per 100,000 inhabitants, from the 1998 figure of 52.8 deaths per 100,000 inhabitants. The press reported that on average, 68 persons were murdered per day. The police and the Prosecutor General's office have insufficient resources to investigate most killings adequately. In August the Superior Judicial Council (CSJ) reported that 63 percent of crimes go unreported, and that 40 percent of reported crimes go unpunished.

During the year, the military judiciary convicted and sentenced 130 members of the National Police, army, and navy for possible human rights violations. (Many of those sanctioned committed crimes that were not human rights abuses.) Among those convicted and sentenced by military courts were 68 members of the army, 56 of the National Police, and 6 of the navy/marines. The military judiciary reported neither the nature of the sentences in the 130 cases nor the circumstances of the crimes. The Civilian Criminal Procedure Code authorizes restriction to base as an acceptable substitute for imprisonment when military jails or prisons are unavailable. In August 1997, the Constitutional Court more narrowly defined the constitutional provision that crimes by state agents unrelated to "acts of service" must be tried in civilian courts (see Section 1.e.). Since then, the military judiciary has turned 526 cases of possible human rights violations over to the civilian judiciary for investigation and possible prosecution. Among the cases transferred during the year were those of three full colonels—the first time that the military judiciary turned over cases concerning several high-ranking officers.

On March 14, members of the 4th Counterguerrilla Battalion (4th Brigade) killed Antioquia peace commissioner (and former Vice Minister for Youth) Alex Lopera and two other persons as they attempted to deliver an approximately $75,000 (150 million pesos) ransom for a kidnaping victim to the FARC's 47th front near Sonson, Antioquia. Aware that the three were carrying a large amount of money, army Major David Hernandez, Captain Diego Fino Rodriguez, Sergeant Edgardo Varon, and Privates Carlos Escudero, Ferney Cardona, and Raul Gallego set up a military roadblock, detained them, killed them, stole the ransom money, and then pushed the victims and the vehicle into a deep crevice.

Determining that the soldiers' actions were in no way related to acts of service, the military judiciary passed the case to the civilian judiciary. Prosecution of all six was underway at year's end, although Major Hernandez escaped from military detention and remained a fugitive from justice.

On April 18, police found the body of Jewish industrialist Benjamin Khoudari. He had been kidnaped in Bogota on October 30, 1998, and later killed despite his family's payment of ransom. The authorities arrested Fabio Ramiro Cassallas Gonzalez and Alvaro Guerrero Cardenas, former guerrillas who had become army informants; they remained in detention and under investigation at year's end. Also in April, the army arrested Colonel Jorge Plazas Acevedo, the chief of intelligence for the army's 13th Brigade, for allegedly heading a kidnaping gang believed responsible for the kidnaping and killing of several Jewish industrialists, including Khoudari. The authorities arrested a lieutenant and a sergeant under Plazas's command, and placed all three in preventive detention in April. The military judiciary determined that the alleged actions of the three bore no relation to acts of military service, and therefore they should be tried in civilian courts. (As of August, Plazas and the lieutenant remained in military detention, but the sergeant had escaped.) In July the army retired Plazas, and an Attorney General's disciplinary investigation of him was underway at year's end.

Government authorities made arrests of or progressed in prosecuting accused perpetrators of some past killings. The authorities arrested former policemen Rafael Cespedes and Edgar Armando Daza Diaz for the October 1998 killing of Jorge Ortega, vice president of the country's largest labor confederation, the United Workers'

Central (CUT), during a major labor strike. One of the two men later escaped detention. An investigation was underway at year's end (see Section 6.a.).

The Attorney General's human rights delegate exonerated soldiers of the army's Boca Battalion, 3rd Brigade, for the July 1998 killings of five civilians at a roadblock about 14 miles outside of Pasto, Narino department. It concluded that the deceased, all of whom reportedly had criminal records, had opened fire on the soldiers, wounding one sergeant. The Third Brigade commander found, in a first-instance military judicial decision, that there were no grounds to open an official investigation of the soldiers, and the case was archived.

On June 30, the National Tribunal (the appellate court for the anonymous regional civilian courts system) overturned a lower court's March decision and sentenced army Captain Rodrigo Canas Forero to 50 years' imprisonment for his role in the April 1996 Segovia massacre. Canas was a member of the army's 14th Brigade (at Puerto Berrio, Antioquia) at the time of the massacre, which resulted in the deaths of 15 persons and the injury of 12 others.

On April 21, detectives from the Prosecutor General's office captured fugitive retired Colonel Bernardo Ruiz Silva, former commander of the army's 20th Brigade (military intelligence). Ruiz was under investigation for allegedly organizing the November 1995 Bogota killing of Conservative Party opposition leader Alvaro Gomez Hurtado and his assistant. In May 1998, the army formally disbanded the 20th Brigade, which had an egregious human rights record, including the targeted killing of civilians. In an effort to ensure that the brigade's successor organization, the Army Military Intelligence Center (CIME), would not commit human rights abuses, the army prohibited it from directly undertaking armed operations. In May 1997, the Prosecutor General's office had detained retired army warrant officers Omar Berrio Loaiza and Franklin Gaona Ovalle, as well as army intelligence agents Henry Berrio Loaiza and Carlos Gaona Ovalle; they later were indicted for the killing of Gomez Hurtado. A trial of civilian killers Hector Paul Florez Martinez, Manuel Mariano Montero Perez, Gustavo Adolfo Jaramillo Giraldo, and Hermes Ortiz Duran was underway at year's end.

The Superior Military Tribunal confirmed a first-instance military court's September 1998 exoneration of five policemen for the 1995 death of Italian tourist Giacomo Turra in a Cartagena police station. Although the policemen claimed that Turra had died of a drug and alcohol overdose, an autopsy by the National Institute of Forensic Medicine determined that he was beaten to death.

The human rights unit of the Prosecutor General's office formally indicted marine Colonel Jose Ancizar Molano Padilla, then-commander of the 2nd Marine Infantry Battalion, as well as marine Corporals Javier Fernando Guerra, Eduardo Aristides Alvarez, and Jose Milton Caicedo for the 1995 social cleansing killings of two alleged thieves, Sifredy and Freddy Arboleda. All of the accused had been arrested in June 1998. A disciplinary investigation by the Attorney General was underway at year's end.

On November 29, the military judiciary ceased all proceedings against the 2 army majors implicated in the investigation of the April 1991 massacre by the army of 15 bus passengers and 2 passersby at Los Uvos. An appeal of this decision was pending at year's end. In July 1998, an anonymous regional court had sentenced three civilians to 30-year prison terms and fined an army corporal and two civilian informants for their roles in the massacre.

On April 14, the National Tribunal confirmed an anonymous civil court judge's March 1998 conviction and sentencing to 18 years' imprisonment of 1 police officer and 4 army officers for their roles in the November 1988 Segovia massacre, in which over 100 persons were killed or wounded. In September military proceedings against these and various other army and police officers were dropped due to lack of evidence. The appeals of Lieutenant Colonel Alejandro Londono Tamayo and Lieutenant Colonel Marco Baez Garzon, on charges relating to the November 1988 Segovia massacre, still were pending in civilian court at year's end. Londono remained in detention, but was still on active duty, although he has been deprived of command responsibilities. Baez Garzon also was deprived of command responsibility, and was in military custody in Bogota at year's end.

On April 12, the Prosecutor General's office placed retired army Lieutenant Colonel Jose Vincente Perez Berrocal under preventive detention to await trial for the 1987 killing of a former Liberal Party mayor of Sabana de Torres. At the time of the killing, Perez Berrocal was serving as commander of the 5th Brigade's Ricuarte Battalion.

Credible allegations of cooperation with paramilitary groups, including instances of both silent support and direct collaboration by members of the armed forces, in particular the army, continued. Evidence suggests that there were tacit arrangements between local military commanders and paramilitary groups in some regions,

and paramilitary forces operated freely in some areas that were under military control or despite a significant military presence. In some instances, individual members of the security forces actively collaborated with members of paramilitary groups—passing them through roadblocks, sharing intelligence, and providing them with ammunition.

On February 14, an unidentified assailant shot and killed army Lieutenant Colonel Luis Felipe Becerra Bohorquez while he dined in a restaurant in Cali. In October 1998, a military court had sentenced Becerra to 12 months' imprisonment for covering up the October 1993 Rio Frio massacre. In May 1998, the Attorney General's office had ordered the army to separate Becerra from service, but later reduced the punishment to issuance of a severe reprimand, because complicity in a massacre had not yet been codified as a crime at the time of the massacre. Becerra had remained a fugitive until his death.

There was no progress in the investigation of the September 1998 killing of congressman Jorge Humberto Gonzalez in Medellin.

The military high command, under the leadership of Defense Minister Ramirez and General Fernando Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups, and that the army would combat paramilitary groups; however, security force actions in the field were not always consistent with the leadership's positions, and at least one senior army leader suggested that the police should lead the fight against paramilitary groups. In general, impunity for military personnel who collaborated with members of paramilitary groups was common.

However, on April 9, President Pastrana formally retired from service Brigadier Generals Fernando Millan Perez and Rito Alejo del Rio; both had links to paramilitary groups. The Government stated only that it "was no longer convenient" for them to continue their military service. The military judiciary announced no new developments during the year in its ongoing investigation of General Millan regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department, in 1997. The group was believed responsible for at least 11 killings. In October 1998, the Superior Judicial Council had determined that Millan's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millan had denied the charges. In June the Attorney General's office opened a disciplinary investigation of Millan.

General Del Rio, former commander of the 13th Brigade, remained under investigation in August by the human rights unit of the Prosecutor General's office for allegedly establishing illegal paramilitary groups in Medellin in 1987, and in Uraba in 1996.

In May detectives of the Prosecutor General's office arrested at the officers' club in Pereira retired army Colonel Jose Ancizar Hincapie Betancurt for collaboration in 1993–94 with a paramilitary group that killed 10 persons. In December 1997, the military judiciary assigned the cases of Hincapie, 1 other army officer, and 12 others to the civilian judiciary for processing.

According to a Human Rights Watch report released in December, government investigators detailed direct collaboration between the Medellin-based 4th Brigade and paramilitary forces commanded by Carlos Castano. Repeatedly, paramilitary groups killed those suspected of supporting guerrillas, then delivered the corpses to the army. In a process known as "legalization," the army then claimed the dead as guerrillas killed in combat, while members of the paramilitary groups received their pay in army weapons.

On April 9, the Attorney General suspended Brigadier General Jaime Uscategui from his post for 90 days in connection with the July 1997 AUC paramilitary massacre of dozens of persons at Mapiripan, Meta department. On May 20, the Prosecutor General's office ordered the arrest of Uscategui, who presented himself to an army school, where he was held while awaiting trial on civilian charges of multiple aggravated homicide by omission, aggravated kidnaping by omission, and falsification of a public document. Also in May, Uscategui submitted his resignation letter, effective in January 2000, which was accepted by President Pastrana in August. On August 10, the Superior Judicial Council sent the criminal case against Brigadier General Jaime Uscategui for dereliction of duty and falsification of public documents to the military judiciary. The CSJ found that the charges were related directly to acts of service, and that the alleged crimes could have been committed only by a public servant. In November Uscategui was released after 180 days in detention because military prosecutors had yet to complete prosecution; the investigation continued at year's end. Also in November, the Attorney General ordered Uscategui removed from service for dereliction of duty in the October 1997 judicial convoy massacre in San Juan de Arama, Meta, thereby nullifying his resignation.

The CSJ also sent charges regarding the 1997 Mapiripan massacre against Lieutenant Colonel Hernan Orozco (who had testified against Uscategui in a civilian court) to the military judiciary. However, the CSJ sent the cases against Lieutenant Colonel Lino Sanchez and Sergeants Miller Uruena Diaz and Juan Carlos Gamarra Polo to the civilian judiciary, on grounds that they facilitated the massacre, which was determined not to be an act of service. On November 16, the Prosecutor General's human rights unit formally indicted Lieutenant Colonel Sanchez on charges of terrorism, aggravated homicide, organization of paramilitary groups, and dereliction of duty. In a September 1997 interview in El Tiempo newspaper, AUC paramilitary leader Carlos Castano admitted responsibility for the Mapiripan massacre. In June 1998, the National Police arrested suspected Meta department paramilitary leader Rene Cardenas Galeano for his part in organizing the attack. A specialized jurisdiction court trial of Galeano was underway at year's end. Sanchez, Gamarra, and Urena remained in military detention at year's end. The two private pilots arrested in 1998 remained in civilian detention at year's end, as did two paramilitary members. The Prosecutor General's investigation continued; and at year's end, a total nine military, paramilitary, and civilian alleged participants in the Mapiripan massacre were in detention pending trial.

On August 12, the Attorney General's office, which can impose only administrative sanctions to state agents, formally accused five officers and three noncommissioned officers of possible complicity or participation in the July 1997 Mapiripan massacre. Those accused are: army officers Brigadier General Jaime Uscategui, Lieutenant Colonel Carlos Eduardo Avila Beltran, Lieutenant Colonel Lino Sanchez Prada, and Major Arbey Garcia Narvaez; National Police Captain Juan Carlos Lopez Pavon; army Sergeants Miller Uruena Diaz and Juan Carlos Gamarra Polo; and army Corporal Leonardo Montoya Rubiano. The Attorney General's office also formally accused five local Mapiripan civilian officials, including then-mayor Jaime Calderon Moreno, of complicity in the massacre. No arrests were made for a similar paramilitary incursion into Miraflores, Guaviare, on October 18–20, 1997, which left at least five persons dead.

The human rights unit of the Prosecutor General's office issued an arrest warrant for former army Captain Ciro Alfonso Vargas Lancheros for his alleged role in the April 1996 paramilitary murder of three men in Ciudad Bolivar, Medellin. Vargas was still at large at year's end.

On June 18, the Attorney General's office severely reprimanded army First Sergeant Justo Gil Zuniga Labrador and Vice First Sergeant Hernando Medina Camacho, then members of the army's 20th Brigade, for the July 1994 killing of Senator Manuel Cepeda Vargas, leader of the Patriotic Union (UP) party. On November 15, the army announced that it had discharged both men from service. In testimony before the Senate, the Attorney General stated that the Senator had been killed as the result of a joint operation between some senior army officers and members of paramilitary groups; the sergeants had received orders to trail and then kill Cepeda from Brigadier General Rodolfo Herrera Luna, the then-commander of the army's 9th Brigade, who died in 1997. Herrera had planned the killing in conjunction with paramilitary leaders Carlos and Fidel Castano. On December 20, a Bogota specialized jurisdiction court sentenced former army Sergeants Zuniga and Medina to 43 years' imprisonment each for their roles in Cepeda's murder. Both were incarcerated at a military detention center at year's end. The court also dropped related charges against paramilitary leader Carlos Castano for lack of evidence.

There was no progress in the complaint against retired General Yanine Diaz pending before the Inter-American Human Rights Commission (IACHR). Despite the Government's attempts to bring him to justice in the civilian court system, in June 1998, the appellate court of the military judicial system confirmed the June 1997 decision by then-commanding general of the army General Manuel Jose Bonett to exonerate Yanine Diaz of all charges related to formation and activities of paramilitary groups in the Magdalena Medio region in the 1980's.

There continued to be incidents of social cleansing—including attacks and killings—directed against individuals deemed socially undesirable, such as drug addicts, prostitutes, transvestites, homosexuals, beggars, and street children. According to the National Institute for Forensic Medicine, 279 such killings occurred during the first 6 months of the year. The Institute did not attempt to identify the perpetrators. CINEP reported 182 social cleansing killings during the first 9 months of the year. It attributed 10 to the ELN, 20 to the FARC, and 147 to social cleansing groups, some of which reportedly often were composed of active or former security force members. The national human rights Ombudsman attributed five massacres to social cleansing groups during the first half of the year.

The Bogota press reported that between March and August, at least 22 prostitutes were murdered in Bogota. The human rights Ombudsman's office implicated Bogota

police in what it characterized as possible social cleansing killings. However, the human rights unit of the Prosecutor General's office reported at year's end that in fact only three Bogota prostitutes were killed during that time period, in separate, isolated incidents. Its investigations were ongoing at year's end.

In December a court convicted Luis Alfredo Garavito Cubillos of the killing of one boy and the attempted rape of another; Garavito had confessed to killing more than 190 children at year's end, including the killings of 25 children in Pereira which had previously been attributed to Pablo Ramirez Garcia.

On November 11, a car bomb exploded in northern Bogota, killing 7 passersby and wounding 42 others. The bombing came one day after the extradition of a narcotics trafficker to a foreign country for prosecution; press reports speculated that the bombing was an attempt by narcotics traffickers to pressure the Government into ceasing the extradition of citizens for prosecution abroad. A state investigation had reached no formal conclusions at year's end.

Paramilitary groups committed numerous extrajudicial killings, primarily in areas where they competed with guerrilla forces for control, and often in the absence of a strong government security force presence. The frequency of paramilitary massacres continued to increase. Two major paramilitary campaigns during the year involved a series of orchestrated massacres (see Section 1.g.). The human rights Ombudsman, who changed his statistical methodology in 1999, attributed 153 massacres to paramilitary forces during the year, which claimed 889 victims. In 1998 (the most recent year for which such data were available) the office received 1,221 complaints against members of paramilitary groups for homicide. CINEP reported that paramilitary groups were responsible for 814 extrajudicial killings during the 9 months of the year, compared with 573 in all of 1998. The Vice President's office attributed 252 killings of civilians to paramilitary groups during the first 4 months of the year, while the Ministry of Defense attributed 743 such killings to paramilitary groups during the year.

Between February 28 and March 1, approximately 20 members of a paramilitary group massacred 9 persons in Barrancabermeja, Santander department. When leaving the town, they reportedly passed unmolested through a roadblock maintained by the army's 45th Battalion. On March 18, police arrested paramilitary leader Mario James Mejia ("El Panadero") for killing a taxi driver; he then was charged in Bogota with leading the February 28–March 1 Barrancabermeja massacre and was still under investigation and in detention at year's end, along with fellow paramilitary Pedro Mateo Hurtado Moreno. Politically motivated killings and related unrest continued in Barrancabermeja at a very high rate throughout the year.

On April 4, a group of men claiming to be from the ACCU paramilitary group entered San Jose de Apartado and killed Anibal Jiminez, a member of the local peace council, a 16-year-old youth, and another man; they wounded two other persons. In March 1997, the town had declared itself to be a "community of peace"—a designation that declares all citizens of the town to be neutral and outside the conflict—and thus no security forces were present during the attack.

Judicial authorities made progress in the May 16, 1998, Barrancabermeja massacre case, in which paramilitary forces killed 11 persons and kidnaped and then killed 25 others. The human rights unit of the Prosecutor General's office ordered the arrest of Guillermo Cristancho Acosta ("Camilo") and Alvaro Noriega ("Chamuco") for the crime. On November 12, Cristancho's body was found. AUC paramilitary leader Carlos Castano ordered Cristancho's murder, reportedly after learning that Cristancho had been extorting money from local peasants and engaging in other common criminal activity. Cristancho Acosta publicly had admitted ordering the killings. At year's end, the authorities had not detained Noriega. Although still under criminal investigation for allegedly having participated directly in the massacre, army Corporal Rodrigo Perez Perez (of the army's Nuevo Granada battalion) was freed from detention for lack of evidence. However, in August the Attorney General's office administratively punished nine security force members and ordered the suspension of six National Police officers. In August the Attorney General ordered dishonorable discharges for three military officers and suspensions for five policemen for failing to halt the massacre.

The human rights unit of the Prosecutor General's office opened formal investigations of ACCU paramilitary leader Carlos Castano and 6 other AUC members for the May 1998 massacre of between 12 and 22 persons at Puerto Alvira, Meta department. Castano publicly had declared Puerto Alvira a military objective in September 1997, and the AUC had accepted responsibility publicly for the killings.

On August 19, the new specialized jurisdiction of the civilian judiciary (see Section 1.e.) convicted and sentenced to 10 and 19 years' imprisonment respectively Nancy Lozano Rodriguez and Jose Edgar Tellez for intentionally having distracted the attention of police during the August 1989 killing of Liberal presidential can-

didate Luis Carlos Galan by Medellin drug cartel-financed paramilitary groups. It also ordered the investigation of former Congressman Alberto Santofimio Botero for complicity in the crime. Santofimio previously had been imprisoned for financing his 1994 Senate campaign with funds from the Medellin drug cartel. The judge's sentence also indicated that some police present on the occasion of Galan's murder had accepted bribes to facilitate the crime.

During the year, a judge exonerated billionaire emerald magnate Victor Carranza of charges of paramilitarism; he had been arrested in February 1998 on charges of sponsoring the Eastern Plains paramilitary self-defense group. The Prosecutor General then detained the judge on a charge of "corrupt practice", and she was sentenced to 46 months' imprisonment. Carranza remained in prison due to his prior convictions for homicide and kidnaping. While an estimated 400 members of paramilitary groups were believed to be in jail at year's end, known paramilitary leaders largely remained beyond the reach of the law. At the end of the year, the army reported that it had killed 26 members of paramilitary groups and captured 102 during the year.

Paramilitary forces killed members of indigenous groups (see Section 5).

As of August, the Prosecutor General's office was investigating and had issued arrest warrants for Carlos Castano, Juan Carlos Gonzalez Jaramillo ("El Colorado"), and others for the February 1998 murder of Jesus Maria Valle, president of the Antioquia Permanent Committee for the Defense of Human Rights, in his Medellin office. Castano was indicted in September 1998 for the killing.

As of August, the Prosecutor General's human rights unit had detained and indicted eight persons associated with the AUC paramilitary group for the May 1997 murders of two CINEP workers, Mario Calderon and Elsa Alvarado, as well as Alvarado's father. The unit also finished its investigations of Carlos Castano and four other paramilitary leaders, issued warrants for their arrest, and summoned them to trial. However, Castano remained at large. Medellin narcotics trafficker Gustavo Adolfo Upegui Lopez, suspected by many of having been the intellectual author of the crime, remained under arrest for a separate case.

On April 12, the Prosecutor General's Technical Corps of Investigators (CTI) captured paramilitary leader Reynel Gomez Correa in connection with the September 1994 "Trujillo II" massacre in Valle department. On April 23, the human rights unit of the Prosecutor General's office also issued an arrest warrant for paramilitary member Norberto Morales Ledesma in connection with the case.

On August 13, unidentified gunmen killed renowned journalist, political comedian, and peace and human rights activist Jaime Garzon in Bogota. On August 5, police in Bogota arrested four hired killers from Medellin for allegedly plotting to murder Garzon. An investigation continued at year's end. More than 85,000 persons attended his funeral, protesting his murder and the prevailing violence in the country.

On September 15, unknown assailants killed National University professor and former government peace negotiator Jesus Bejarano as he was walking to class. Police announced a joint investigation with the Prosecutor General's office, but no new developments had been announced by year's end.

There were no new developments in the case of the May 1998 killing of former Defense Minister General Fernando Landazabal Reyes near his Bogota home.

The police determined that the 1998 death of Betty Camacho, a former member of Congress, was a common crime.

The guerrillas of the FARC, the ELN, and the People's Liberation Army (EPL) continued to commit extrajudicial killings, often targeting noncombatants in a manner similar to that of paramilitary groups. According to CINEP, guerrillas committed 269 killings outside of combat during the first 9 months of the year, while the Ministry of Defense attributed 908 killings to guerrillas during the year. The human rights Ombudsman attributed 22 massacres to the FARC during the first 6 months of the year and 6 to the ELN. The Ombudsman also attributed 215 killings to the FARC, and 41 to the ELN. Local elected officials or candidates for public office, teachers, civic leaders, business owners, and peasants opposed to their political or military activities were common targets. The Federation of Colombian Municipalities reported that guerrillas killed at least 10 mayors during the year, including 1 who had fled the demilitarized zone. Guerrillas were also the principal suspects in at least five other mayoral murders. Police and military personnel were targeted for killings (see Section 1.g.). Guerrilla groups also killed members of indigenous groups (see Section 5), labor leaders (see Section 6.b.), and religious leaders (see Section 2.c.). Some communities controlled by guerrillas also experienced social cleansing killings of criminal or other "undesirable" elements.

On February 25, the FARC's eastern bloc, commanded by German Briceno Suarez ("Grannobles"), kidnaped American citizen indigenous activists Terence Freitas,

Lahe'ena'e Gay, and Ingrid Washinawatok near Saravena, Arauca department. The three had been working with the indigenous U'wa tribe at the tribe's invitation. Briceno Suarez ordered their killings; the three were shot, and their bodies were found in Venezuela. On July 20, the Prosecutor General's office ordered the arrest of Briceno Suarez; army efforts to apprehend him and other FARC members accused of the crime had not been successful at year's end. On December 20, the human rights unit of the Prosecutor General's office formally indicted Briceno Suarez and U'wa tribe member Gustavo Bocota for the crimes; Bocota also remained at large at year's end. In May the FARC announced that its members involved in the killings, whom it did not name, would be "punished" by having to learn to read and write and work on road construction projects. While there were press reports in September that two of the FARC perpetrators were killed during an army offensive, there was no evidence to substantiate this claim. The Prosecutor General repeatedly complained publicly that elements of the FARC were impeding the investigation by intimidating witnesses. The suspects remained at large at year's end.

According to the human rights Ombudsman's office, in mid-May the Teofilo Forero column of the FARC killed 11 civilians suspected of paramilitary collaboration at Vereda Perlas Altas, Puerto Rico, Caqueta department (just outside the despeje zone). The Government protested, and on August 25, the human rights unit of the Prosecutor General's office opened investigations of the FARC's Teofilo Forero column as well as of FARC demilitarized zone security commander Pedro Nel Daza Narvaez, also known as "Jairo."

Fourteen members of the Prosecutor General's Technical Corps of Investigators (CTI) were killed during the year in various parts of the country. On January 7, the human rights unit of the Prosecutor General's office issued an arrest warrant for Wilson Eusebio Garcia Ramirez, commander of the ELN's "Carlos Alirio Buitrago" front, for the September 1998 murders of CTI members Edilbrando Roa Lopez and John Morales Patino at Mesopotania, Antioquia. The two had been investigating a 1998 massacre of nine persons at the nearby town of Sonson.

On July 30, the Prosecutor General's human rights unit indicted "Arley Leal," commander of the FARC's 32nd Front, for the September 1998 killing of Catholic priest Alcides Jimenez Chicangana. Jimenez was shot 18 times as he gave a sermon in a Catholic Church hours after he led a public rally for peace. Charges against narcotics trafficker Luis Angel Canas, who was detained in 1998 for the crime, were dropped.

In July the Prosecutor General's office indicted Nicolas Antonio Gomez Zapata for participation in the January 1994 "La Chinita" massacre, which resulted in the deaths of 35 persons. In September 1998, the National Tribunal sentenced 30 members of the FARC to a total of 2,005 years' imprisonment for the massacre. Among those sentenced were former Apartado (Antioquia) mayor Nelson Campo Nunez and former Patriotic Union leaders Naun de Jesus Orrego Ossa and Maria Mercedes Usuga.

Approximately 80 cases regarding Colombia were before the Inter-American Commission on Human Rights at year's end. The great majority involved violations of the right to life. One case, the 1991 "Las Palmeras" massacre, was before the Inter-American Court of Human Rights at year's end.

The IACHR did not forward to the Inter-American Court the Patriotic Union's 1996 complaint charging the Government with "action or omission" in what the UP termed "political genocide" against the UP and the Communist Party. The Government and the UP continued without success in their efforts to reach an amicable settlement under the auspices of the IACHR. In its October 1997 submission to the IACHR, the Reinsertion Foundation human rights organization charged that 13 regional UP political leaders had been killed and 3 tortured during the first 9 months of that year. The Manuel Cepeda Vargas foundation claimed that killings of UP members continued throughout 1999.

In December Spain complied with a government request and extradited Lubin de Jesus Morales Orozco, who was arrested in Madrid in June on unrelated charges, for the April 1998 killing of Eduardo Umana Mendoza, perhaps the country's best-known and most controversial human rights lawyer. Seven others remained in detention and were undergoing civilian judicial processing for the crime at year's end. The authorities also undertook a preliminary investigation of Joaquin Emilio Gomez Munera for allegedly having participated in the crime.

There were no new developments in the investigation of paramilitary leader Gerardo Antonio Palacio for his role in the August 1995 massacre in Chigorodo, Antioquia.

b. *Disappearance.*—"Forced disappearance," while explicitly prohibited by the 1991 Constitution, remained an act not explicitly outlawed under the Penal Code—although the law codifies kidnaping for extortion and "simple kidnaping" as

crimes—and continued to be a problem. After supporting its passage, President Pastrana objected to specifics of legislation codifying forced disappearance as a crime in December and returned it to Congress for modification (see Section 1.e.). More than 3,000 cases of forced disappearance have been reported formally to the authorities since 1977; very few have ever been resolved.

The human rights Ombudsman's office reported receipt during 1998 of 12 complaints against the army for forced disappearance, 6 against the National Police, and 399 against paramilitary forces. CINEP reported 309 cases of forced disappearance during the first 9 months of the year, and attributed 112 of the cases to paramilitary groups and the rest to unidentified actors. The great majority of victims of forced disappearance were never seen or heard from again.

The Superior Military Tribunal designated the commander of the air force as the special, first-instance judge in the case of retired army General Alvaro Velandia Hurtado, the former commander of the army's 20th Brigade, who was accused of the 1987 forced disappearance, torture, and murder of M–19 member Nydia Erika Bautista. A military investigation was underway at year's end.

The authorities suspended police Major Manuel de Jesus Lozada Plazas, the former deputy commander of the Government's elite antikidnaping squads known as the GAULA, from duty and placed him on half-pay following his arrest in March 1997. There were no reported results from his trial in a civilian court at year's end. There also have been no results reported in the investigation into cooperation between these squads and illegal paramilitary groups.

Paramilitary groups were also responsible for kidnapings. The NGO Pais Libre attributed 103 kidnapings during the year to paramilitary groups. On May 21, AUC paramilitary forces kidnaped Liberal Senator Piedad Cordoba, a renowned human rights advocate, from a doctor's office in Medellin. She was released unharmed on June 4. AUC leader Carlos Castano personally claimed responsibility for the kidnaping in a telephone call to a national radio network, and on September 17, the human rights unit of the Prosecutor General's office formally implicated him in its investigation. According to Human Rights Watch, in February the ACCU paramilitary group briefly held seven agents of the CTI; it also threatened the investigators with death.

Kidnaping was an unambiguous, standing policy and major source of revenue for both the FARC and ELN. Pais Libre reported that there were 2,945 cases of kidnaping during the year, although 136 cases of soldiers and police captured by guerrillas in combat were included in these figures. This represented a substantial increase compared with a 1998 total of 2,216 kidnapings. Pais Libre said that 1,985 cases were financially motivated, and 372 cases were politically motivated. It attributed 728 cases to the FARC, 695 to the ELN, 167 to the EPL, 55 to other, smaller guerrilla groups, 300 to common criminals, 6 to family members of the victim, and 891 to unidentified perpetrators. It attributed none to state security forces. According to Pais Libre, politicians, cattlemen, children, and businessmen were guerrillas' preferred victims. According to the antikidnaping "czar" (a government official), 121 kidnap victims were killed during the year, and 48 escaped their captors. 1,251 persons were freed after a ransom payment was made on their behalf. The kidnap victims included 189 children. GAULA antikidnaping squad members and other units of the security forces freed 454 persons during the year. Arrests or prosecutions in any of these cases were rare.

According to a July 14 report by the human rights Ombudsman's office, the FARC was responsible for the forced disappearance of 34 residents of the despeje zone whom it suspected of collaborating with paramilitary groups.

On May 30, the ELN kidnaped more than 170 persons from the La Maria Catholic Church in southern Cali during Mass. The kidnapers ordered the parishioners to leave the church because of an alleged bomb threat, then put them onto trucks and drove them away. The ELN released 84 persons, including some children and some elderly persons, immediately. Among the first 84 freed was a group of 20 children who were released into a minefield, with admonishments to "be careful of the mines"; the army rescued them with no casualties. On June 15, the ELN freed a further 33 kidnap victims but reneged on its promise to release the remainder by June 19. Instead, it demanded ransom from their families. All victims had been released by year's end, typically after a ransom was paid on their behalf.

On April 12, the ELN hijacked a commercial airliner and kidnaped its 41 occupants. According to the antikidnaping czar, 15 persons remained in captivity at the end of the year. One, Carlos Gonzalez, died in captivity due to a lack of needed medications. On June 6, the ELN kidnaped nine recreational fishermen south of Barranquilla. Seven remained in captivity at year's end.

Guerrillas continued to kidnap political leaders. The Federation of Colombian Municipalities reported that at least 50 mayors were kidnaped during the year, nearly

all by guerrilla groups. In response to this situation, some rural mayors fled to major cities, where they continued to conduct municipal business via telephone and facsimile.

Despite continued pressure by the Government on the FARC to account for three American missionaries kidnaped by FARC guerrillas in January 1993, their whereabouts and condition remained unknown.

The FARC, the ELN, and other guerrilla groups regularly kidnaped foreign citizens throughout the year; some were released after weeks or months of captivity, while others still were held at year's end.

On July 30, the FARC hijacked an Avior private commercial aircraft in Venezuela, forcing it to land in eastern Colombia. Claiming opponents of Venezuelan President Hugo Chavez had hijacked the aircraft, the FARC announced on August 8 that it had "found" the missing aircraft and released its eight passengers at Saravena, Arauca department. The FARC also allowed two crew members to return the aircraft to Venezuela.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and criminal law explicitly prohibit torture, as well as cruel, inhuman, or degrading treatment or punishment; however, police and military torture and mistreatment of detainees continued. Of the 38 security force members sanctioned by the human rights delegate of the Attorney General's office during the year, 11 were punished for torture committed in previous years. However, the Attorney General's office only can sanction administratively or refer to the Prosecutor General's office those it finds guilty. Reports of torture by the army declined; however, reports of torture by police and INPEC prison guards increased. Torture and abuse occurred in connection with illegal detentions in the context of counterinsurgency operations.

The Attorney General's human rights delegate received 35 complaints of torture by state agents, including the police, the DAS, army, and prison officials, during the year; the office received 119 complaints of torture in 1998. CINEP deemed the army responsible for 4 cases of torture during the first 9 months of the year, the police for 10, and the INPEC prison guards for 35. In the same period in 1998, CINEP deemed the army responsible for eight reported torture cases and the police for none. The Superior Military Tribunal reported convicting one member of the National Police for torture during the year. It convicted no members of the military of torture. The National Institute of Forensic Medicine reported during the year that the bodies of 318 of 22,957 homicide victims showed signs of torture. The Ministry of Defense reported receiving 40 complaints of human rights abuses as of August.

The reformed Military Penal Code codifies torture as a crime and directs that cases of torture committed by security force members be tried in the civilian judiciary, on the grounds that torture could never be related to acts of service (see Section 1.e.). At year's end, the Prosecutor General's human rights office was investigating nine members of the marine corps for torturing five fellow marines, who reportedly claimed that they had lost their assault rifles, in December 1995. Determining that the alleged actions of Colonel Jose Ancizar Molano (then-commander of the 2nd Marine Infantry Battalion) and eight of his subordinates (all of whom were in detention) were in no way related to acts of service, the military judiciary turned the case over to the civilian judiciary for investigation and prosecution. Molano and one of his subordinates were also under investigation for May 1995 social cleansing murders (see Section 1.a.).

On July 23, the Venezuelan Ambassador to Colombia alleged that the 3rd Army Special Forces Battalion tortured and inflicted other cruel, inhuman, and degrading punishment against four Venezuelan citizens, following their May 26 capture. The four were charged with trafficking arms for the FARC, and were detained at year's end. The Venezuelan Government also asked for an investigation in relation to five other persons who were with these four men at the time of their capture. The bodies of two of these five subsequently were found in a river; the other three allegedly disappeared following the operation.

CINEP attributed 51 of the 115 cases of torture that it reported during the first 9 months of the year to paramilitary groups. Paramilitary groups increasingly made use of threats both to intimidate opponents and to raise money. Letters demanding payment of a war tax and a threat to mark victims as a military target if they failed to pay were typical. The NGO reported that nearly half were public school teachers, and that approximately half of all threat recipients were residents of Antioquia department.

Guerrilla groups also tortured and abused persons. The bodies of many persons detained and subsequently killed by guerrillas showed signs of torture and disfigurement. For example, on April 8, FARC members killed First Corporal Luis Felipe Benavides Pascuasa with a machete and killed volunteer soldier Fernando

Antonio Vergara Ceballos by burning his face with acid and emasculating him; both soldiers had surrendered to the FARC. CINEP reported four cases of torture by the FARC and one by the Popular Revolutionary Army (ERP), a small guerrilla movement, during the first 9 months of the year. CINEP reported that guerrillas also made use of threats, both to intimidate opponents and to raise money, and—like the paramilitary groups—sent letters demanding payments of a war tax, along with threats to make persons military targets. Guerrillas were the principal suspects in death threats against more than 100 mayors between January and August.

On November 9, a shrapnel bomb was detonated remotely in southwestern Bogota, near the Prosecutor General's office. Eight persons were wounded, including Efrain Romero, a senior investigator at the Prosecutor General's office, at whose car the device apparently was targeted.

Prison conditions are generally harsh, especially for those prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. In December 1997, a visiting IACHR mission declared that the living conditions in Bogota's La Picota prison constituted "cruel, inhuman, and degrading treatment of the inmates," and these problems continue. Guards and prison staff frequently are untrained or corrupt. Prison guards from the National Prison Institute (INPEC) report to the Ministry of Justice. According to the Committee for Solidarity with Political Prisoners, a majority of prisoners' food was provided by outside, private sources. INPEC reported that the daily food allowance for each prisoner was $1.44 (2,700 pesos). According to INPEC, the country's prisons and jails held 45,064 inmates at year's end, 37 percent more than their planned capacity of 32,939. Additionally, National Police jail cells held approximately 4,200 inmates who could not be accommodated in prisons due to overcrowding. In a number of the largest prisons, overcrowding was severe. Medellin's Bellavista prison, the country's largest, was built to house 1,700 inmates; in August it housed 6,033 inmates. Bogota's La Modelo prison and the Palmira prison outside Cali each held more than 155 percent of their designed capacity.

In February the Justice Ministry announced plans to build 40 new prisons to house 20,000 persons over the next 4 years; however, by year's end, Congress had not passed legislation that would have provided some of the necessary funds. Only 8,000 prisoner accommodations met international standards. No new prisons have been constructed in the past 30 years; 17.8 percent of the country's prisons were between 40 and 80 years old; 3.5 percent were between 80 and 201 years old; and 2.4 percent were more than 201 years old. On June 17, President Pastrana issued a decree transferring the responsibility for prison infrastructure to the Ministry of Justice; INPEC retained responsibility for prisoner rehabilitation and security.

Forty-two percent of all prison inmates are pretrial detainees. The remaining 58 percent are split roughly between those appealing their convictions and those who have exhausted their appeals and are serving out their terms.

There are separate prison facilities for women, and in some parts of the country, separate women's prisons exist. Women are not held with men. Conditions at women's prisons are similar to those at men's prisons, but are far less violent. In March 44 female prison guards at Bogota's Buen Pastor prison for women protested, refusing to allow First Lady Nohra Pullana de Pastrana to visit the prison. The guards were protesting a judicial order allowing women's prison cell doors to remain open at night. According to the Criminal Procedures Code, no one under the age of 18 may be held in a prison. Juveniles are held in separate facilities operated by the Colombian Institute for Family Welfare (ICBF).

On March 12, prison conditions and the lack of action by the Congress on proposed prison, judicial procedure, and penal code reforms prompted the start of a nationwide civil disobedience campaign by prisoners who physically prevented the entry of more prisoners into their cells. On March 16, family members of prisoners also staged sit-ins at six prisons around the country. In August inmates at La Picota prison protested prison conditions by detaining 198 women and 101 children, all visiting family members, for 4 days. At year's end, prisoners' representatives and the Government were engaged in talks that centered on prison conditions, judicial reform and relevant pending legislation, and maximum prison sentences. On May 5, prisoners at the Picalena facility in Ibague rioted when prison officials tried to initiate operations of "restoration of control," sweeping the prison for weapons, drugs, and other prohibited items. Prisoners attacked guards with sticks and firearms and exploded a grenade that injured two guards. Prison violence was common: According to INPEC, 199 inmates were killed in prison during the year, including 32 in La Picota prison. Instances of abuse by and corruption among prison staff, as well as ongoing criminal activities by inmates, were common. INPEC estimated that 363 prisoners escaped during the first 8 months of the year. The authorities recaptured 47 escapees during the first half of the year.

The FARC launched several attacks against prisons holding guerrilla prisoners, facilitating numerous escapes, including from La Rivera prison on May 17, and from the prison at Palmira, Valle, on June 29. On May 5, Wilson Pena Mage, deputy commander of the FARC's 14th Front, escaped from the prison in Florencia, where he was being held on charges of kidnaping a judge and of rebellion. On October 25, the superintendent of La Modelo prison was fired after a television report showed FARC prisoners staging a military parade in the exercise yard.

There are no separate facilities for pretrial detainees and convicted prisoners. However, key narcotics traffickers and some guerrilla leaders get special cells with many comforts, some of which—such as access to two-way radios, cellular telephones, and computers—allowed them to continue their illegal activities from inside jail. Local or regional military and jail commanders did not always prepare mandatory detention registers or follow notification procedures; as a result, precise accounting for every detainee was not always possible.

The International Committee of the Red Cross (ICRC) continued to have routine access to most prisons and police and military detention centers. In April the Government ordered the departure of the ICRC's chief delegate. ICRC operations were not affected.

The ICRC obtained more frequent access, although still on an ad hoc basis, to prisoners held by paramilitary groups and guerrilla forces.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution includes several provisions designed to prevent illegal detention; however, there continued to be instances in which the authorities arrested or detained citizens arbitrarily.

The law prohibits incommunicado detention. Anyone held in preventive detention must be brought before a prosecutor within 36 hours to determine the legality of the detention. The prosecutor must then act upon that petition within 36 hours of its submission. Despite these legal protections, instances of arbitrary detention continued.

Conditional pretrial release is available under certain circumstances; for example, in connection with minor offenses or after unduly lengthy amounts of time in preventive detention. It is not available in cases of serious crimes, such as homicide or terrorism.

Guerrilla groups captured and held prisoner members of the army and police and called for passage of a prisoner exchange law. On January 11, in a radio interview, Jorge Briceno, the FARC's second-in-command, threatened to kidnap politicians until a prisoner exchange law was approved. Guerrillas, particularly the FARC, pressed the Government and Congress to adopt a permanent prisoner exchange law. Initiating regular prisoner exchanges was a top guerrilla priority during the year, and featured prominently in the FARC's negotiating points at the peace talks (see Section 1.g.). However, neither the Congress nor the Government attempted to pass such legislation, and there was minimal popular support for it. According to the Ministry of Defense, as of August, the FARC and the ELN held 259 police and 225 army personnel captive. During the year, guerrillas captured 235 members of the army, 94 members of the police, and 1 member of the navy.

The Constitution prohibits exile, and forced exile is not practiced formally. However, there were repeated instances of individuals pressured into self-exile for their personal safety. Such cases included persons from all walks of life, including politicians, human rights workers, slum-dwellers, business executives, farmers, and others. The threats came from various quarters: some individual members of the security forces, paramilitary groups, guerrilla groups, narcotics traffickers, other criminal elements, or combinations of the above.

e. *Denial of Fair Public Trial.*—The civilian judicial system, reorganized under the 1991 Constitution, is independent of the executive and legislative branches, both in theory and in practice; however, the suborning or intimidation of judges, witnesses, and prosecutors by those indicted or involved is common. The human rights Ombudsman's office reported receipt of 1,353 complaints of denial of the right to due legal process during 1998, the most recent year for which statistics were available.

The judiciary includes the Constitutional Court, Supreme Court of Justice, the Council of State, the Superior Judicial Council, and lower courts. The Prosecutor General's office is an independent prosecutorial body that brings criminal cases before the courts. On June 30, the National Tribunal, which had served as the first appellate court for the regional (anonymous) courts, was replaced by a new chamber, the specialized jurisdiction. The Supreme Court of Justice serves as the appellate court for decisions by the new chamber and lower appellate courts, and is also the court in which elected officials, full generals and admirals, diplomats, and judges are tried. The Council of State is the appellate court for civil cases. The Constitutional Court is to adjudicate cases of constitutionality and reviews all decisions regarding motions for cessation of judicial processes. The CSJ is the administrative

arm of the judicial branch and also has the responsibility of determining whether individual cases involving members of the security forces are to be tried in civilian or military courts. Jurisdictional clashes among the Constitutional Court, Supreme Court of Justice, the Council of State, and the Superior Judicial Council were common, due to the lack of a single supreme judicial authority capable of deciding issues of competence or constitutional interpretation.

On June 30, the regional court system was dismantled formally and replaced with a new specialized jurisdiction for a period of 8 years (with performance to be reviewed by the Congress after 4 years). On July 1, the new system came into effect with a mandate to try certain crimes that have the potential to impede severely normal judicial functioning; including crimes of kidnaping, hijacking, paramilitarism, narcotics trafficking, money laundering, and human rights abuses. However, in a concession to the FARC, the Government removed rebellion, the criminal charge on which most guerrillas are tried, from the list of crimes to be tried by the specialized jurisdiction.

The specialized jurisdiction affords the protection of anonymity to prosecutors (during the preliminary and investigative stages of a case) and witnesses, conditioned upon the concurrence of the Prosecutor General. Some judges, who lost the protection of anonymity under the new system, resigned. As was the case in the regional (anonymous) courts, specialized jurisdiction prosecutors are permitted 12 months to investigate and develop cases, rather than the 6 months afforded to regular civilian judiciary prosecutors.

Congress included in the legislation creating the specialized jurisdiction two articles that state that under no circumstance are the reports of the agencies with judicial police powers—including the DAS, the investigative unit of the Prosecutor General's office, and the judicial police element of the National Police—or information provided by confidential informants to be used as evidence in the new courts.

As part of the Ministry of Defense, the military judiciary falls under the executive branch, rather than under the judicial branch. The armed forces commander is also the president of the military judiciary, which has no dedicated corps of military lawyers. The Military Penal Code predates the 1991 Constitution and does not contemplate some contemporary crimes. The workings of the military judiciary lack transparency and accountability, contributing to a generalized lack of confidence in the system's ability to bring human rights abusers to justice.

On June 17, the Congress passed a revised Military Penal Code, which President Pastrana signed into law on August 12. However, the Constitution provides that any judicial reforms, including reforms of the military judiciary, require implementing legislation to take effect. In addition, one clause of the new law stipulates that it would take effect no earlier than August 2000, to permit creation of an independent corps of military lawyers and other required bureaucratic structures. Among the provisions of the new code are that unit commanders no longer may judge their subordinates; that an independent judge advocate general corps is to be created; and that troops are to be protected legally if they refuse to carry out illegal orders to commit human rights abuses. In addition, the civilian judiciary is granted the right to be present at military trials of military personnel. According to the Vice President's office, in December the Government presented Congress with draft implementing legislation for the new code.

The reformed code directs that torture, forced disappearance, genocide, and crimes against humanity, as codified in international conventions to which the country is a signatory, be tried by the civilian judiciary. However, according to the Vice President's office, forced disappearance is not codified in any convention to which the country is a party, so it still could not be prosecuted. On December 15, the Congress passed a reformed civilian penal code bill during the year, but in late December, President Pastrana returned the bill to Congress for modifications. The bill codified torture, forced disappearance, forced displacement, and genocide as crimes, but had not been signed into law by the President at year's end. Therefore, neither genocide nor forced disappearance were codified as crimes in the civilian Penal Code at year's end, and thus could not be prosecuted as such in civilian courts. However, similar crimes such as kidnaping, murder, and mass murder are codified in the civilian code.

A 1997 Constitutional Court decision directed the military judicial system to relinquish to the civilian judiciary the investigation and prosecution of grave human rights violations and other alleged crimes not directly related to acts of service—the 1991 constitutional standard for determining whether a case should be tried by the military or civilian judiciary. The military judiciary demonstrated an increased willingness during the year to turn cases of military officers, generally of lower rank, accused of human rights violations or criminal activities over to the civilian judiciary. The military also sent the cases of three colonels to the civilian judiciary—

the first time cases concerning officers of that rank have been transferred to the civilian judiciary. However, CSJ rulings indicated that it did not always consider itself bound by the Constitutional Court's 1997 directive when determining whether cases involving security force personnel belonged in the military or civilian judiciaries.

The CSJ assigned most cases involving high-level military personnel to the military courts, where convictions in human rights-related cases were the rare exception. According to the 1991 Constitution, general-rank officers are to be tried by the Supreme Court, but that provision was ignored in practice. No definitive court ruling has resolved various judicial interpretations of the provision; however, a majority of decisions seem to suggest that this provision applies only to full generals. In determining which alleged crimes were to be tried by military tribunals, the CSJ also regularly employed an extremely broad definition of acts of service, thus ensuring that uniformed defendants of any rank, particularly the most senior, were tried in military tribunals.

In October 1998, the CSJ determined that Brigadier General Fernando Millan Perez's alleged organization of a paramilitary group constituted an act of service and therefore turned General Millan's case over to the military judiciary for prosecution (see Section 1.a.). In reaching its decision, the CSJ determined that it was not bound by the Constitutional Court's narrow 1997 interpretation of the 1991 constitutional standard of relation to acts of service. The CSJ's decision effectively ended the Prosecutor General's investigation into whether General Millan had provided weapons and intelligence to paramilitary groups in Santander department.

In cases in which military officers were tried, convicted, and sentenced for human rights violations, they generally did not serve prison terms, but were confined to their bases or military police detention centers, as permitted by law. Military prisoners remain on active duty (and reduced pay) while in detention, but are relieved from command responsibilities. Some perform administrative functions while in detention. On August 3, Prosecutor General Alfonso Gomez Mendez publicly asked military forces commander General Fernando Tapias to explain how five military detainees, all charged with gross human rights violations, escaped their military captors at different moments during the year. On July 23, army Lieutenant Alberto Acosta Tarazona, who was sentenced in November 1997 to 58 years in prison for the torture and killing of 2 police detectives and their informant after they sought to arrest a regional paramilitary leader, walked away from the base where he was being held through its front gate. He remained at large at year's end.

Judges have long been subject to threats and intimidation, particularly when dealing with cases involving members of the armed forces or of paramilitary, narcotics, and guerrilla organizations. The number of instances of violent attacks against prosecutors and judges declined in recent years; however, prosecutors, judges, and defense attorneys continued to be subjected to threats and acts of violence. Several faceless judges were kidnaped during the year; none was killed. One faceless prosecutor was killed during the year, and the FARC was responsible for the forced disappearance of a regular civilian judge in Cartagena del Chaira after she sentenced one of its leaders to prison. Moreover, prosecutors reported that potential witnesses in major cases often lacked faith in the Government's ability to protect their anonymity and were thus unwilling to testify, ruining chances for successful prosecutions. These concerns led in 1984 to the creation of a regional or public order jurisdiction to prosecute cases involving the crimes of narcotics trafficking, terrorism, kidnaping, subversion, extortion, and some cases of human rights violations; these regional courts were in effect until June 30, when they were replaced by the specialized jurisdiction. In the regional courts, prosecutors, judges, witnesses, and attorneys acted under cover of anonymity for security reasons. Given security concerns, and since testimony and evidence typically was provided to the judge in written form, regional court trials were not public. While a 1993 reform of the Criminal Procedures Code addressed certain procedural shortcomings within the system, significant problems remained. It still was difficult for defense attorneys to impeach or cross-examine anonymous witnesses, and often the defense attorneys did not have unimpeded access to the State's evidence. As a result of such concerns, judges may no longer base a conviction solely on the testimony of an anonymous witness. Nonetheless, national and international human rights groups continue to accuse these courts of violating fundamental rights of due process, including the right to a public trial. Some of the most vocal congressional critics of these courts continued to be implicated in corruption or narcotics trafficking investigations.

The Attorney General's office investigates misconduct by public officials, including members of the military and police. Its constitutional mandate only provides for the imposition of administrative sanctions; it has no authority to bring criminal prosecutions. Although the Attorney General's office may refer cases to the Prosecutor Gen-

eral's office for investigation and prosecution, it regularly fails to do so. The Attorney General's office can draw upon a nationwide network of hundreds of government human rights investigators covering the country's 1,085 municipalities. However, since it cannot impose criminal sanctions, it is incapable of adequately punishing human rights abusers.

The Supreme Court elects the Prosecutor General for a 4-year term, which does not coincide with that of the President, from a list of three candidates chosen by the President. The Prosecutor General is tasked with investigating criminal offenses and presenting evidence against the accused before the various judges and tribunals. However, this office retains significant judicial functions and, like other elements of the civilian judiciary, it is struggling to make the transition from a Napoleonic legal system to a mixed one that incorporates an adversarial aspect.

In an attempt to deal with impunity, the Prosecutor General in 1995 created a special human rights unit as part of the regional courts system. The unit achieved significant results; its group of 25 anonymous prosecutors handled several hundred cases involving massacres, extrajudicial killings, kidnapings, and terrorism. These prosecutors issued arrest warrants against members of the public security forces, paramilitary, drug trafficking, and guerrilla organizations. The unit arrested 248 suspects during the year, and other state entities arrested 87 suspects against whom the human rights unit had open cases. In July the unit's director was replaced due to threats against his life.

The human rights unit of the Prosecutor General's office investigated, indicted, or prosecuted 303 security force members during the year, including at least 12 officers, on a variety of charges including homicide, torture, kidnaping, and sponsorship of paramilitary groups. The Attorney General's office and the security forces demonstrated a greater willingness to follow up with instructions that those ordered arrested be removed from their duties, denied the right to wear a uniform, or turned over to civilian judicial authorities. However, impunity continued to be very widespread.

The Constitution specifically provides for the right to due process. Judges determine the outcome of all trials; there are no jury trials. The accused is presumed innocent until proven guilty and has the right to representation by counsel, although representation for the indigenous and the indigent historically has been inadequate. In August the CSJ's administrative chamber reported that the civilian judiciary suffered from a backlog of 3,068,739 cases (including 604,506 penal cases), and that the number of outstanding arrest warrants was 338,000. As of August, 223,000 motions for cessation of judicial actions ("tutelas") were before the Constitutional Court for its legally mandated review.

Defendants in trials conducted by the regular courts have the right to be present and the right to timely consultation with an attorney. Regular court defendants and their attorneys have the right to question, contradict, and confront witnesses against them, to present witnesses on their own behalf, and to have access to government evidence relevant to the case. The country's judiciaries, including regular civilian, specialized jurisdiction, and military, continue to be overwhelmingly Napoleonic in character; everything is processed in writing. Direct confrontations and cross-examinations of witnesses occurred only rarely. Defendants also have the right to appeal a conviction to a higher court.

The Chamber of Deputies elects the Public Ministry's National Ombudsman for Human Rights for a 4-year term, which does not coincide with that of the President. The office has the constitutional duty to ensure the promotion and exercise of human rights. In addition to providing public defense attorneys in criminal cases, the Ombudsman's 34 departmental and regional offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights violations. However, in practice, the Ombudsman's operations are underfunded and understaffed, slowing its development of a credible public defender system.

Within the FARC-controlled despeje zone, local FARC leaders effectively supplanted judicial authorities. Residents of the zone regularly were denied the right to a fair trial. The public prosecutor at San Vicente del Caguan fled the area after receiving threats from the FARC; the judge at Mesetas fled after his office was sacked; and guerrillas kidnaped the judge at Cartagena del Chaira, just outside the despeje zone, after she rendered a decision against a guerrilla. Prosecutor General Alfonso Gomez Mendez said in July that elements of the civilian justice system would return to the despeje zone only when the police and army did.

The Government states that it does not hold political prisoners. The ICRC reported that it monitored approximately 3,000 cases of imprisoned citizens accused of terrorism, rebellion, or aiding and abetting the insurgency, which are crimes punishable under law.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for the protection of these rights; however, at times the authorities infringed upon them. The law generally requires a judicial order signed by a prosecutor for the authorities to enter a private home, except in cases of hot pursuit. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional and human rights. Due to intimidation, corruption, or the absence of evidentiary proof collected directly by prosecutors, guerrilla suspects captured by the security forces in or out of combat and turned over to the judicial authorities routinely were set free.

A judicial order or the approval of a prosecuting attorney is required to authorize the interception of mail or the monitoring of either landline or cellular telephones. This protection extends to prisoners held in jails. However, various state authorities sometimes monitored telephones without obtaining prior authorization. No officials have ever been disciplined for illegal wiretapping. There were unconfirmed reports by some human rights groups that they were subjected to surveillance, harassment, or threats by members of the security forces.

Guerrillas regularly forcibly recruited children and indigenous people to serve as soldiers (see Sections 1.g. and 5). There are some child soldiers among the paramilitary groups.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The internal armed conflict and narcotics trafficking are the central causes of violations of human rights and humanitarian law. Government security forces at times violated international humanitarian law, and continued to commit serious human rights abuses, although the great majority of serious abuses were committed by paramilitary groups and guerrillas.

The ICRC reported that the Government, including military authorities, followed an open-door policy toward the ICRC and readily incorporated Red Cross curriculums on international humanitarian law in standard military training. The military has reduced its emphasis on body counts as a means of assessing field performance. However, impunity remains a problem. According to military sources, local commanders typically preferred to transfer or discharge soldiers accused of serious human rights violations, rather than initiate court martial proceedings.

A preliminary investigation by the Prosecutor General of the December 1998 confrontation between the Government and the FARC at Santo Domingo, Arauca, was underway at year's end. Human rights monitors charged that military aircraft had attacked the jungle village, killing 18 civilians and wounding 25 others, while engaging the FARC. The military strongly denied these accounts, stating that a battle took place about 4 miles outside the town, and that deaths in Santo Domingo were the result of a FARC truck bomb that exploded prematurely. FARC defectors confirmed this version, according to the Ministry of Defense.

According to the independent Advisory Committee for Human Rights and Displacements (CODHES), some 288,000 persons were displaced forcibly from their homes by violence during the year; approximately 308,000 persons were displaced during 1998. However, Human Rights Watch reported that forced displacement intensified in some regions during the year. Expectations that the Government's peace initiative might eventually stabilize local conditions encouraged some citizens to remain in their communities, according to CODHES. Internally displaced citizens during 1995–99 probably exceeded 1,000,000, but the total number—and the number of those who were displaced permanently—was difficult to quantify. Human Rights Watch quoted the Displaced Persons Support Group, an alliance of human rights, religious, and aid organizations, as stating that an estimated 1.5 million persons had been displaced by political violence since 1985. CODHES states that some persons have been displaced for as long as 10 years, but is unable to identify a typical timeframe for displacement. Some persons return to their homes within days or weeks, others within months, and some never return. Some displaced persons move several times after fleeing their original home, making tracking difficult. The Government does not consider persons to be displaced after 2 years. CODHES estimated that perhaps 65 percent of displacements became permanent. Many displaced persons lost access to health care, employment, and education (see Section 5).

The Government's response to the needs of the displaced population was inadequate. The Government has no systematic program to make provisions for humanitarian assistance to the displaced, although it is required by law to do so. The Solidarity Network was neither designed nor prepared for emergency humanitarian assistance work, and it usually provided such assistance only to refugees returning to the country. The Government provides assistance through the Solidarity Network, the Institute for Family Welfare (ICBF), the Health Ministry, and other state entities. The Government's ability to provide assistance was further constrained in January, when an earthquake killed approximately 900 persons and left another

100,000 homeless. In March the Government estimated that 70 percent of humanitarian assistance received by displaced persons had been provided by the ICRC. Private estimates were higher. Most displaced citizens receiving ICRC emergency humanitarian assistance received it for only 90 days. The Government also tries to limit assistance to 90 days; however, some displaced persons in the camps at Turbo and Pavarando, and in a stadium in Cucuta, received aid for a longer period. The ICRC continued to expand its assistance to the displaced. It assisted an estimated 37,000 displaced families during the first 6 months of the year, compared with approximately 24,000 families during the second 6 months of 1998.

Many of the displaced fled to cities, which have had difficulty integrating large numbers of persons into their infrastructure. Conditions at the Government's two camps for displaced persons, at Pavarando and Turbo, were poor and unhygienic; health care remained poor and there were few educational or employment opportunities. One NGO worker with Medecins du Monde estimated in a press report that about 85 percent of the children under age 6 have some form of malnutrition. The Government sometimes encouraged civilian populations to move back to their homes before security situations had normalized.

Thousands of displaced persons also fled to Panama, Ecuador, and Venezuela, where they often were denied refugee status, treated as illegal immigrants, denied protection or assistance, and often returned to Colombia. The U.N. High Commissioner for Refugees (UNHCR) has an office in Bogota to address the problem and opened a field office in Barrancabermeja in December.

A group of 83 internally displaced persons occupied the Bogota UNHCR offices from August 2 to August 25. Two of the demonstrators crucified themselves outside the office. The protest was intended ostensibly to draw attention to the conditions of the country's displaced. On December 14, approximately 60 internally displaced persons broke into the ICRC's Bogota office and occupied the premises; government negotiations were underway at year's end.

According to army and United Nations estimates, there were between 50,000 and 70,000 antipersonnel landmines located in 15 departments. According to an army estimate, there have been 515 civilian and military victims of landmines since 1996. Of these, 116 died and 399 were mutilated. During the year, 15 members of the army were killed by antipersonnel landmines, and 7 were wounded. The armed forces maintained approximately 20,000 landmines during the year, most of which were used to defend static positions, and were appropriately mapped and marked. Due to the ongoing conflict, no generalized mine clearance program was underway at year's end; however, the army deactivated 35 minefields during the year. Thousands of displaced persons were unable to return to their homes due to the presence of antipersonnel mines. There were no known civilian mine awareness campaigns or assistance programs for civilian victims of landmines.

The human rights Ombudsman's office reported an increase in violence against women during 1997, especially in war zones. It noted that most female victims in zones of conflict chose not to report the abuses they had suffered, in part due to a lack of confidence in the efficacy of governmental institutions to address their problems. The Ombudsman noted that female leaders of political and peasant organizations in the Uraba-Antioquia region were increasingly the targets of persecution, threats, torture, and executions. According to the Ombudsman's 1997 report, there was a substantial increase in sexual assault and murder of women that year, particularly in Meta, Arauca, Cesar, and Sucre departments.

The Government sometimes militarized public hospitals in conflict areas such as Uraba, Putumayo department, and southern Bolivar department, which increased the risk that the hospitals would become targets of guerrilla attack. Police established their headquarters at Mongua, Boyaca, in the town's public clinic; the ELN attacked it on four separate occasions. On rare occasions, the State discouraged medical treatment of guerrillas. In Arauca the judiciary prosecuted, sentenced, and imprisoned a doctor and a nurse for providing medical treatment to guerrillas. In July after combat at Campamento, Antioquia, the army transported two wounded policemen to a hospital, but refused to transport also two wounded FARC members, one of whom later died.

The many paramilitary groups are diverse in their motivations, structure, leadership, and ideology. The 1997 establishment of the United Self-Defense Groups of Colombia (AUC) as a national umbrella organization was designed both to provide a national structure and to develop a more coherent political culture for the nation's local and regional paramilitary groups. The AUC paramilitary umbrella group comprises between 5,000 and 7,000 combatants, who are members of 7 major organizations. The largest of these organizations is the ACCU, which is based in Cordoba department and the Uraba region of Antioquia department. The AUC also has as many as 4,000 of its own dedicated combatants. Carlos Castano heads both the AUC

and the ACCU. Although illegal, some paramilitary groups reflected rural citizens' legitimate desire to defend themselves from the guerrilla threat. Other groups were actually the paid, private armies of drug traffickers or large landowners. Many members of paramilitary groups are former security force members or former guerrillas.

The victims of paramilitary killings were often unarmed civilians whom the paramilitary groups believed to be guerrillas or guerrilla collaborators. Paramilitary groups sought the death or displacement of civilians as punishment for perceived ties to the guerrillas. In addition to isolated and indiscriminate massacres, paramilitary groups launched several campaigns characterized by a series of massacres linked by time or location. Their activities also included selective killings, kidnaping, intimidation, and the forced displacement of persons not directly involved in the hostilities. Paramilitary groups targeted teachers (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), community activists, national and local politicians (including President Pastrana), peasants, and other persons whom they accused of supporting or failing to confront guerrillas. Paramilitary forces killed members of indigenous groups (see Section 5). Paramilitary groups continued their efforts to deprive guerrillas of civilian support by displacing civilian populations believed to be sympathetic to the guerrillas.

A major paramilitary offensive during January 7–10, following the beginning of peace talks between the Government and the FARC, and consisting of 19 separate massacres in 6 departments, left at least 143 persons dead and hundreds of others displaced. The massacres reportedly were in response to the FARC's December 1998 attempt to take an AUC stronghold in Nudo del Paramillo, in which 30 persons were killed. Many of those killed by the AUC were not involved directly with guerrillas. Although security forces had ample warning of the attacks and enough time, during the course of 4 days, to respond, they failed to intervene in any of the 19 massacres, and arrested only 2 suspects following the massacres. The Government did not investigate subsequently local commanding officers for omission, negligence, or collaboration with the paramilitary perpetrators of the crimes.

Among these massacres was the January 9–10 massacre at El Tigre, Putumayo, in which paramilitary forces killed at least 22, and possibly as many as 33, persons. Approximately 80 percent of the town's surviving population subsequently fled, after the attackers threatened to kill anyone who stayed in the town. An initial Prosecutor General's investigation was aborted due to death threats against the investigators and the local police's reported inability to protect them. On October 22, the Prosecutor General's human rights office formally indicted paramilitary leader Luis Guillermo Millan Cordona for the crime, as well as for establishing paramilitary groups; he remained at large at year's end.

Also among the series of January 7–10 AUC massacres was a January 9 massacre at Playon de Orozco, Magdalena department, in which at least 27 persons were killed. Gunmen, carrying lists with the names of their intended victims, dragged them outside a church during a Mass, and shot them while the priests and other villagers watched.

A 300-person paramilitary group based at Vetas, Norte de Santander, committed 15 massacres in and around the towns of La Gabarra and Tibu between May 29 and September 1. More than 145 persons whom the attackers claimed were guerrillas or guerrilla supporters were killed. (There is a heavy guerrilla presence in the area.) Nearby elements of the army's 46th Counterguerrilla Battalion (Tibu) and 5th Mechanized Group (Cucuta), as well as police, did not intervene. On August 30, the Government relieved from command three top regional security force commanders—Brigadier General Alberto Bravo Silva (commander of the army's 5th Brigade), the departmental police chief, and the head of the regional DAS—for failure to act to prevent the August 21–22 massacre. On September 2, Brigadier General Bravo Silva was separated from service on orders from President Pastrana. The Attorney General's office opened an investigation for possible dereliction of duty by security force officers in the area, including those who were relieved. A police captain who allegedly provided logistical support to the paramilitary forces is also under investigation. The Prosecutor General's human rights unit issued an arrest warrant for paramilitarism for Ulises Castellanos, who allegedly participated in the Tibu massacre. In late August, the Minister of Defense ordered an additional army battalion to the area (to be headquartered in La Gabarra), accompanied by 69 additional police. In response to the massacres, the Prosecutor General's human rights unit opened a new investigative subdivision, which had implicated 14 persons in formal investigations by year's end.

The last of the original 400-plus "Convivir" rural self-defense cooperatives was dismantled during the year. The cooperatives were formed in 1994 to provide counterinsurgency intelligence to local police and military commanders. There had

been credible charges that some Convivir cooperative members had committed serious human rights abuses while fighting alongside, or as members of, illegal paramilitary units. Twenty of the original Convivir cooperatives were reconfigured as "special service cooperatives," and the Government legally recognized these groups. In November 1997 the Constitutional Court had ruled that while the groups were a constitutional means to combat guerrillas, they must relinquish rifles, machine guns, and other restricted weaponry in their possession. (Although the authorities originally intended these groups to be unarmed, they subsequently authorized an undetermined number to carry small arms in self-defense.) Other Convivir groups clearly were operating outside the terms of the law, as they were armed with rifles, shotguns, machine guns, and other weaponry, much of it authorized, sold, or otherwise provided to them by the military. In July 1998, the Government began disbanding the cooperatives.

On April 12, the Prosecutor General's office placed police Captain Johnny Estrada under preventive detention while he awaited trial for participation in forming paramilitary groups, related to the "Convivir El Corral," centered in Arauca.

Some local army and police commanders tacitly tolerated—and sometimes aided and abetted—the activities of paramilitary groups, despite the public pronouncements of the Government and the armed forces high command that they intended to combat paramilitary violence. At times, individual commanders and troops at local levels armed, coordinated actions with, or shared intelligence with paramilitary groups. Some military commanders effectively afforded paramilitary groups protection by allowing them to establish their base camps in areas generally under military control. Paramilitary groups that received such shelter often were able to attack guerrillas with minimal fear of reprisals. In October 1998, Vice President Gustavo Bell admitted that despite official policy, "some members of the armed forces have maintained some degree of links to paramilitary groups;" he stated that there was no evidence of an "institutional decision" by the armed forces to cooperate with paramilitary groups. However, paramilitary forces find a ready support base within the local military and the police, as well as civilian elites in many areas.

Despite the continuing significant rise in paramilitary activity since 1992, security forces failed to give priority to confronting these illegal groups. According to the Ministry of Defense, the military, National Police, and CTI captured a total of 556 members of paramilitary groups and killed more than 26 during the year. According to the Vice President's office, state security forces captured 188 members of paramilitary groups between January and September, and killed 37 during the same period.

The Government took some action during the year to investigate allegations of collaboration or complicity with paramilitary groups by members of the security forces, and to punish those responsible (see Section 1.a.). The Prosecutor General's office and the Attorney General's office in some instances took action in response to collaboration with paramilitary groups by members of the security forces.

On July 23, 1998, the Prosecutor General's human rights unit arrested four members of the army's 17th Brigade and charged them with sponsorship and formation of illegal paramilitary groups. The four men were arrested on the basis of testimony from several of the members of a paramilitary group who had surrendered to that brigade in February 1998. There was no reported progress in the case at year's end.

Paramilitary groups on occasion used landmines and sometimes forced underage combatants into their ranks. Paramilitary groups' respect for the protected status of hospitals, medical personnel, and the emblem of the Red Cross improved during the year, due in large part to educational efforts by the ICRC. However, in July the AUC temporarily closed the hospital at Santafe de Antioquia to all but paramilitary patients.

Guerrilla organizations continued to pursue strategies that routinely led them to commit abuses against citizens. Their tactics consistently included extrajudicial killings, kidnaping, torture, targeting of civilian populations and installations, including medical facilities, and the forced recruitment of children as young as 10 years old. In response to President Pastrana's August 12 call to all armed actors to obey international humanitarian law (the rules of war), the FARC responded that it would not abide by, and was not bound by, international humanitarian law.

Two main guerrilla armies, the FARC and the ELN, as well as the much smaller EPL and other groups, commanded an estimated total of between 11,000 and 17,000 full-time guerrillas operating in more than 100 semiautonomous groups in 30 of the nation's 32 departments. These groups undertook armed actions in nearly 1,000 of the 1,085 municipalities. Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through the use of tactics such as killings, forced disappearances, the mutilation of bodies, attacks on ambulances, and execu-

tions of patients in hospitals. Guerrillas also killed indigenous people (see Section 5) and religious leaders (see Section 2.a.).

Guerrillas used landmines both to defend static positions (such as base camps, cocaine laboratories, and sites at which kidnap victims were held) and as indiscriminate weapons of terror. Landmines planted by guerrillas or disguised as everyday items such as soccer balls or paint cans often resulted in the killing or maiming of civilian noncombatants; thousands of displaced persons were unable to return to their homes due to the presence of antipersonnel mines. The FARC used sulfuric acid in the gas canisters that it employed as artillery. Scores of soldiers, police, and civilians were burned indiscriminately as a result. Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, both it and the larger FARC regularly forced children into their ranks (see Section 5). Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of young girls is a particular problem.

On March 15, the press reported that FARC members entered the town of Vereda Mata de Platano, Caparrapi municipality, Cundinamarca department. The attackers forced approximately 100 residents from their homes, forced them to lie down in the street, and shot anyone whose name appeared on their list of alleged paramilitary collaborators. Nine men were killed.

Between July 8 and 12, the FARC conducted a generally unsuccessful offensive in 15 departments, which was characterized by numerous abuses. Many of the FARC units involved undertook their attacks from the despeje zone. According to army estimates, 289 members of the FARC were killed during the offensive (including approximately 70 children between the ages of 9 and 15).

On July 30–31, the FARC destroyed approximately 80 percent of the town of Narino, Antioquia, during a massive attack. The guerrillas killed eight civilians (including four children) and nine police officers during or after the attack. The FARC summarily executed several of the police officers after having captured them and also wounded 7 police and 11 civilians. A hospital, a school, and approximately 40 homes were among the buildings destroyed. The FARC then declared family and girlfriends of surviving policemen to be military targets, causing many to flee.

On September 27, the FARC killed seven persons in Barrancabermeja. The victims were reportedly members or sympathizers of the ELN and were among a group of squatters that had occupied a new public housing project. Local police and army units reportedly did not intervene.

In July the FARC admitted to having killed 11 persons in the despeje, who had disappeared at various times beginning in November 1998. The FARC accused the victims of being members of paramilitary groups.

Between November 16 and 23, the FARC attacked 15 cities in 5 different regions across the country, causing widespread devastation. The attack centered on the Guainia departmental capital of Puerto Inirida. The attacks were viewed publicly as a rejection of President Pastrana's call for a Christmas cease-fire. The attacks included the use of a hand grenade attached to a dog's collar and the destruction of a 150-year-old church.

Government forensic experts determined that, of 38 soldiers killed during the FARC's July 8 attack on Gutierrez, Cundinamarca department, 17 were killed by "coup de grace" shots to the head after the soldiers were captured.

According to the Federation of Colombian Municipalities, guerrilla attacks damaged or destroyed the installations of 66 municipal governments between January and July and kidnaped at least 50 mayors during the year (see Section 1.b.)

On October 20, the human rights unit of the Prosecutor General's office issued an arrest warrant on charges of terrorism, rebellion, and homicide for ELN front commander Luis Guillermo Roldan Posada. Roldan was wanted for masterminding the ELN's October 1998 attack on the oil and gas pipeline at Machuca, Antioquia. The resulting explosion killed 84 persons (including more than 38 children) and injured another 40 persons. In December two other ELN members also were indicted for the attack.

ELN and FARC attacks on the Cano Limon-Covenas and other pipelines caused oil spills that resulted in massive environmental damage.

Guerrilla groups also were responsible for multiple abuses of religious and medical personnel with protected status and of the wounded. During the July offensive, some FARC combatants wrongfully employed the emblem of the Red Cross or disguised themselves as medical personnel to either achieve surprise or flee combat. FARC combatants at Campamento, Antioquia, sought refuge in a home for the elderly and directed their offensive from the town hospital. In August the FARC killed one civilian and kidnaped another while looting the hospital in Dabeiba, Antioquia of medicines. The FARC previously attacked the same hospital in May. The ELN

killed several wounded members of paramilitary groups during the first half of the year in the hospital at Saravena. On a number of occasions, FARC guerrillas took over municipal clinics and used them as headquarters for their attacks on civilian and military targets.

In July 1998, then-President-elect Pastrana met with the FARC's leader, Manuel Marulanda Velez. In order to facilitate future negotiations, the two agreed to a demilitarized zone, in which the two sides could pursue peace talks. The despeje zone was initiated in November 1998 in five southern municipalities, with a total population of approximately 100,000. By the end of December 1998, security forces had completed their withdrawal from the area, effectively turning it over to FARC control. Representatives of the Government and the FARC met in January; however, the FARC suspended the negotiations after less than 2 weeks, claiming that the Government should produce "satisfactory results against paramilitary groups" before talks could resume. In May President Pastrana and Marulanda met again and agreed on a 12-point agenda for formal negotiations and on procedures for the creation of an international verification commission to monitor both sides' compliance with the terms of the despeje. However, a subsequent dispute over the issue of whether to immediately establish such a commission deadlocked both sides, and formal talks did not begin in earnest until October. The Government also broached peace talks with the ELN, but refused to continue the talks until the ELN released each of the more than 200 civilian noncombatants kidnaped in three mass kidnapings between May and July. By year's end, most of the kidnap victims had been freed, typically after paying ransom to the ELN; however, the ELN was still holding a score of these kidnap victims at year's end.

The FARC committed numerous abuses against civilians in the despeje zone. The FARC was responsible for killings, rape, alleged cases of forced disappearance, arbitrary detention, infringement of the rights to free speech and fair trial (see Section 1.e.), forced political indoctrination, and the forced recruitment of hundreds of children. According to press reports, the FARC has stated publicly that all persons between the ages of 13 and 60 in the despeje zone are liable for military service with the guerrillas. The FARC also has pressured at least one priest to leave the despeje zone and expelled another (see Section 2.c.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of the press; however, while the Government generally respected this right in practice, there were some significant exceptions. Journalists regularly practiced self-censorship to avoid retaliation and harassment. However, the privately owned print media published a wide spectrum of political viewpoints and often voiced harsh antigovernment opinions without fear of administrative reprisals. In 1997 the Constitutional Court declared unconstitutional the Government's ban on publication of guerrilla communiques by the media. A ban on the publication of evidence pertaining to criminal investigations, based on the secrecy provisions of the Penal Code and an anticorruption statute, remained in effect.

In August 1998, the dean of the Los Andes University law school and the leading daily newspaper El Tiempo filed a legal challenge to the 1997 Constitutional Court decision upholding a 1996 law that gave the Government unprecedented authority over the content of television programming. The plaintiffs asserted that the law was aimed at limiting journalistic freedom of expression. At the very end of 1998, the court ruled that the actions of the administration of then-President Ernesto Samper were unconstitutional and that all future licensing agreements would be respected.

All citizens have the right to seek a judicial injunction or motion ("tutela") in cases involving violations of constitutional rights. This provides all persons and organizations, including the media, with a mechanism to criticize both governmental and private violations of fundamental rights. In May a decision by the Supreme Court determined that the media are obligated not only to rectify misinformation, but also to compensate the victim for damages caused.

Journalists typically work in an atmosphere of threats and intimidation. Fearing for their safety, journalists often refrain from publishing or airing stories counter to the interest of paramilitary groups, guerrillas, or narcotics traffickers. Unknown assailants killed nine journalists during the year, although not all the murders could be attributed directly to the journalists' work. (At least 13 journalists were killed in 1998.) On April 11, radio announcer Hernando Rangel Moreno was killed at a friend's home. Although he was not working for any specific media at the time of his murder, he occasionally had written reports critical of the paramilitary groups for the El Plato, Magdalena local newspaper Sur Trienta Dias. A former mayor of El Plato was charged with the killing and was in prison at year's end. On August 13, well-known radio and television political satirist Jaime Garzon was killed while

on his way to work (see Section 1.a.). On September 16, an unidentified individual killed German Quintero Torres, the editor-in-chief of the local newspaper El Pilon in Valledupar, Cesar. He was also a correspondent for a regional television newscast, and vice president of the Valledupar Journalists' Association. On October 22, unknown assailants abducted and killed Roberto Julio Torres, a journalist for the Sincelejo, Sucre newspaper El Meridiano, in San Onofre, Sucre. On November 29, independent cameramen Alberto Sanchez and Luis Alberto Rincon were killed in El Playon, Santander; they had been covering a local fair. On December 5, Pablo Emilio Medina, cameraman for a local television newscast, was killed in Garzon, Huila while covering a FARC attack on the town.

In October the Organization of American States (OAS) Special Rapporteur for Freedom of Expression stated that the "press freedom situation in Colombia is a serious source of concern" and that in addition to the killings of journalists, "Colombian journalists endure constant threats and intimidation."

According to the local NGO, Prensa Libre, 76 journalists were kidnaped during the year. Guerrillas abducted many of them to bear witness to crimes committed by paramilitary forces or to deliver messages to local authorities. Prensa Libre reported that on October 16, the EPL held 60 journalists captive for 26 hours in Santander department, where they were covering the release of kidnaped singer Jorge Velosa. Henry Romero, a photographer for Reuters news agency, was kidnaped by ELN guerrillas on October 30 and held for a week. On October 30, seven journalists were abducted in Barrancabermeja, Santander department, and released 3 days later; they were held to record paramilitary crimes. On November 9, Jorge Utria, press officer for Congressman Carlos Romero, was kidnapped in Curumani, Cesar department, and released 3 days later. On November 11, the FARC kidnaped seven journalists in Ataquez, Cesar department; again to witness paramilitary crimes.

According to Prensa Libre, seven journalists received credible death threats; five of them fled the country. Most of these threats apparently were related to the journalists' work and aimed at intimidation.

Due to the continued high number of journalists killed in past years, in May the Prosecutor General's office created a new subdivision to handle investigations of crimes of this type. Progress in these investigations included the arrest in Valledupar of the alleged killers of German Quintero.

Media ownership remains highly concentrated. Wealthy families or groups associated with one or the other of the two dominant political parties continued to expand their holdings of news media, and regional firms continued to purchase local news media outlets. As a result of the general economic downturn, large press conglomerates closed radio stations and newspaper offices in certain provinces and implemented staff reductions. Although the press remained generally free, economic problems and the concentration of media ownership limited the media's resources, causing the media to rely heavily on a smaller pool of advertisers, including the Government, which the media often chose not to criticize.

Despite an attempt in 1998 by some members of Congress to abolish it, the National Television Commission continued to oversee television programming throughout the year. Detractors charged that it was susceptible to political influence.

The FARC restricted the movement of journalists in the despeje through blockades and random identity checks.

The Government generally respected academic freedom, and there was a wide spectrum of political activity throughout the country's universities. However, paramilitary groups and guerrillas maintain a presence on many university campuses, aimed at generating political support for their respective campaigns. They use both violent and nonviolent means towards political ends. Both paramilitary groups and guerrillas also regularly targeted public school teachers at the elementary and secondary levels for politically motivated killings. In 1998 the CPDH reported that slightly more than 10 percent of all victims of politically motivated homicides during the year were public school teachers.

The University of Antioquia temporarily closed its doors after the August 7 killing of student leader Gustavo Marulanda by AUC members. He was among six students threatened by members of paramilitary groups for allegedly supporting guerrilla groups. On May 4, unidentified attackers killed University of Antioquia professor Hernan Henao Delgado on the campus and also killed the University's cafeteria administrator. Members of paramilitary groups were widely suspected in both cases. However, the authorities had announced no leads in either case as of August, nor had they announced any leads in the May 6 attempted murder of Professor Argiro Giraldo Quintero. Approximately 20 students and professors at the University of Antioquia received death threats, and the university was bombed twice during the year.

Three prominent university professors were killed during the year, and one survived a failed attempt on his life. On September 15, Jesus Antonio Bejarano, a former government peace commissioner, was killed on the National University campus. Dr. Dario Betancur, head of the social sciences faculty of Bogota's Universidad Pedagogica, disappeared on April 30, and his body was found on September 3. On May 4, Dr. Hernando Henao, an anthropologist who published on the subject of displaced persons, was killed. On December 22, Professor Eduardo Pizarro Leongomez, director of the political studies and international affairs institute at the National University, was shot twice by unknown attackers, but survived. The police and the Prosecutor General's office were investigating this case. Many faculty members at the National University said there was great hesitation among professors to express views on the country's internal conflict for fear of retribution.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government respects this right in practice. The authorities normally do not interfere with public meetings and demonstrations and usually grant the required permission except when they determine that there is imminent danger to public order.

There were large demonstrations on several occasions by citizens in favor of peace. For example, on June 6, between 70,000 and 250,000 persons demonstrated in Cali to protest the ELN kidnaping of more than 170 persons from a church (see Section 1.b.). On October 24, as many as 6 million persons marched in antiwar protests held in 15 cities around the country.

The Constitution provides for freedom of association, and the Government respects this right in practice. Any legal organization is free to associate with international groups in its field. Membership in proscribed organizations, such as the FARC, the ELN, the EPL, and the AUC, is a crime.

c. *Freedom of Religion.*—The Constitution provides for religious freedom, and the Government respects this right in practice. Roman Catholic religious instruction is no longer mandatory in public schools, and a 1994 Constitutional Court decision declared unconstitutional any official government reference to religious characterizations of the country. Although the Catholic Church was separated from the State by the 1991 Constitution, it retains a de facto privileged status. The law on the freedom of religion provides a mechanism for religions to obtain the status of recognized legal entities. Special public recognition is required for any religion that wishes to minister to its adherents via any public institution. The Government permits proselytizing among the indigenous population, provided that it is welcome and does not induce members of indigenous communities to adopt changes that endanger their survival on traditional lands. There is little religious discrimination.

The FARC has placed religious restrictions on persons within the despeje zone. The United Pentecostal Church of Colombia reported that on August 2, the FARC killed two of its preachers, Jose Honorio Trivino and Miguel Antonio Ospina. Two other preachers and 25 evangelical church members also were killed between January and August, mostly in areas greatly affected by the conflict. FARC members were believed responsible for a majority of the killings, as well as regular threats, which forced the closure of 300 churches nationwide.

On April 30, the FARC forced Roman Catholic priest Rufino Perez to leave the despeje zone permanently after Perez called FARC members "murderers and thieves." In April the FARC attempted to expel Catholic priest Miguel Angel Serna, who had criticized publicly the FARC's management of the zone. The FARC allowed him to remain following strong public criticism and intervention by both the National Bishops' Conference and the presidency. In September a Polish priest was given 15 days to leave the despeje zone.

On May 30, the ELN kidnaped more than 170 persons, including a Catholic priest, from the La Maria Catholic church in southern Cali during Mass (see Section 1.b.).

On August 16, members of the EPL, a small guerrilla movement, kidnaped Bishop of Tibu Jose de Jesus Quintero between El Tarra and Tibu, Norte de Santander department, and freed him on September 19. Quintero had spoken out against a rash of paramilitary and guerrilla massacres in the area. He had been kidnaped previously by the ELN in 1997. On May 18, EPL members killed Catholic priest Pedro Leon Camacho in nearby Cachira, Norte de Santander, after he had denounced publicly the guerrilla group's abuses of the civilian population.

The Prosecutor General's human rights unit was investigating FARC commander "Arley Leal" for the September 1998 killing of Catholic priest Alcides Jimenez Chicangana (see Section 1.a.).

Jewish community leaders estimated that as many as 20 percent of the country's Jewish community had fled the country as of July. Among the principal causes was a string of kidnapings, assaults, and murders affecting Jewish business leaders.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to travel domestically and abroad, and the Government generally respects this right in practice, with some exceptions. Outsiders who wish to enter Indian tribes' reserves must be invited. In areas where counterinsurgency operations were underway, police or military officials occasionally required civilians to obtain safe-conduct passes; paramilitary forces and guerrillas often used similar means to restrict travel in areas under their control. On July 10, following numerous guerrilla attacks, the Government imposed a temporary dusk-to-dawn curfew, prohibiting road and river travel, in 10 departments, including 10 towns just outside of Bogota. Military counterinsurgency operations, forced conscription by paramilitary and guerrilla organizations, and guerrilla incursions often forced peasants to flee their homes and farms, and there was a very large population of internally displaced persons (see Section 1.g.).

According to the DAS, 65,000 citizens emigrated during the first 6 months of the year, due principally to the deteriorating security situation and economic recession. According to the Ministry of Foreign Affairs, requests for passports during the first 6 months of the year nearly tripled in comparison with the first 6 months of 1998.

The Constitution provides for the right to asylum, under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country has had a tradition of providing asylum since the 1920's. Since the 1970's, Colombia has granted asylum to Argentine, Chilean, Uruguayan, and Paraguayan citizens seeking refuge from dictatorial regimes.

The Government cooperates with the offices of the UNHCR and other humanitarian organizations in assisting refugees and internally displaced persons. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of the persecution an applicant may have suffered. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government, and citizens exercise this right in regularly scheduled elections by secret ballot. In 1998 voters elected Conservative Party candidate Andres Pastrana President in elections that were free, fair, and transparent, despite some threats by paramilitary groups, narcotics traffickers, and guerrillas to the electoral process. The Liberal Party controls the legislature.

Presidential elections are held every 4 years, with the incumbent barred for life from reelection. The Liberal and Conservative parties have long dominated the formal political process with one or the other winning the presidency. Public employees are not permitted to participate in partisan campaigns. Officially, all political parties operate freely without government interference. Those that fail to garner 50,000 votes in a general election lose the right to present candidates and may not receive funds from the Government. However, they may reincorporate at any time by presenting 50,000 signatures to the National Electoral Board. Voting is voluntary and universal for citizens age 18 and older, except for active-duty members of the police and armed forces, who may not vote.

There are no legal restrictions, and few practical ones, on the participation of women or minorities in the political process; however, both are underrepresented in official and party positions. Voters elected 14 women to the 102-seat Senate and 19 women to the 161-seat Chamber of Representatives in March 1998. There are 3 women in the 16-member Cabinet, serving as Ministers of Labor, Communications, and Foreign Trade.

Indigenous people are underrepresented in government and politics. Two Senate seats are reserved for indigenous representatives. Blacks also are underrepresented in government and politics. In September 1996, the Constitutional Court declared unconstitutional a 1993 law that set aside two House seats for citizens of African heritage, although the ruling nonetheless allowed the incumbents to complete their terms in office. There is one black Senator, but there are no black members of the Chamber of Representatives.

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

A large and varied nongovernmental human rights community is active, providing a wide range of views. Among the many groups are: the Colombian Catholic Bishops Conference, the Colombian Commission of Jurists; the Intercongregational Commission for Justice and Peace; the Permanent Committee for the Defense of Human

Rights; the Center for Investigations and Popular Research; the Advisory Committee for Human Rights and Displacements; the Latin American Institute for Alternative Legal Services; the Committee in Solidarity with Political Prisoners (dedicated to defending accused guerrillas); the Association of Families of Detained and Disappeared Persons; the Reinsertion Foundation (focused on demobilized guerrillas); the Pais Libre Foundation (focused on the rights of kidnap victims); and the Vida Foundation (focused on the rights of victims of guerrilla violence). Other international human rights organizations in the country that were active include the ICRC (with 17 offices across the country) and Peace Brigades International.

Although the Government generally did not interfere directly with the work of human rights NGO's, many prominent human rights monitors worked under constant fear for their physical safety. There were unconfirmed reports of security forces harassing or threatening human rights groups. Human rights groups were subjected to surveillance, harassing phone calls, graffiti campaigns, and threats by paramilitary, guerrilla, and other unidentified groups.

NGO's investigated and reported on human rights abuses committed by government forces, various paramilitary groups, and the guerrilla armies. Many NGO's expressed serious concern over the growing paramilitary and guerrilla violence—and the Government's increasingly apparent inability to stop either group. In particular, a number of NGO, as well as governmental, human rights officials were alarmed by the rapid growth and increasing political and military power of paramilitary groups.

The human rights community remained under intense pressure during the year. Human rights monitors were subject to a systematic campaign of intimidation, harassment, and violence. At least seven human rights advocates were killed during the year. In addition, approximately 20 human rights workers sought political asylum abroad, attempting to flee the country for their own safety. Many were frightened by a February threat against human rights activists by paramilitary leader Carlos Castano following a paramilitary kidnaping of four human rights workers. In March a group of Uraba merchants, cattle ranchers, community action boards, and other entities criticized area human rights NGO's as being sympathetic to guerrillas and opposed to the State and its armed institutions.

The Government, through the Ministry of the Interior and DAS, allocated approximately $4.3 million (8 billion pesos) to protecting human rights advocates and labor activists associated with 88 different human rights NGO's and unions. The funds were dedicated to security measures for individuals as well as for the headquarters of the NGO's, an emergency radio network, and funding for travel abroad for particularly threatened individuals. However, human rights groups accused the Government of disbursing the funds too slowly.

On September 17, unidentified gunmen killed Carlos Arturo Pareja, the human rights Ombudsman's representative for San Juan Nepomuceno, as he gave a radio interview. His assistant, Janes Rua Garcia, also was killed. An investigation was underway at year's end.

On January 30, unidentified individuals pulled Everardo de Jesus Puerta and Julio Ernesto Gonzalez, both members of the Committee for Solidarity with Political Prisoners (CSPP), from a Medellin-Bogota bus and killed them. The CSPP assumed that AUC members had killed the two persons, but the authorities believed that they were killed because they resisted robbery. The Interior Ministry announced a reward of approximately $26,681 (50 million pesos) for information leading to the capture of the three assailants.

On January 28, AUC members kidnaped human rights workers Jairo Bedoya, Jorge Salazar, Olga Rodas, and Claudia Tamayo, of the Popular Training Institute (IPC), whom they had accused of guerrilla links. Following the kidnaping, AUC leader Carlos Castano stated that he would begin an offensive against human rights NGO's. He declared as military targets alleged guerrilla sympathizers who had "infiltrated" human rights NGO's; he stated that legitimate human rights workers were "valued" and would not be targeted. He released Rodas and Tamayo February 8, but held Bedoya and Salazar until February 18, proclaiming them "prisoners of war." On August 29, a bomb badly damaged the IPC's Medellin headquarters. Police announced no leads in the case of the IPC bombing nor in attacks on labor union headquarters that occurred the same day (see Section 6.a.).

On November 28, AUC members abducted Southern Bolivar Department peasant leaders Edgar Quiroga and Gildardo Fuentes. The paramilitary group accused the two men of guerrilla activities, but according to state law enforcement agencies, both men were legitimate local activists engaged in trying to secure humanitarian assistance for the region's internally displaced persons. A later paramilitary statement indicated that the men had been killed. Neither had been seen or heard from again at year's end.

The human rights unit of the Prosecutor General's office indicted seven persons for the 1997 murders of two CINEP workers, and issued arrest warrants for Carlos Castano and four other members of paramilitary groups (see Section 1.a.).

On April 16, the human rights unit of the Prosecutor General's office formally indicted suspected paramilitary leader Libardo Humberto Prada Bayona for the August 1998 killing in Valledupar of Amparo Leonor Jiminez. Jiminez was a local coordinator for the NGO "Redepaz" (Peace Network) and was a journalist. She had been critical of security force-paramilitary links.

The Ministry of Defense reported that approximately 63,000 security force members received human rights training during the year. General Fernando Tapias, armed forces commander, reported to the press in August that about 90 percent of the military has gone through human rights training. Such training is provided by the ICRC, the Colombian Red Cross, the Roman Catholic Church, elements of the Government and security forces, and foreign governments. Many observers credited these programs with having done much to foster a climate of increased respect for human rights and international humanitarian law within the military forces in recent years.

The Government has an extensive human rights apparatus, which includes the office of the President's Adviser for Human Rights (currently Vice President Gustavo Bell), the Ministry of Defense human rights office, and dependent offices for each of the armed forces. The national human rights Ombudsman, its regional representatives and corps of public defenders, the Attorney General's office and its delegate for human rights and regional representatives, and the Prosecutor General's office and its human rights unit are all independent institutions, not subject to executive branch direction.

On August 12, President Pastrana and Vice President Bell made public the Government's national human rights plan. The plan called for the respect, promotion, and assurance of human rights. It promised increased government attention to the consequences of human rights abuses and called on all armed factions to respect international humanitarian law. The plan asserted that security forces would combat both guerrilla and paramilitary forces. One of the plan's most important provisions permitted the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient."

The human rights Ombudsman's office received 18,479 human rights complaints during 1998 (a slight decrease from 1997) and concluded investigations of 11,821 complaints that year. It also provided 37,262 free legal consultations through its corps of more than 1,000 public defenders, many of whom work only part time.

The U.N. High Commissioner for Human Rights (UNHCHR) and the UNHCR have offices in Bogota. In 1997 the UNHCHR opened a field office in Bogota to observe human rights practices and advise the Government. Originally scheduled to end after 1 year, the Government again renewed the office's mandate, until April 2000. The office is tasked with monitoring and analyzing the human rights situation throughout the country and with the provision of assistance to the Government, civil society, and NGO's in the field of human rights protection. It submitted reports to the Government and to the United Nations.

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

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions are not enforced. The killing of homosexuals as part of the practice of social cleansing continued.

Women.—Rape and other acts of violence against women are pervasive in society, and like other crimes, seldom are prosecuted successfully. The quasi-governmental Institute for Family Welfare and the Presidential Adviser's Office for Youth, Women, and Family Affairs continued to report high levels of spouse and partner abuse throughout the country. The ICBF conducted programs and provided refuge and counseling for victims of spousal abuse, but the level and amount of these services were dwarfed by the magnitude of the problem.

The National Institute for Forensic Medicine reported 40,469 instances of domestic abuse during the year, as well as 12,350 reported sexual crimes. The Institute estimated that 95 percent of all abuse cases are never reported to the authorities. Among the reported sexual crimes were 2,049 cases of rape.

The 1996 Law on Family Violence criminalizes violent acts committed within families, including spousal rape. The law also provides legal recourse for victims of family violence, immediate protection from physical or psychological abuse, and judicial authority to remove the abuser from the household. It allows a judge to oblige an

abuser to seek therapy or reeducation. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders issued by the courts. A 1997 law also made additional, substantial modifications to the Penal Code and introduced sentences of between 4 and 40 years for crimes against sexual freedom or human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The law also repealed an old law that fully exonerated a rapist if he subsequently offered to marry the victim and she accepted. However, there was little evidence that this legislation was enforced systematically. The National Institute for Forensic Medicine reported 19,859 cases of spousal abuse during the first half of the year. The overwhelming majority of victims were women. The First Lady Nohra Pullana de Pastrana is on the board of directors of the ICBF, and works with the "Make Peace" program, which provides support to women and children who were victims of domestic violence.

Trafficking in women is a problem (see Section 6.f.).

Women also faced an increased threat of torture and sexual assault due to the internal conflict (see Section 1.g.).

The Constitution prohibits any form of discrimination against women and specifically requires the authorities to ensure "adequate and effective participation by women at decisionmaking levels of public administration." Even prior to implementation of the 1991 Constitution, the law had provided women with extensive civil rights. However, despite these constitutional provisions, discrimination against women persisted. According to figures published by the United Nations, women's earnings for formal sector, nonagricultural work correspond to approximately 85 percent of men's earnings for comparable work, and women must demonstrate higher qualifications than men when applying for jobs. Moreover, women constitute a disproportionately high percentage of the subsistence labor work force, especially in rural areas.

Women experience a higher rate of unemployment than men and a higher percentage of women were employed in minimum wage jobs. According to the National Statistics Institute, 17.2 percent of men were unemployed as of September; during the same period, 23.3 percent of women were unemployed. Of those working in September, 25.6 percent of men earned the minimum wage, as did 35.1 percent of working women.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to provide them with training in parenting skills, women's groups reported that the social and economic problems of single mothers remained great. The Constitutional Court ruled in September 1997 that pregnant women and mothers of newborn children under 3 months of age could not be fired from their jobs without "just cause." Bearing children, the Court ruled, was not just cause.

Children.—The Constitution formally provides for free public education, which is compulsory between the ages of 6 and 15. Nevertheless, an estimated 25 percent of children in this age group do not attend school, due to lax enforcement of truancy laws, inadequate classroom space, and economic pressures to provide income for the family.

Despite significant constitutional and legislative commitments for the protection of children's rights, these were implemented only to a minimal degree. The Constitution imposes the obligation on family, society, and the State to assist and protect children, to foster their development, and to assure the full exercise of these rights. A special Children's Code sets forth many of these rights and establishes services and programs designed to enforce the protection of minors. Children's advocates reported the need to educate citizens with regard to the Code as well as the 1996 and 1997 laws on family violence, which had been drafted particularly to increase legal protection for women and children.

The National Institute for Forensic Medicine reported 9,713 cases of child abuse during the year; 1,161 of these cases involved sexual abuse. An estimated 25,000 boys and girls under age 18 work in the sex trade. In 1996 legislators passed a law prohibiting sex with minors or the employment of minors for prostitution, and they amended that law in 1997 to provide that conviction for nonviolent sexual abuse of a child under age 14 carries a prison sentence of 4 to 10 years. Conviction for rape of anyone under the age of 12 carries a mandatory sentence of 20 to 40 years in prison. Although enforcement of such laws is lax, crimes against children are being dealt with more severely than in the past. The ICBF oversees all government child protection and welfare programs and funds nongovernmental and church programs for children.

Trafficking in girls is a problem (see Section 6.f.).

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

In conflict zones, children often were caught in the crossfire between the public security forces, paramilitary groups, and guerrilla organizations. Children suffered disproportionately from the internal conflict, often forfeiting opportunities to study as they were displaced by conflict and suffered psychological traumas. The human rights Ombudsman's office estimated that only 15 percent of displaced children attend school. In July the Government announced that no one under the age of 18 could enter military service, even with the consent of a parent; previously, individuals over 16 years of age but below age 18 could volunteer to join the military with parental permission, but were barred from serving in combat.

The use of child soldiers by guerrillas was common, and paramilitary groups sometimes impressed children into their ranks. In May the FARC promised visiting Special Representative of the U.N. Secretary General on Children in Armed Conflict Olara Otunnu that it would stop forcing children into its ranks; however, it continued the practice. The Roman Catholic Church reported that the FARC lured or forced hundreds of children from the despeje zone into its ranks. It engaged in similar practices in other areas under its control. Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem. Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, it also regularly impressed children into its ranks. A 1996–98 human rights Ombudsman's study estimated that 6,000 children were "linked to or members of" guerrilla groups and reported that approximately 2,000 children were killed during 1998. There were 15 children among the 39 FARC guerrillas killed in combat at Puerto Lleras in July. The army killed approximately 70 children among the 289 FARC members killed during the FARC's July 8–12 offensive. Children were also among the preferred kidnaping targets of guerrillas (see Section 1.b.).

People with Disabilities.—The Constitution enumerates the fundamental social, economic, and cultural rights of the physically disabled, but serious practical impediments exist that prevent the full participation of disabled persons in society. There is no legislation that specifically mandates access for the disabled. According to the Constitutional Court, physically disabled individuals must have access to, or if they so request, receive assistance at, voting stations. The court also has ruled that the social security fund for public employees cannot refuse to provide services for the disabled children of its members, regardless of the cost involved.

Indigenous People.—There are approximately 80 distinct ethnic groups among the 800,000-plus indigenous inhabitants. These groups are concentrated in the Andes mountains, Pacific coast lowlands, the Guajira peninsula, and Amazonas department. The Constitution gives special recognition to the fundamental rights of indigenous people. The Ministry of Interior, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and self-determination rights of Indians. Ministry representatives are located in all regions of the country with indigenous populations and work with other governmental human rights organizations, as well as with NGO human rights groups and civil rights organizations, to promote Indian interests and investigate violations of indigenous rights. Nonetheless, members of indigenous groups suffer discrimination in the sense that they traditionally have been relegated to the margins of society. Few opportunities exist for those who might wish to participate more fully in modern life. In addition, indigenous communities suffer disproportionately from the internal armed conflict (see Section 1.g.).

According to the National Agrarian Reform Institute (INCORA), 64,377 indigenous families live on designated Indian reserves. Indigenous rights to their ancestral lands are by law permanent. INCORA reports that approximately 80 percent of these lands have been demarcated. However, armed groups often violently contested indigenous land ownership. Traditional Indian authority boards operate some 519 reserves; the boards handle national or local funds and are subject to fiscal oversight by the national Comptroller General. These boards administer their territories as municipal entities, with officials elected or otherwise chosen according to Indian tradition.

Indigenous communities are free to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

In 1998 INCORA estimated that some 40 indigenous communities had no legal title to land that they claimed as their own, and reported that an estimated 400 requests by indigenous communities to establish new reserves remained outstanding at the end of that year. In 1999 INCORA reported that some 350 requests by indigenous communities to establish new reserves remained outstanding at year's end. According to INCORA, more than 75 million acres have been recognized legally as In-

dian lands. It is buying back much of this land, which has been settled by mestizo peasants, and returning it to indigenous groups.

The Constitution provides for a special criminal and civil jurisdiction within Indian territories based upon traditional community laws. However, some observers charged that these special jurisdictions were subject to manipulation, and that punishments rendered by such community courts were often much more lenient than those imposed by regular civilian courts.

Members of indigenous communities continued to be victims of all sides in the internal conflict, and a number of them were killed. CINEP reported the killings of 40 indigenous people, and the forced disappearance of 19 during the first 9 months of the year; the perpetrators were not identified. CINEP also reported nine unidentified death threats made to entire indigenous communities during the first 9 months of the year. In August the national human rights Ombudsman stated in his annual report that the indigenous communities most affected by extrajudicial killings during 1998 (the most recent year for which information was available) were the Zenu, the Etnia Zenu, the Embera-Katio, the Korewaje, the Embera-Chami, and the Paez. The report also stated that two indigenous persons from unidentified communities also were killed. The report cited the State as being responsible for two of the killings, paramilitary groups for eight, and unidentified armed groups for the remaining two.

On January 31, unidentified attackers detained six members of the Embera-Katio tribe in Cordoba department, and killed one. Subsequently, they burned 14 boats belonging to the tribe. During May and June, a further four Embera-Katio leaders were killed as guerrillas and paramilitary forces struggled for control of southern Cordoba.

Paramilitary and guerrilla groups have been known to force indigenous people, including children, into their ranks. Some guerrilla groups reportedly favored indigenous people as guides and communicators, due to their knowledge of the geography of their historical lands and knowledge of generally unfamiliar languages.

Occidental Petroleum had returned all of its exploration concessions to the Government by 1990, after attempts to negotiate with the U'wa tribe broke down. The tribe had protested a 1995 award to Occidental and Ecopetrol allowing them to explore lands claimed by the U'wa. The U'wa had filed a complaint before the IACHR. A 1997 OAS joint study with a university recommended the immediate and unconditional suspension of oil exploration or exploitation activities; clarification of the status of U'wa territories and protected reserves; and the development of a formal process of consultation under auspices of the Government. The U'wa also had threatened to commit collective suicide if their wishes were not respected. In August the Government increased the U'wa reserve, from 100,000 acres to 1.25 million acres. The area has estimated oil reserves of up to 1 billion barrels.

In April U'wa leader Roberto Jose Cobaria Afanador fled the country, after receiving death threats from the FARC as part of a campaign to intimidate U'wa who might have cooperated in the investigation of the March killings of the three American indigenous activists (see Section 1.a.).

National/Racial/Ethnic Minorities.—According to the Ministry of the Interior, citizens of African heritage live primarily in the Pacific departments of Choco (370,000), Valle del Cauca (1,720,257), Cauca (462,638), and Narino (261,180), as well as along the Caribbean coast. Although estimates vary widely, blacks represent around 10 percent of the total population.

Blacks are entitled to all constitutional rights and protections but traditionally have suffered from discrimination. Blacks are underrepresented in the executive branch, judicial branch, and civil service positions, and in military hierarchies. Despite the passage of the African-Colombian law in 1993, little concrete progress was made in expanding public services and private investment in Choco department or other predominantly black regions. The same law also authorized black communities to receive collective titles to some Pacific coast lands. However, black leaders complained that the Government was slow to issue titles, and that their access to such lands often was inhibited by the presence of armed groups or individuals. Unemployment among African-Colombians ran as high as 76 percent in some communities. Choco remains the department with the lowest per capita level of social investment and is last in terms of education, health, and infrastructure. It also has been the scene of some of the nation's most enduring political violence, as paramilitary forces and guerrillas struggled for control of the Uraba region.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution recognizes the rights of workers to organize unions and to strike, except for members of the armed forces, police, and

those "essential public services" as defined by law. However, legislation that prohibits all public employees from striking is still in effect, even if often overlooked.

Unions, indigenous groups, debtors, students, and others brought the country to a partial halt on August 31 with a general strike, which ended on September 1. The Government and labor representatives began negotiations afterward. Strikers protested the Government's inability to confront the country's economic downturn, soaring unemployment, and a Labor Code reform bill that would have eliminated several popular worker benefits. Indigenous people reportedly blocked the Pan-American highway near the Ecuadoran border, protesting an alleged lack of Government attention to their problems. The FARC, youth gangs, and common criminals encouraged isolated acts of violence in some parts of the country; in the south of Bogota, the army's 13th Brigade moved in to restore order after common criminals and youth gangs looted shops and attacked police and other vehicles with stones. However, both unions and the Government renounced violence.

The 1948 Labor Code (which has been amended repeatedly) provides for automatic recognition of unions that obtain at least 25 signatures from potential members and comply with a simple registration process at the Labor Ministry. The law penalizes interference with freedom of association. It allows unions to determine freely internal rules, elect officials, and manage activities, and forbids the dissolution of trade unions by administrative fiat. According to estimates by the Ministry of Labor and various unions, 6 to 7 percent of the work force is organized. According to the Colombian Commission of Jurists, 89 percent of those organized are public sector workers. There are approximately 2,500 registered unions, 87 to 95 percent of which are organized in one of three confederations: The center-left United Workers' Central, with which 45 to 50 percent of unions are affiliated; the Maoist/Social Christian Colombian Democratic Workers' Confederation, with which approximately 30 percent of unions are affiliated; and the Liberal Party-affiliated Confederation of Colombian Workers (CTC), with which 12 to 15 percent of unions are affiliated. The number of unions fell significantly during 1998 (from a 1997 total of approximately 4,900), reflecting the effect of new legislation that encouraged the consolidation of individual companies' unions into broader, industry-based unions.

Before staging a legal strike, unions must negotiate directly with management and, if no agreement results, accept mediation. By law, public employees must accept binding arbitration if mediation fails; in practice, public service unions decide by membership vote whether or not to seek arbitration.

In May 1998, the International Labor Organization (ILO) expressed serious concern at allegations of murders, forced disappearances, death threats, and other acts of violence against trade union officials and members. The ILO documented more than 300 murders of trade union members during 1995–98. The ILO harshly criticized the Government for failing, since November 1996, to provide it with information on a single case of detention, trial, and conviction of anyone responsible for the murder of union officials and members.

During the ILO governing body's November meeting, the Government reached an amicable solution with the workers to accept an ILO direct contact mission to investigate workers' charges of government infringements of the right to free association, as well as the continued killing of unionists and impunity for the killers. The mission is scheduled to arrive in Bogota in February 2000 and to deliver its findings to the ILO in March 2000.

The Government still has not addressed a number of ILO criticisms of the Labor Code. In 1993 the ILO had complained about the following provisions of the law: The requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trades once 6 months have passed following a strike or dispute; the requirement that contenders for trade union office must belong to the occupation their union represents; the prohibition of strikes in a wide range of public services that are not necessarily essential; various restrictions on the right to strike; the power of the Minister of Labor and the President to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

Labor leaders throughout the country continued to be targets of attacks by paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. Killings of union members continued during the year. According to the National Labor School, more than 2,000 union members have been murdered since 1986, and labor leaders report widespread societal hostility toward unions. Some of those killed were targeted by the FARC for their membership in, or sympathy with, the National Syndicate of Agricultural Industry Workers (Sintrainagro), a union largely composed of demobilized EPL members. Many of the murdered Sintrainagro members had worked in the banana industry in Uraba region.

On February 17, an unknown assailant shot and killed 72-year-old Julio Alfonso Poveda, a founder of the United Workers' Central (CUT), prominent member of the Colombian Communist Party, and head of the National Federation of Agricultural Cooperatives, while he waited in Bogota traffic. The authorities did not report any leads in the case by year's end.

The authorities arrested former policemen Rafael Cespedes and Edgar Armando Daza Diaz for the October 1998 killing of CUT vice president Jorge Ortega in Bogota. One of the two men later escaped from detention. An investigation was underway at year's end (see Section 1.a.).

On August 29, the Sincelejo, Sucre department offices of the Association of Rural Land Users, a farm workers' union, were destroyed by a bomb. Police defused a bomb at the Medellin office of Union of Sindicated Labor (USO) the same day. The authorities had reported no leads in either case at year's end.

The expired 1995 collective work convention between Ecopetrol and the USO was replaced by a new agreement in May. The USO leadership remained in open conflict with the Government on many issues. USO leaders reported that its members in the oil-producing Magdalena Medio region continued to receive death threats from presumed paramilitary groups, who have accused USO officials of working with the ELN guerrillas waging a sabotage campaign against the nation's oil pipelines.

Unions are free to join international confederations without government restrictions.

b. *The Right to Organize and Bargain Collectively.*—The Constitution protects the right of workers to organize and engage in collective bargaining. Workers in larger firms and public services have been most successful in organizing, but these unionized workers represent only a small portion of the economically active population. High unemployment, traditional antiunion attitudes, a large informal economic sector, and weak union organization and leadership limit workers' bargaining power in all sectors.

The law forbids antiunion discrimination and the obstruction of free association; however, according to union leaders, both discrimination and obstruction of free association occurred frequently. Government labor inspectors theoretically enforce these provisions, but because there are 271 labor inspectors to cover 1,085 municipalities and more than 300,000 companies, the inspection apparatus is weak. Furthermore, labor inspectors often lacked basic equipment, such as vehicles. Guerrillas sometimes deterred labor inspectors from performing their duties by declaring them military targets. On July 9, according to the Ministry of Labor, unidentified attackers attempted to bomb the Antioquia department labor inspection office.

The Labor Code calls for fines to be levied for restricting freedom of association and prohibits the use of strike breakers.

Collective pacts—agreements between individual workers and their employers—are not subject to collective bargaining and typically are used by employers to obstruct labor organization. Although employers must register collective pacts with the Ministry of Labor, the Ministry does not exercise any oversight or control over them.

The Labor Code also eliminates mandatory mediation in private labor-management disputes and extends the grace period before the Government can intervene in a conflict. Federations and confederations may assist affiliate unions in collective bargaining.

Labor law applies to the country's 15 free trade zones (FTZ's), but its standards often were not enforced in the zones. Public employee unions have won collective bargaining agreements in the FTZ's of Barranquilla, Buenaventura, Cartagena, and Santa Marta, but the garment manufacturing enterprises in Medellin and Risaralda, which have the largest number of employees, are not organized. Labor unions do not exist in any of the zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and any form of forced or compulsory labor, and this prohibition generally is respected in practice in the formal sector; however, women were trafficked for the purpose of forced prostitution (see Section 6.f.). Paramilitary forces and guerrilla groups forcibly conscripted indigenous people (see Section 5). The law prohibits forced or bonded labor by children; however, the Government does not have the resources to enforce this prohibition effectively (see Section 6.d.). Although there were no known instances of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Section 1.g.), to work as prostitutes (see Section 5), or in some instances as coca pickers.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bans the employment of children under the age of 14 in most jobs, and the Labor Code prohibits the granting of work permits to youths under the age of 18; however, child labor is a significant problem. A 1989 decree establishing the Minors' Code prohibits the employment of children under age 12 and stipulates exceptional

conditions and the express authorization of Labor Ministry inspectors for the employment of children between the ages of 12 and 17 (inclusive). Children under 14 are prohibited from working, with the exception that those between the ages of 12 and 14 may perform very light work with the permission of their parents and appropriate labor authorities. All child workers (anyone under the age of 18) must receive the national minimum wage for the hours they work. Children between the ages of 12 and 14 can work a maximum of 4 hours a day; children between the ages of 14 and 16 can work a maximum of 6 hours a day; and children between the ages of 16 and 18 can work a maximum of 8 hours a day. All child workers are prohibited from working at night, or performing work in which there is a risk of bodily harm or exposure to excessive heat, cold, or noise. A number of specific occupations are prohibited for children as well, such as mining and construction. However, these requirements largely are ignored in practice, and only 5 percent of those children that work have filed for the required work permits. By allowing children of ages 12 and 13 to work, even under restricted conditions, the law contravenes international standards on child labor, which set the minimum legal age for employment in developing countries at 14 years.

In the formal sector, child labor laws are enforced through periodic review by the Ministry of Labor and by the military, which ensures compliance with mandatory service requirements. However, in the informal labor sector and in rural areas, child labor continues to be a problem, particularly in agriculture and mining. Children as young as 11 years of age work full time in almost every aspect of the cut flower industry as a way to supplement family income. Even children enrolled in school or, in some cases, those too young for school, accompany their parents to work at flower plantations at night and on weekends. In the mining sector, coal mining presents the most difficult child labor problem. Many marginal, usually family-run, operations employ their young children as a way to boost production and income; it is estimated that between 1,200 and 2,000 children are involved. The work is dangerous and the hours are long. Younger children carry water and package coal, while those age 14 and up engage in more physically demanding labor such as carrying bags of coal. These informal mining operations are illegal. The Ministry of Labor reported that, by the end of the year, an interagency governmental committee had removed approximately 80 percent of child laborers from the informal mines and returned them to school.

A Catholic Church study conducted in May stated that approximately 2.7 million children work, including approximately 700,000 who worked as coca pickers. This represented a sharp increase from 1992, when according to a 1997 study by Los Andes University, approximately 1.6 million children (between the ages of 12 and 17) worked. One observer noted that the recent economic downturn might increase the number of children working, especially in rural areas. Child participation in agricultural work soared at harvest times. According to the Ministry of Labor, working children between the ages of 7 and 15 earned on average between 13 and 47 percent of the minimum wage. An estimated 26 percent of working children had regular access to health care; approximately 25 percent were employed in potentially dangerous activities. According to army estimates, at least 3,000 children were employed by paramilitary groups and guerrillas as combatants (see Section 5). School attendance by working children was significantly lower than for nonworking children, especially in rural areas. The health services of the social security system cover only 10 percent of child laborers. A 1996 study by the national human rights Ombudsman of child labor in Putumayo department found that 22 percent of the children between the ages of 5 and 18 were full-time coca pickers. In the municipality of Orito, the figure reached 70 percent.

The Labor Ministry has an inspector in each of the 33 departments responsible for certifying and conducting repeat inspections of workplaces that employ children; however, this system has few resources and covered only the 20 percent of the child work force employed in the formal sector of the economy. In 1995 the Government established a National Committee for the Eradication of Child Labor, made up of representatives from the Ministries of Labor, Health, Education, and Communications, as well as officials from various other government offices, unions, employer associations, and NGO's. In December 1995, the committee produced an action plan, under which various efforts to eliminate child labor have been made. These include efforts to eradicate child prostitution in Bogota, child agricultural labor in the town of Cerritos in the Santander department, and child labor in the markets of Bucaramanga and Cucuta, primarily through providing economic incentives for parents to return their children to school.

The Government prohibits forced and bonded labor by children; however, it is unable to enforce this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Government sets a uniform minimum wage for workers every January to serve as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiation among representatives of business, organized labor, and the Government was about $125 (236,460 pesos) throughout the year. The minimum wage does not provide a decent standard of living for a worker and family. Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation in recent years. 70 percent of all workers earn wages that are insufficient to cover the costs of the Government's estimated low-income family shopping basket. However, 77 percent of all workers earn no more than, and often much less than, twice the minimum wage.

The law provides for a standard workday of 8 hours and a 48-hour workweek, but it does not require specifically a weekly rest period of at least 24 hours, a failing criticized by the ILO.

Legislation provides comprehensive protection for workers' occupational safety and health, but these standards are difficult to enforce, in part due to the small number of Labor Ministry inspectors. In addition, unorganized workers in the informal sector fear the loss of their jobs if they exercise their right to criticize abuses, particularly in the agricultural sector.

In general, a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry result in a high level of industrial accidents and unhealthy working conditions. Over 80 percent of industrial companies lack safety plans. According to the Social Security Institute, 17 percent of industrial companies lack safety plans. The Institute reported 50,178 work-related accidents during the year, 491 of which resulted in deaths. The industries most prone to worker accidents were mining, construction, and transportation.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons.

A bill was pending before the House of Representatives in October that would provide a prison term of 4 to 8 years and a fine up to the equivalent of 100 times the minimum legal monthly salary for any person who "promotes, induces, compels, facilitates, collaborates, or in any other way participates in the entry or exit of people into or from the country without complying with all legal requisites." While intended to combat alien smuggling in general, the law could be used to prosecute traffickers as well. A government committee composed of representatives of the Ministry of Foreign Affairs, Interpol, DAS, the Ministry of Justice, the Attorney General's office, the Prosecutor General's office, and the Presidency meets once every 2 months to discuss trafficking in persons (and arms). The country is a source for trafficking in women.

The Organization for Security and Cooperation in Europe (OSCE) issued a report on trafficking in persons in September, and stated that women and girls from Colombia are trafficked to North America and western Europe. There also were reports that women have been trafficked to Japan in increasing numbers in recent years. The women enter Japan on a tourist visa or an "entertainer" visa; they then are forced to work as prostitutes. There were also reports that women were trafficked to Spain for purposes of prostitution.

COSTA RICA

Costa Rica is a longstanding, stable, constitutional democracy with a unicameral Legislative Assembly directly elected in free multiparty elections every 4 years. Miguel Angel Rodriguez of the Social Christian Unity Party (PUSC) won the presidency in the February 1998 elections, in which approximately 70 percent of eligible voters cast ballots. The Government respects constitutional provisions for an independent judiciary.

The 1949 Constitution abolished the military forces. The Ministry of Public Security—which includes specialized units such as the antidrug police—and the Ministry of the Presidency share responsibility for law enforcement and national security. In 1996 the Government combined several police units within the Ministry of Public Security, including the Border Guard, the Rural Guard, and the Civil Guard, into a single "public force." Public security forces generally observe procedural safeguards established by law and the Constitution.

The market economy is based primarily on agriculture, light industry, and tourism. The economy grew 8.3 percent in 1999, compared with 6.2 percent in 1998. The

central government deficit narrowed in real terms to 3.1 percent of gross domestic product (GDP) compared with 3.3 percent in 1998; however, the public sector deficit widened to an estimated 4 percent of GDP, compared with 3.3 percent in 1998. The Constitution protects the right to private property; however, domestic and foreign property owners encounter considerable difficulty gaining adequate, timely compensation for lands expropriated for national parks and other purposes. The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property.

The Government generally respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, there were problems in a few areas. The judicial system moves very slowly in processing criminal cases, resulting in lengthy pretrial detention for some persons charged with crimes. Domestic violence is a serious problem, and abuse of children also remains a problem. Traditional patterns of unequal opportunity for women remain, in spite of continuing government and media efforts to advocate change. Child labor persists.

RESPECT FOR HUMAN RIGHTS

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

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

In September 1997, a criminal court found two of three former judicial police officers guilty of the 1994 murder of farmer Ciro Monge; the third officer awaited trial at year's end. The court sentenced the two men to 12 years in prison and $200,000 (50 million colones) in fines and costs. The two convicted officers appealed the rulings and lost; one fled the country in 1998 but was captured and expected to be returned to serve his sentence.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits cruel or degrading treatment and holds invalid any statement obtained through violence. The authorities generally abide by these prohibitions. An effective mechanism for lodging and recording complaints of police misconduct exists. The Ombudsman's office serves as a recourse to citizens that have complaints about violations of their civil and human rights and about deficiencies in public and private infrastructure. It investigates complaints and, where appropriate, initiates suits against officials. The Ombudsman's office received 14 reports of police abuse of authority or misconduct during the year, compared with 4 complaints in 1998.

A large percentage of police personnel owe their appointments to political patronage. The Rodriguez administration continued implementation of the 1994 Police Code designed to depoliticize and professionalize the police force. The Government's long-term plan is to establish permanent, professional cadres, eventually resulting in a nonpolitically appointed career force. The basic course for new police recruits includes training using a human rights manual developed by the Ministry of Public Security.

Prisoners generally receive humane treatment. Prisoners are separated by sex and by level of security (minimum, medium, and maximum). There are separate juvenile detention centers. Illegal narcotics are readily available in the prisons, and drug use is common. The Ombudsman's office notes that complaints about physical and psychological abuse of prisoners by guards increased during the year. The office received six such complaints of physical abuse, compared with two in 1998, and six complaints of psychological abuse, compared with four in 1998. The Ombudsman's office investigates complaints and refers serious cases of abuse to the public prosecutor.

Penitentiary overcrowding remained a problem, with the prison population estimated at 67 percent above planned capacity. The Government is expanding six prisons to address this problem. In March 1996, the Supreme Court's Constitutional Chamber issued an order to the San Sebastian prison in San Jose, giving the institution 1 year to achieve minimally acceptable conditions for the prisoners. As of August, occupancy in that prison was 108 percent above capacity, an increase from 88 percent the previous year. The Government approved the budget for a series of detention facilities in outlying provinces, which are expected both to reduce overcrowding and to locate prisoners closer to their families.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and law prohibit arbitrary arrest and detention, and the Government generally respects these prohibitions.

The law requires issuance of judicial warrants before making arrests. The Constitution entitles a detainee to a judicial determination of the legality of the detention during arraignment before a court officer within 24 hours of arrest. The authorities generally respect these rights.

The law provides for the right to release on bail, and the authorities observe it in practice. Generally, the authorities do not hold detainees incommunicado. With judicial authorization, the authorities may hold suspects for 48 hours after arrest or, under special circumstances, for up to 10 days.

The Constitution bars exile as punishment, and it is not used.

e. *Denial of Fair Public Trial.*—The Constitution and law provide for an independent judiciary, and the Government respects this provision in practice. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

The Supreme Court supervises the work of the lower courts, known as tribunals. The Legislative Assembly elects the 22 Supreme Court magistrates to 8-year terms, subject to automatic renewal unless the Assembly decides otherwise by a two-thirds majority. Accused persons may select attorneys to represent them, and the law provides for access to counsel at state expense for the indigent.

Persons accused of serious offenses and held without bail sometimes remain in pretrial custody for long periods. Lengthy legal procedures, numerous appeals, and large numbers of detainees cause delays and case backlogs. There were 1,109 accused persons, representing 17 percent of the prison population, jailed awaiting trial as of August 13.

There were no reports of political prisoners. However, one individual is jailed for committing crimes against the State (politically motivated acts of violence) in the 1980's. The human rights group Families for the Defense of Political Prisoners and Human Rights considers this person to be a political prisoner.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices; government authorities generally respect these prohibitions; and violations are subject to effective legal sanction. The law requires judicial warrants to search private homes. Judges may approve use of wiretaps in limited circumstances, primarily to combat narcotics trafficking.

The law grants considerable rights to squatters who invade uncultivated land, regardless of who may hold title to the property. Landowners throughout the country have suffered frequent squatter invasions for years. President Rodriguez made it a priority to reduce these conflicts, increase public security, and regularize land tenure. The Legislative Assembly is reexamining laws that give title through adverse possession. As a result, squatter invasions are occurring with increasing frequency in anticipation of the land tenure regularization.

On May 25, Public Security officers removed 350 squatter families, a total of 750 persons, from a parcel of land near San Jose. On June 30, officials removed 300 squatter families, a total of around 1,500 persons, from another parcel of land near San Jose. The authorities conducted these evictions lawfully, and there were no credible accounts of abuses by the officers who enforced the evictions.

The case of the 1997 shootings in the Pavones region of landowner Max Dalton and squatter Alvaro Aguilar was resolved in March when a court absolved the accused killer of Dalton. Press reports indicated that the investigators believed the two men shot each other; charges were never pressed against the first suspect in the case.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, a generally effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

There are 6 major privately owned newspapers, several periodicals, 20 privately owned television stations, and over 80 privately owned radio stations, all of which pursue independent editorial policies. While the media generally criticize the Government freely, there were unconfirmed allegations that the Government withheld advertising from some publications in order to influence or limit reporting. In May a court absolved a reporter and an editor from the daily newspaper La Nacion of libel charges.

In 1996 the Legislative Assembly passed a "right of response" law that provides persons criticized in the media with an opportunity to reply with equal attention and at equal length. Print and electronic media continued to criticize public figures; however, media managers have found it difficult to comply with provisions of this law. Editors have called for a change in the press law, although media managers

generally have been successful in defending themselves and their reporters against libel suits.

The Office of Control of Public Spectacles rates films and has the authority to restrict or prohibit their showing; it has similar powers over television programs and stage plays. Nonetheless, a wide range of foreign films are available to the public. A tribunal reviews appeals of the office's actions.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. While the Constitution establishes Roman Catholicism as the state religion, people of all denominations freely practice their religion without government interference. Religious education teachers, including those in public schools, must be certified by the Roman Catholic Episcopal Conference. Foreign missionaries and clergy of all denominations work and proselytize freely.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. There are no restrictions on travel within the country, on emigration, or the right of return.

There is a long tradition of providing refuge to people from other Latin American countries.

The law provides for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has admitted approximately 5,000 persons as refugees under terms of the convention. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government makes a distinction between political asylum and refugee status; the issue of the provision of first asylum did not arise. The Constitution specifically prohibits repatriation of anyone subject to potential persecution, and there were no reports of forced expulsion of persons to a country where they feared persecution.

The authorities regularly repatriated undocumented Nicaraguans, most of whom entered the country primarily for economic reasons. However, following Hurricane Mitch in 1998, the Government announced a program of general amnesty for all Nicaraguans, Hondurans, and Salvadorans in the country prior to November 9, 1998. By mid-August, 160,000 Nicaraguans had been processed for legal residence status, although not all were expected to qualify. There are an estimated 150,000 Nicaraguans residing legally, and another 150,000 who have not applied for amnesty or who entered the country after the November deadline.

Allegations of abuse by the Border Guard periodically arise. Although instances of physical abuse appear to have declined, there were credible reports of extortion of migrants by border officials.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through free and fair elections held on the basis of universal suffrage and by secret ballot every 4 years. The independent Supreme Electoral Tribunal ensures the integrity of elections, and the authorities and citizens respect election results. The Constitution bars the President from seeking reelection, and Assembly members may seek reelection only after at least one term out of office. In the 1998 elections, President Rodriguez's Social Christian Unity Party won a plurality in the Legislative Assembly, winning 27 of 57 seats. The National Liberation Party (PLN) won 23 seats, the Democratic Force won 3 seats, and 4 minor parties—the Labor Action, National Integration, Costa Rican Renovation, and Libertarian Movement parties—each won 1 seat.

Women encounter no legal impediments to their participation in politics. Although underrepresented overall, women are represented increasingly in leadership positions in the Government and political parties. Both vice presidents (who are also cabinet members), the Minister of Justice, the Minister of Women's Affairs, and 11 legislative assembly deputies are women. Sonia Picado, leader of the PLN, the principal opposition party, is also a woman. Former Assembly Deputy Sandra Piszk continues as Ombudsman, a key autonomous post created in 1993 to protect the rights and interests of citizens in their dealings with the Government, and Linette Saborio remains the Director General of the judicial investigative organization. The PUSC mandated that a minimum of 40 percent of posts in party councils be occupied by women and created the new Ministry of Women's Affairs, headed by Dr. Yolanda

Ingianna Mainieri. In 1998 female legislators formed the Foundation of Women Parliamentarians of Costa Rica to commemorate the 45th anniversary of the first female members of the Assembly. The group's principal focus is promoting women's involvement in politics, but it also works for a number of social objectives, including the decentralization of government.

Indigenous people may participate freely in politics and government. In practice, they have not played significant roles in these areas, except on issues directly affecting their welfare, largely because of their relatively small numbers and physical isolation. Nonetheless, they account for about 1 percent of the population, and their approximately 20,000 votes constitute an important swing vote in national elections. None of the 57 members of the National Assembly identifies himself as indigenous. There are two black members of the Assembly. The country's 100,000 blacks, largely resident on the Caribbean coast, enjoy full rights of citizenship, including the protection of laws against racial discrimination.

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

Various human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are cooperative and responsive to their views. The Costa Rican Commission for Human Rights, the Commission for the Defense of Human Rights in Central America, and the Family and Friends of Political Prisoners of Costa Rica monitor and report on human rights, as does the Ombudsman's office.

The Legislative Assembly elects the Ombudsman for a 4-year, renewable term. The Ombudsman's office is part of the legislative branch, ensuring a high degree of independence from the executive branch. The law provides for the functional, administrative, and judgmental independence of the Ombudsman's office, which is held by Sandra Piszk.

Several international organizations concerned with human rights, including the Inter-American Institute for Human Rights and the Inter-American Court of Human Rights, are located in San Jose.

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

The Constitution pronounces all persons equal before the law, and the Government generally respects these provisions.

Women.—The Government has identified domestic violence against women and children as a serious societal problem. The authorities have incorporated training on handling domestic violence cases into the basic training course for new police personnel. The Law Against Domestic Violence classifies certain acts of domestic violence as crimes and mandates their prosecution. An old law permits a judge to pardon a man accused of statutory rape if the perpetrator intends to marry the victim, she and her family acquiesce, and the National Institute for Children does not object; however, this law has not been applied in recent years. The domestic violence law requires public hospitals to report cases of female victims of domestic violence. It also denies the perpetrator possession of the family home in favor of the victim. Television coverage of this issue has increased in news reporting, public service announcements, and feature programs. Reports of violence against women have increased, likely reflecting a greater willingness of victims to report abuses rather than an actual increase in instances of violence against women. The public prosecutor, police, and the Ombudsman all have offices dedicated to this problem. The law against sexual harassment in the work place and educational institutions seeks to prevent and punish sexual harassment in those environments.

Prostitution and sex tourism are both legal. The prohibition against trafficking in women for the purpose of prostitution was made stricter by a statute that went into effect on August 17, although there have been only infrequent and isolated cases in the past (see Section 6.f.).

Women constitute 50.1 percent of the population. Upon forming his cabinet, newly elected President Rodriguez created the Ministry of Women's Affairs. The 1990 Law for the Promotion of the Social Equality of Women not only prohibits discrimination against women but also obligates the Government to promote political, economic, social, and cultural equality. In March 1996, the Government's National Center for the Development of Women and the Family presented its 3-year National Plan for Equality of Opportunity between Women and Men. The plan is based in great measure on the Platform for Action adopted at the Fourth World Conference on Women in Beijing in 1995.

According to the United Nations Development Program (UNDP) 1999 Human Development Report, women represent 31 percent of the labor force. Most women work

in the services sector, with others working in industry and agriculture. While laws require that women and men receive equal pay for equal work, average salaries for women remain somewhat below those of male counterparts. According to 1997 UNDP data, women occupy 45 percent of executive, management, and technical positions. The average life expectancy for women has increased by 14 years since the early 1970's to 79.2 years, higher than the 74.5-year average for men.

Children.—The Government is committed to children's rights and welfare through well-funded systems of public education and medical care. The Government spends over 5 percent of GDP on medical care. In June 1998, the Legislative Assembly passed a constitutional amendment increasing spending on education from 4 percent to 6 percent of GDP. The country has a high rate of literacy (95 percent) and a low rate of infant mortality (14 persons per 1,000). The law requires 6 years of primary and 3 years of secondary education for all children. There is no difference in the treatment of girls and boys in education or in health care services. The autonomous National Institute for Children (PANI) oversees implementation of the Government's programs for children. In December 1996, the Assembly passed a law strengthening PANI's role in protecting and promoting the rights of children, in accordance with the precepts of the U.N. Convention on the Rights of the Child.

In recent years, the PANI has increased public awareness of crimes against children. For the period from January to June, the Institute intervened in 2,154 cases of abandonment, 671 cases of physical abuse, 468 cases of sexual abuse, and 680 cases of psychological abuse of children. (Psychological abuse cases increased sharply because the 1997 Code of Childhood and Adolescence redefined such abuse and increased awareness of it.) Abuses appear to be more prevalent among poor, less-educated families. Traditional attitudes and the inclination to treat such crimes as misdemeanors sometimes hamper legal proceedings against those who commit crimes against children.

In February 1996, the PANI announced a comprehensive plan to improve the conditions of the poorest children. According to Institute estimates, 19 percent of children between the ages of 5 and 17 are employed in domestic tasks, while 15 percent work outside the home. The Government, police sources, and representatives of the United Nations Children's Fund acknowledge that child prostitution is a growing problem. Although no official statistics exist, the PANI has identified street children in the urban areas of San Jose, Limon, and Puntarenas as being at the greatest risk. The PANI estimates that as many as 3,000 children in metropolitan San Jose are involved in prostitution. On July 29, the Legislative Assembly passed a law making it a crime to engage in prostitution with minors. The Government took steps to enforce this law, and has raided brothels and arrested clients.

People with Disabilities.—The 1996 Equal Opportunity for Persons with Disabilities Law prohibits discrimination, provides for health care services, and mandates provision of access to buildings for persons with disabilities. This law is not enforced widely, and many buildings remain inaccessible to persons with disabilities. Nonetheless, a number of public and private institutions have made individual efforts to improve access. The PANI and the Ministry of Education published specific classroom guidelines for assisting children with hearing loss, motor difficulties, attention deficit disorder, and mental retardation.

Indigenous People.—The population of about 3.5 million includes nearly 40,000 indigenous people among 8 ethnic groups. Most live in traditional communities on 22 reserves which, because of their remote location, often lack access to schools, health care, electricity, and potable water. The Government, through the National Indigenous Commission, completed distribution of identification cards to facilitate access to public medical facilities. The Government also built a medical clinic and several community health centers in indigenous areas. The Ombudsman has established an office to investigate violations of the rights of indigenous people.

Section 6. Worker Rights

a. *The Right of Association.*—The law specifies the right of workers to join unions of their choosing without prior authorization, although barriers exist in practice. About 15 percent of the work force is unionized, almost entirely in the public sector. Unions operate independently of government control.

Some trade union leaders contend that "solidarity" associations, in which employers provide access to credit unions and savings plans in return for agreement to avoid strikes and other types of confrontation, infringe upon the right of association. After the International Labor Organization (ILO) Committee on Freedom of Association ruled that solidarity associations and their involvement in trade union activities violated freedom of association, the Government amended the Labor Code in 1993. The following year, the ILO Committee of Experts (COE) ruled that these and other planned changes fostered greater freedom of association. In 1995 the COE en-

couraged the Government to approve legislation to allow unions to administer compensation funds for dismissed workers and to repeal labor code provisions restricting the right to strike in certain nonessential public, agricultural, and forestry sectors. In June 1998, the Rerum Novarum Workers Confederation complained about government noncompliance with commitments to protect worker rights but withdrew the complaint after the Rodriguez administration asked for a reasonable period to demonstrate its commitment to worker rights. Some labor unions did not support the complaint because they believed that it interfered with the administration's national reconciliation process; Rerum Novarum considers the complaint still to be active.

There are no restrictions on the right of private sector workers to strike, but very few workers in this sector belong to unions. Accordingly, private sector strikes rarely occur. The Constitution and Labor Code restrict the right of public sector workers to strike. However, in February 1998, the Supreme Court formally ruled that public sector workers, except those in essential positions, have the right to strike. Even before this ruling, the Government had removed penalties for union leaders participating in such strikes.

Unions may form federations and confederations and affiliate internationally.

b. *The Right to Organize and Bargain Collectively.*—The Constitution protects the right to organize. Specific provisions of the 1993 Labor Code reforms provide protection from dismissal for union organizers and members during union formation. The revised provisions require employers found guilty of discrimination to reinstate workers fired for union activities.

Public sector workers cannot engage in collective bargaining because the Public Administration Act of 1978 makes labor law inapplicable in relations between the Government and its employees. However, the Supreme Court affirmed their right to strike (see Section 6.a.). In August the Government negotiated a wage increase following a 7-day strike by public sector workers. Private sector unions have the legal right to engage in collective bargaining.

All labor regulations apply fully to the country's nine export processing zones (EPZ's). The Labor Ministry oversees labor regulations within the EPZ's, but acknowledged that it has only 1 inspector for every 30,000 workers.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no known instances of such practices. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution provides special employment protection for women and children and establishes the minimum working age at 12 years, with special regulations in force for workers under the age of 15. The Legislative Assembly adopted the Code on Childhood and Adolescence in December 1997, which includes provisions designed to implement the U.N. Convention on the Rights of the Child. The Constitution and the Labor Code also provide special employment protection for children and establish the minimum working age at 15 years. Adolescents between the ages of 15 and 18 can work a maximum of 6 hours daily and 36 hours weekly, while children under age 15 cannot work legally. The PANI, in cooperation with the Labor Ministry, generally enforces these regulations in the formal sector. The Ministry of Labor reported that up to 147,000 children between 5 and 17 years of age are employed. With help from the ILO, the Labor Ministry is working to phase out child labor and has asked employers of children to notify the Ministry of such employment. Due to limited government resources for enforcement, some children work on the fringes of the formal economy in excess of these limits. After two adolescents died from chemical poisoning while working on banana plantations in 1993, the authorities prohibited employment of youths under the age of 18 in the banana industry. Nonetheless, child labor remains an integral part of the informal economy, which employs a significant proportion of the labor force. Laws prohibit forced and bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Constitution provides for a minimum wage. A National Wage Council, composed of three members each from government, business, and labor, sets minimum wage and salary levels for all sectors. Monthly minimum wages, last adjusted in July for the private sector, range from $132 (38,303 colones) for domestic employees to $640 (185,653 colones) for some professionals. Public sector negotiations, based on private sector minimum wages, normally follow the settlement of private sector negotiations. The Ministry of Labor effectively enforces minimum wages in the San Jose area, but does so less effectively in rural areas. Especially at the lower end of the wage scale, the minimum wage is insufficient to provide a worker and family a decent standard of living.

The Constitution sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Although often circumvented in practice, it also requires compensation for discharge without due cause. Generally, workers may work a maximum of 8 hours during the day and 6 at night, up to weekly totals of 48 and 36 hours, respectively. Nonagricultural workers receive an overtime premium of 50 percent of regular wages for work in excess of the daily work shift. However, agricultural workers do not receive overtime pay, if they voluntarily work beyond their normal hours. Little evidence exists that employers coerce employees to perform such overtime.

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law establish such committees but either do not use the committees or neglect to turn them into effective instruments for improving workplace conditions. While workers have the right to leave work if conditions become dangerous, workers who do so may find their jobs in jeopardy unless they file written complaints with the Labor Ministry. Due partly to budgetary constraints, the Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose. However, the Ministry of Labor has decided to improve the labor inspection function on a priority basis.

f. *Trafficking in Persons.*—The law prohibits trafficking in women for the purpose of prostitution, and on August 17, a statute went into effect that strengthens this prohibition. There have been only infrequent and isolated cases of trafficking in women in the past (also see Section 5). A local NGO reports that girls from Costa Rica have been transported through Central America and Mexico to work in the sex trade in the United States, Canada, and Europe. There were also reports of girls from the Philippines being trafficked to Costa Rica to work in the sex trade. Local authorities lack the resources necessary to tackle this problem; there is little in the way of government protection, aid, or educational campaigns for persons who have been trafficked to or from the country.

CUBA

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and commander in chief of the armed forces. President Castro exercises control over all aspects of Cuban life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. The Communist Party is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies already decided by the Government. The Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal organ of state security and totalitarian control. Officers of the Revolutionary Armed Forces (FAR), which are led by President Castro's brother Raul, have been assigned to the majority of key positions in the Ministry of Interior in recent years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigates and actively suppresses opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the rapid response brigades, and the Committees for the Defense of the Revolution (CDR's). While the Government traditionally used the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior, economic problems have reduced the Government's ability to reward participation in the CDR's and hence the willingness of citizens to participate in them, thereby lessening the CDR's effectiveness. Other mass organizations also inject government and Communist Party control into citizens' daily activities at home, work, and school. Members of the security forces committed serious human rights abuses.

The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment in joint ventures with the Government. In most cases, foreign employers are allowed to contract workers only through state agencies, which receive

hard currency payments for the workers' labor but in turn pay the workers a small fraction of this, usually 5 percent, in local currency. In May 1998, the Government retracted some of the changes that had led to the rise of legal nongovernmental business activity when it further tightened restrictions on the self-employed sector by reducing the number of categories allowed and by exacting relatively high taxes on self-employed persons. In August the Government's official press reported that the number of self-employed persons was 166,000, an increase from the fewer than 150,000 reported in 1998, when the number of self-employed persons was estimated to have dropped by one-fourth from 1997. According to official figures published in December, the economy grew 6.2 percent during the year. Despite this growth, overall economic output remains below the levels prior to the drop of at least 35 percent in gross domestic product that occurred in the early 1990's due to the inefficiencies of the centrally controlled economic system; the loss of billions of dollars of annual Soviet bloc trade and Soviet subsidies; the ongoing deterioration of plants, equipment, and the transportation system; and the continued poor performance of the important sugar sector. The 1998–99 sugar harvest was marginally better than the 1997–98 harvest, considered to have been the worst in more than 50 years. For the ninth straight year, the Government continued its austerity measures known as the "special period in peacetime." Agricultural markets, legalized in 1994, provide consumers wider access to meat and produce, although at prices beyond the reach of most citizens living on peso-only incomes or pensions. Given these conditions, the flow of hundreds of millions of dollars in remittances from the exile community significantly helps those who receive dollars to survive. Tourism remained a key source of revenue for the Government. The system of "tourist apartheid" continued, with foreign visitors who pay in hard currency receiving preference over citizens for food, consumer products, and medical services. Citizens remain barred from tourist hotels, beaches, and resorts.

The Government's human rights record remained poor. It continued systematically to violate fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully. Unlike in 1998, there were no credible reports of death due to excessive use of force by the police. However, members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh. The authorities routinely continued to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons, and it offered political prisoners the choice of exile or continued imprisonment. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association. It limited the distribution of foreign publications and news to selected party faithful and maintained strict censorship of news and information to the public. The Government restricts some religious activities but permits others. Before and after the January 1998 visit of Pope John Paul II, the Government permitted some public processions on feast days, and reinstated Christmas as an official holiday, but it has not responded to the papal appeal that the Church be allowed to play a greater role in Cuban society. During the year, the Government allowed about 15 new priests to enter the country; however, the applications of many priests and religious workers remained pending, and some visas were issued for periods of only 3 to 6 months. The Government kept tight restrictions on freedom of movement, including foreign travel. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and sought to discourage and thwart foreign contacts with human rights activists. The Government publicly stated before the Ibero-American Summit in November that visiting delegations were free to meet with any person in the country, and about 20 dissidents met with 9 different delegations, including 3 heads of state. However, prior to the summit, the Government temporarily detained a number of human rights activists to prevent them from preparing for meetings with the visiting leaders and also detained independent journalists to prevent them from covering the event. Violence against women is a problem, as is child prostitution. Racial discrimination often occurs. The Government severely restricted worker rights, including the right to form independent unions. The Government employs forced labor, including that by children.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings. Unlike in 1998, during the year there were no credible reports of deaths due to the excessive use of force by the national police. Government sanctions against perpetrators were light or nonexistent in the cases of deaths due to excessive use of force during 1998. There were no reports of proper investigations into the 1998 deaths of Wilfredo Martinez Perez, Yuset Ochoterena and Reinery Marrera Toldedo.

In October 1996, the Inter-American Commission on Human Rights (IACHR) issued its final report on the Government's July 13, 1994 sinking of the "13th of March" tugboat, which killed 41 persons, including women and children. The IACHR concluded that the Government violated the American Declaration on the Rights and Duties of Man and found the Government legally obligated to indemnify the survivors and the relatives of the victims for the damages caused. At year's end, the Government still had not done so. The Government detained a number of human rights activists to prevent them from participating in a Mass in memory of the victims on the anniversary of the deaths (see Sections 1.d. and 2.c.).

In March the Government announced that a Havana court sentenced Salvadoran citizen Raul Ernesto Cruz Leon to death for terrorism. The authorities arrested Cruz Leon in September 1997 and charged him with being the "material author" of the killing of an Italian tourist that month with a bomb, one of a series of explosions in Havana. In April the court sentenced a second Salvadoran citizen, Otto Rene Rodriguez Llerena, to death in the same case. Neither man was executed by year's end. The authorities also held two Guatemalan citizens in custody in the case; they awaited trial at year's end.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits abusive treatment of detainees and prisoners; however, there were instances in which members of the security forces beat and otherwise abused human rights advocates, detainees, and prisoners. There have been numerous reports of disproportionate police harassment of black youths (see Section 5).

On January 26, police approached 16-year-old Yusel Vidal Mejias and his friends, who were hanging on to a gasoline truck while riding their bicycles at about 11:00 p.m. The youths dispersed upon seeing the police, but police apprehended Vidal and severely beat him. Since Vidal had no identity documents, the police took him to the local police station, where the police told the registration official that he was a "ninja" (a popular expression referring to thieves who use acrobatic maneuvers to mount a moving truck and then proceed to throw bags of rice or beans onto another moving vehicle). Vidal's father, Jose Vidal Crossa, told of his son's arrest by friends and neighbors, reached the police station after midnight, and after nearly an hour's wait, secured his son's release. The father took the boy to the nearest hospital, where a doctor diagnosed him as having suffered "severe contusions of the right elbow, of the right knee, and multiple hematomas of the back." On January 27, the father met with the chief of police, who admitted that the police officer used excessive force and said that the officer would no longer have any duties related to street patrols. Citing a radio statement by the Director of Prisons of the Ministry of Interior (MININT) in 1996 that no prisoner in Cuba is mistreated, the father officially requested that the military prosecutor investigate the case and prosecute the police officer. There was no response from the Government as of year's end.

On August 14, police detained Dr. Oscar Elias Biscet Gonzalez, president of the Lawton Human Rights Foundation (FLDH), and other activists as they were going to a public park to demonstrate (see Section 2.b.). At the police station, a policeman punched Biscet in the face while another crushed his burning cigarette on Biscet's elbow when Biscet said, "God loves you." It was not known whether the Government ever sanctioned the two policemen responsible for the cigarette burn and for striking Dr. Biscet in the face.

The Government continued to subject those who disagreed with it to "acts of repudiation." At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims are obliged to stage public protests against those who dissent with the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occur. Police and state security agents are often present but take no action to prevent or end the attacks. Those who refuse to participate in these actions face disciplinary action, including loss of employment. During the year, there were no massive acts of repudiation directed against the homes of par-

ticular human rights activists; however, there were smaller-scale acts of repudiation, known as "reuniones relampagos," or "lightning fast meetings."

On October 28, in a press conference at his residence, Dr. Biscet announced plans for a protest march. Participants in the press conference were subjected to verbal abuse from a crowd in which observers noted the presence of security police in civilian clothes (see Section 2.b.). On November 10, this publicly announced nonviolent protest march from Dolores Park to Butari Park in the Lawton section of Havana was repressed when a crowd booed, chased, and struck three protesters. On November 12, Moises Rodriguez Quesada allowed his house to be used for a meeting of nongovernmental organizations (NGO's) (see Section 2.b.). On November 22, a small crowd threw stones for about 30 minutes at a metal door on the side of Rodriguez's house. Independent journalists also were subjected to acts of repudiation (see Section 2.a.).

Prison conditions continued to be harsh, and conditions in detention facilities also are harsh. The Government claims that prisoners have rights, such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director. However, police and prison officials often denied these rights and used beatings, neglect, isolation, and denial of medical attention against detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. Human Rights Watch reported that in February the Government revised the Penal Code to provide that prisoners "cannot be subjected to corporal punishment, nor is it permitted to employ any means against them to humiliate them or to lessen their dignity"; however, the revised code failed to establish penalties for committing such acts. There are separate prison facilities for women and for minors.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and continued to confiscate medications and food brought by family members for political prisoners. State security officials in Havana's Villa Marista prison took medications brought by family members for inmates and then refused to give the detainees the medicine, despite repeated assurances that they would. Prison authorities also routinely denied religious workers access to detainees and prisoners.

The rights to adequate nutrition and medical attention while in prison also were violated regularly. In 1997 the IACHR described the nutritional and hygienic situation in the prisons, together with the deficiencies in medical care, as "alarming." Both the IACHR and the former U.N. Special Rapporteur on Cuba, as well as other human rights monitoring organizations, reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition.

Prison guards and state security officials also subjected human rights and prodemocracy activists to threats of physical violence; to systematic psychological intimidation; and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or state security agents posing as prisoners. In May in the Guamajal prison in Villa Clara, a common prisoner named Soria physically attacked political prisoner Cecilio Monteagudo Sanchez, at the instigation of prison authorities. According to witnesses, prison official Jose Luis Collado was responsible for this attack.

Political prisoners are required to comply with the rules for common criminals and often are punished severely if they refuse. Detainees and prisoners often are subjected to repeated, vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims.

Despite international appeals for their release, after 17 months of detention without charges, the four leaders of the dissident working group—economists Vladimiro Roca Antunez and Marta Beatriz Roque Cabello, engineer Felix Antonio Bonne Carcasses, and lawyer Rene Gomez Manzano—were accused of sedition in November 1998 and convicted in March 1999 after a 1-day, closed trial. On July 16, one of the four, Marta Beatriz Roque, began to refuse all solid food and threatened to begin a complete hunger strike on September 2 if the Government did not answer the appeal she filed after the trial (see Section 1.e.). However, after promising her a quick response, the Government instead transferred Roque to a government-owned safehouse where she was kept in isolation for several months.

In June in the provincial prison of Guantanamo, prison authorities placed Alexander Taureaux Balvier in solitary confinement after he complained about the prison authorities' arbitrary decision to reduce family visits, including those by his mother, to 5 minutes. On June 29, common prisoners demonstrated against the mistreatment of Taureaux, and in response, the prison authorities called in the special brigade riot police for help. The demonstration did not become violent, and no one was injured in the incident.

On July 5, in a note smuggled out of the Combinado del Este prison in Havana, political prisoner Francisco Chaviano Gonzalez described the mistreatment that he said prison officials directed at him. According to Chaviano, prison authorities confined him to his cell without allowing him to mix with other prisoners or to exercise in the open court with other prisoners. He added that this was the third time during the last 3 months that he was isolated in his cell. Chaviano speculated that this treatment was in retaliation for a letter he wrote to Fidel Castro criticizing the arbitrariness of his detention and trial. In September Chaviano reportedly again was placed in isolation after a heated conversation with a prison official.

On August 15, prison authorities in Canaleta, Ciego de Avila province, placed Luis Campo Corrales (who was sentenced to 25 years' imprisonment for piracy of a boat and another year for "disrespect") in isolation (known as a "punishment cell") for reportedly complaining about prison conditions. Witnesses reported that the cell in which he was placed previously was occupied by a prisoner infected with the HIV virus. According to these witnesses, prison authorities stripped Campo of all his clothes before confining him in the cell.

In September prison authorities in Ciego de Avila forced the parents of imprisoned journalist Joel Diaz Hernandez to submit to a strip search following a visit to their son (see Section 2.a.).

The Government does not permit independent monitoring of prison conditions by international or national human rights monitoring groups. The Government has refused prison visits by the International Committee of the Red Cross (ICRC) since 1989 and continued to refuse requests to renew such visits. Nonetheless, human rights activists continued to seek information on conditions inside jails despite the risks to themselves and to their prison sources.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention continued to be problems, and they remained the Government's most effective weapons to harass opponents. The Law of Penal Procedures requires police to file formal charges and either release a detainee or bring the case before a prosecutor within 96 hours of arrest. It also requires the authorities to provide suspects with access to a lawyer within 7 days of arrest. However, the Constitution states that all legally recognized civil liberties can be denied to anyone who actively opposes the "decision of the Cuban people to build socialism." The authorities invoke this sweeping authority to deny due process to those detained on purported state security grounds.

The authorities routinely engage in arbitrary arrest and detention of human rights advocates, subjecting them to interrogations, threats, and degrading treatment and conditions for hours or days at a time.

In January security agents temporarily detained independent journalist Omar Rodriguez Saludes and Jose Orlando Gonzalez Bridon, president of an independent labor organization, after they had lunch with a group of visiting foreign former legislators. On January 14, police temporarily detained about a dozen prodemocracy activists in Havana to prevent them from holding a public event in honor of Martin Luther King (see Section 2.b.). According to Human Rights Watch, in late January, police detained several members of the FLDH, including Dr. Biscet, the group's leader, for 4 to 6 days. The detentions prevented the FLDH members from participating in a January 25 celebration of the first anniversary of the Pope's 1998 visit to the country (see Section 2.c.).

In February state security officials detained a number of prodemocracy activists in various parts of the country to prevent them from commemorating the anniversary of the shootdown of two civilian airplanes over international airspace by the air force in 1996 (see Section 2.b.). In late February and early March, the Government temporarily detained nearly 100 prodemocracy activists and placed others under house arrest to keep them from expressing support for the four members of the Internal Dissident Working Group during their trial in March on charges of sedition (see Sections 1.e. and 2.b.).

On July 13, the police arrested Marcel Valenzuela Salt, a member of the Organization of Fraternal Brothers for Dignity, and 5 other persons while the 6 were en route to a church in Guanabacoa to attend a Mass in honor of the 41 persons who drowned when the Border Guard sank the tugboat "13th of March" (see Section 1.a.). Police officers detained all six persons and confiscated the truck driven by Valenzuela, even though the truck's papers clearly indicated that Valenzuela's father was the owner. Despite various attempts to have the truck returned to its rightful owner, police refused to do so. The truck finally was returned to its rightful owner in November. On August 15, police prevented human rights activists, including lawyer Leonel Morejon Almagro, leader of the environmental group Naturpaz and founder of Concilio Cubano, from meeting in Lenin Park, and confiscated Morejon's car (see Section 2.b.).

On September 8, security police told a number of human rights activists not to attend the annual procession in honor of the Virgin of Charity (see Section 2.c.). On the same day, police prevented some activists from meeting to discuss the formation of a forum on civil society. On October 19, security police prevented members of various organizations from organizing the Third Millennium Forum. These organizations intended to present a unified position on various domestic issues to delegations attending the Ninth Ibero-American Summit in Havana on November 15 and 16.

On October 21, the Cuban Commission for Human Rights and National Reconciliation issued a press release alerting the international community to the growing number of human rights activists being detained for short periods. The Commission noted that at least 40 people were detained for brief periods during the previous 2 weeks. On November 10, police arrested leaders of a farmers' organization that was preparing a conference for small farmers and agricultural operatives on November 12 in Matanzas (see Section 2.b.). These arrests were carried out to prevent human rights activists from preparing themselves for meetings that they hoped to have with government leaders attending the Ibero-American Summit. Also on November 10, police told a number of activists not to leave their homes in order to prevent them from participating in a planned protest in a public park in the Lawton section of Havana. On November 3, a week before the event, the authorities detained Dr. Biscet, who had announced the planned protest march in an October 28 press conference (see Section 2.b.). At year's end, Biscet remained in jail and was under investigation for "promoting public disorder." In the days prior to a planned meeting of NGO's on November 12, authorities detained temporarily or placed under house arrest approximately 150 prodemocracy activists (see Section 2.b.). On November 17, the authorities temporarily detained Biscet's wife, Elsa Morejon. On December 9, numerous persons were detained or told not to leave their homes on December 10, when human rights activists planned to commemorate the 51st anniversary of the Universal Declaration of Human Rights (see Section 2.b.). The same thing happened on December 16, the day before the popular pilgrimage to the church of St. Lazarus in the town of El Rincon outside Havana (see Section 2.c.).

The Government also arbitrarily arrested and detained independent journalists (see Section 2.a.). Independent journalists were told not to cover certain meetings and were prevented physically from attending the small farmers' conference in Matanzas (see Section 2.a.).

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to "therapy" or "political reeducation." Government authorities regularly threaten prosecution under this article. Both the U.N. Commission on Human Rights (UNCHR) and the IACHR have criticized this concept for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the "special inclination to commit crimes" referred to in the Criminal Code amounts to "a subjective criterion" used by the Government to justify violations of the rights to individual freedom and due process of persons whose sole crime has been an inclination to hold a view different from the official view. On January 8, a Havana court reaffirmed the 4-year prison term for dangerousness imposed in 1998 on Lazaro Constantin Duran, leader of the Friends Club of an independent teachers' organization. On January 18, independent journalist Jesus Joel Diaz Hernandez was sentenced to 4 years' imprisonment for dangerousness (see Sections 1.e. and 2.a.). On July 17, a police officer threatened to arrest Merino Cabrera, a member of the Human Rights Workers' Party, for dangerousness and warned him against continuing his activities. A few days later, on July 27, Cabrera found a cardboard coffin on his front door with the words: "Rest in Peace."

The Government also used exile as a tool for controlling and eliminating the internal opposition. Amnesty International has noted that the Government had changed its tactics in dealing with human rights advocates, and that rather than arresting them and bringing them to trial, the "tendency" was to detain them repeatedly for short periods and threaten them with imprisonment unless they gave up their activities or left the country. The Government used these incremental aggressive tactics to compel Leonel Morejon Almagro to leave the country on October 19.

The Government also has pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. Human Rights Watch observed that the Government "routinely invokes forced exile as a condition for prisoner releases and also pressures activists to leave the country to escape future prosecution." In April the Government released independent journalist Reinaldo Alfaro Garcia, who had served 21 months of a 3-

year prison sentence imposed in 1998 for "disseminating false news," on the condition that he leave the country.

Amnesty International has expressed "particular concern" about the Government's practice of threatening to charge, try, and imprison human rights advocates and independent journalists prior to arrest or sentencing if they did not leave the country. According to Amnesty International, this practice "effectively prevents those concerned from being able to act in public life in their own country."

e. *Denial of Fair Public Trial.*—The Constitution provides for independent courts; however, it explicitly subordinates them to the National Assembly of the People's Power and the Council of State, which is headed by Fidel Castro. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as "the superior directive force of the society and the State," further compromises the judiciary's independence.

Civil courts exist at municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges preside over them. Military tribunals assume jurisdiction for certain counterrevolutionary cases.

The law and trial practices do not meet international standards for fair public trials. Almost all cases are tried in less than a day; there are no jury trials. While most trials are public, trials are closed when state security allegedly is involved. Prosecutors may introduce testimony from a CDR member as to the revolutionary background of a defendant, which may contribute to either a longer or a shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms or the death penalty. Appeals in death penalty cases are automatic. The death penalty ultimately must be affirmed by the Council of State.

Criteria for presenting evidence, especially in cases of human rights advocates, are arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, is the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer. The authorities regularly deny defendants access to their lawyers until the day of the trial. Several dissidents who have served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf. Amnesty International has concluded that "trials in all cases fall far short of international standards for a fair trial."

The law provides the accused with the right to an attorney, but the control that the Government exerts over the livelihood of members of the state-controlled lawyers' collectives—especially when they defend persons accused of state security crimes—compromises their ability to represent clients. Attorneys have reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

Human rights monitoring groups inside the country estimate the number of political prisoners at between 350 and 400 persons. The authorities have imprisoned such persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing Fidel Castro), clandestine printing, or the broad charge of rebellion, often brought against advocates of peaceful democratic change.

On March 1, in a 1-day trial, a court in Havana convicted the four members of the Internal Dissident Working Group—Vladimiro Roca Antunez, Marta Beatriz Roque Cabello, Felix Antonio Bonne Carcasses, and Rene Gomez Manzano—of "acts against the security of the State in relation to the crime of sedition." The four had been detained since July 1997, when they were arrested for expressing peacefully their disagreement with the Government. In 1997 the group had sought support from the international community for its concept of peaceful dissent from the Government's policies and publicly distributed a paper, "The Homeland Belongs to All," which presented a moderate response to the platform released by the Communist Party for its Fifth Party Congress. The Working Group also made a public appeal to citizens to abstain from participating in national elections (voting is not mandatory). On March 15, the government television station announced the following prison sentences for the four: 5 years for Vladimiro Roca, 4 years for Felix Bonne and Rene Gomez, and 3½ years for Marta Beatriz Roque. All four appealed their convictions. On July 16, Roque began to refuse all solid food and later threatened to begin a full-scale hunger strike, to protest the Government's lack of response to her appeal. In September she ended the hunger strike after the Government promised to respond; however, the Government did not respond to the appeals of any of the four by year's end.

Others convicted on political charges during the year included independent journalists Manuel Antonio Gonzalez Castellanos, who was sentenced on May 6 to 2 years and 7 months' imprisonment for "contempt for authority" (see section 2.a.). On

January 19, a court sentenced journalist Jesus Joel Diaz Hernandez to 4 years' imprisonment for "dangerousness" (see Sections 1.d. and 2.a.).

According to human rights monitoring groups inside the country, the number of political prisoners increased slightly during the year, in contrast to 1998 when the number of political prisoners fell after the release of 99 prisoners in response to an appeal by Pope John Paul II for clemency.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the Constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled mass organizations, such as the CDR's, remains one of the most pervasive and repressive features of Cuban life. The State has assumed the right to interfere in the lives of citizens, even those who do not actively oppose the Government and its practices. The mass organizations' ostensible purpose is to "improve the citizenry," but in fact their goal is to discover and discourage nonconformity. Citizen participation in these mass organizations has declined; the economic crisis both has reduced the Government's ability to provide material incentives for their participation and has forced many persons to engage in black market activities, which the mass organizations are supposed to report to the authorities.

The authorities utilize a wide range of social controls. The Interior Ministry employs an intricate system of informants and block committees (the CDR's) to monitor and control public opinion. While less capable than in the past, CDR's continue to report on suspicious activity, including conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Department of State Security often reads international correspondence and monitors overseas telephone calls and conversations with foreigners. The Government controls all access to the Internet, and all electronic mail messages are subject to censorship. Citizens do not have the right to receive publications from abroad, although newsstands in foreigners-only hotels and outside certain hard currency stores sell foreign newspapers and magazines. The Government continued to jam the U.S.-operated Radio Marti and Television Marti. Radio Marti broadcasts generally overcame the jamming attempts on shortwave bands, but its medium wave transmissions are blocked completely in Havana. The Government generally succeeded in jamming Television Marti transmissions. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

Human Rights Watch reported that in January authorities in Santiago notified Margarita Sara Yero of the Independent Press Agency of Cuba that she would be evicted from her home, where she had lived for 35 years (see Section 2.a.). On March 4, Mercedes Moreno, director of the New Press Agency, criticized the security forces for their intimidating tactics against her and her husband, a former political prisoner, that included the illegal entry of her home (see Section 2.a.). On June 18, a local security officer in Santiago de Cuba sent a threatening message, through a nonpolitical family member, to Rafael Oliva Reyes, who offered his house for purposes of conducting a solidarity fast with the fasters of Tamarindo 34 in Havana (see Sections 2.b. and 4). On June 24, a security agent told Alexis Rodriguez Fernandez, the national coordinator of the Cuban Youth Movement for Democracy, that the authorities were fully aware of his activities in Havana, such as visiting embassies and participating in the Tamarindo 34 fast, and that they were preparing a judicial case of dangerousness against him.

On August 23, security agents forcibly evicted Ramon Humberto Colas Castillo, his wife Berta Mexidor Vasquez, their two children, and his mother from their house in Las Tunas. The couple had established an independent library in their house and worked as independent journalists for the Libertad press agency (see Section 2.a.). In November authorities evicted independent journalist Nestor Baguer from his home (see Section 2.a.).

The authorities regularly search persons and their homes, without probable cause, to intimidate and harass them. State security agents searched the homes of hundreds of human rights advocates and independent journalists, seizing typewriters, small cassette equipment, personal and organizational documents, books, and foreign newspapers. The authorities harass and target acts of repudiation at both dissidents and their family members. At times those taking part in such acts of repudiation invade and damage homes, as well as physically attack occupants (see Section 1.c.). Friends and relatives of independent journalists also are subjected to harassment (see Section 2.a.).

The authorities regularly detained human rights advocates after they visited foreign diplomatic missions, confiscated their written reports of human rights abuses, and seized copies of foreign newspapers and other informational material, including

copies of the Universal Declaration of Human Rights (UDHR). On November 5, security police detained Jose Aquilar Hernandez of the 13th of July movement and independent journalist Clara Morales Martinez in Havana. They were taken to a police station where they were interrogated about a planned November 10 march in the Lawton area of Havana. Security officers also confiscated copies of the UDHR that they had in their possession. They both were released the next morning.

In August the president of an independent teachers' group said that his son lost his job because of state security interference. He claimed that security officials infiltrated an agent among his friends; when police found some drugs in the friends' possession, they then tried to implicate his son. Based on this, his son, who was the only member of the family working, lost his restaurant job. On June 28, Avila Eloina Heredia Cervantes of the Cuban Committee for Human Rights in Ciego de Avila lost her job at the cafeteria of the central train station in Moron. In 1997 she had lost her job in another restaurant.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government does not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials carry penalties of from 3 months to 1 year in prison. If President Castro or members of the National Assembly or Council of State are the objects of criticism, the sentence can be extended to 3 years. Charges of disseminating enemy propaganda (which includes merely expressing opinions at odds with those of the Government) can bring sentences of up to 14 years. In the Government's view, such materials as the UDHR, international reports of human rights violations, and mainstream foreign newspapers and magazines constitute enemy propaganda. Local CDR's inhibit freedom of speech by monitoring and reporting dissent or criticism. Police and state security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private as a means of intimidation and control.

In January a court in Moron, Ciego de Avila province, sentenced Jesus Joel Diaz Hernandez, director of the Cooperative of Independent Journalists of Ciego de Avila, to 4 years' imprisonment for dangerousness. Human Rights Watch reported that Diaz was accused of having met with delinquents and having disturbed the public order. He was tried the day after his arrest, making it impossible for him to prepare an adequate defense. In May a court in Holguin sentenced independent journalist Mario Gonzalez Castellanos, Cubapress correspondent in Holguin, to 2½ years in the Holguin prison known as Cuba Si, for showing disrespect to Fidel Castro.

The Constitution states that print and electronic media are state property and cannot become in any case private property. The Communist Party controls all media—except a few small church-run publications—as a means of indoctrinating the public. Even the church-run publications are watched closely, denied access to mass printing equipment, and subject to governmental pressure. On November 1, in a televised speech, President Castro expressed his displeasure with an article in the Pinar-based Catholic Church magazine Vitral, mentioning the editor by name.

All media must operate under party guidelines and reflect government views. The Government attempts to shape media coverage to such a degree that it not only continued to exert pressure on domestic journalists, but also sought to increase its pressure on groups normally outside the official realm of control, such as visiting international correspondents. Resident foreign correspondents reported an increase in governmental pressure, including official and informal complaints about articles, threatening phone calls, and lack of access to officials.

In February the National Assembly passed the Law to Protect National Independence and the Economy. This law outlaws a broad range of activities as undermining state security, and toughens penalties for criminal activity. Under the law, anyone caught possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, is subject to fines and to prison terms of 7 to 20 years. While many activities between Cuban nationals and foreigners possibly could fall within the purview of this new law, it appears to be aimed primarily at independent journalists.

The new law increases the penalties and broadens the definitions of activities covered by the 1996 Cuban Dignity and Sovereignty Act, which already proscribes citizens from providing information to any representatives of the U.S. Government, or seeking any information from them, that might be used directly or indirectly in the application of U.S. legislation. This includes accepting or distributing any publications, documents or other material from any origin, which the authorities might interpret as facilitating implementation of such legislation.

No one was charged yet with violating the new law by year's end, but all but a handful of independent journalists admitted that its very existence had some effect on their activities and their reporting, with some calling its passage the most effective form of harassment of the press during the year. Many independent journalists were threatened either anonymously or openly with arrest and conviction based on the new law, some repeatedly over the months since the law took effect. The Inter-American Press Association (IAPA) reported that, following the release in January of independent journalist Lorenzo Paez Nunez after he completed serving an 18-month prison sentence for "disseminating false news," authorities repeatedly harassed him and threatened him with application of the new law. Cubapress director Raul Rivero reported that the authorities picked him up outside the Havana Libre Hotel and told him that he and Christian Liberation Movement founder Oswaldo Paya Sardinas would be the first to feel the full consequences of the law.

In February National Assembly President Ricardo Alarcon told foreign correspondents that under the new law, even reporters working for accredited foreign media could be sentenced to up to 20 years in prison if the information they publish is deemed to serve U.S. interests. Several times during the year, the domestic press, and even President Castro in televised speeches, specifically mentioned correspondents from international news services and publications as being particularly unresponsive to the Government's positions, and possibly serving U.S. interests.

Credible reports indicated that, after several sharp attacks in the local press, including accusations of distortion, sensationalism, calumny, and manipulation, the Government persuaded a major international news agency to replace its bureau chief in Havana by promising increased access to government officials if it did so. Two other longtime resident foreign correspondents also left under difficult circumstances.

In January state security officials ordered visiting Radio Netherlands correspondent Edwin Koopman to leave the country for activities inconsistent with his journalism visa. Apparently, activities that Koopman was conducting for Pax Christi-Netherlands came to the Government's attention, and were given as the reason for his expulsion.

In November security agents and government supporters seriously damaged a Cable News Network camera during an attack on dissidents in Dolores Park in the Lawton section of Havana. Taped coverage of the incident appeared to indicate that the cameraman was in fact the target. The cameraman was among the foreign news crews that arrived to cover a march announced to call attention to human rights problems before the Ibero-American Summit later that month. The few activists who managed to get to the park were set upon by members of mass organizations holding a progovernment picnic and rally in the same place (see Section 2.b.). International coverage of the attack led to a 6-hour speech by Fidel Castro in which he described the dissidents as criminals and their antagonists as devoted patriots.

The Government continued to jam the U.S.-operated Radio Marti and Television Marti (see Section 1.f.).

The Government continues to subject independent journalists to internal travel bans, arbitrary and periodic detentions (overnight or longer), small acts of repudiation (see Section 1.c.), harassment of family and friends, seizures of computers, office and photographic equipment, and repeated threats of prolonged imprisonment. Independent journalists in Havana reported a general decrease in harassment, but there continued to be reports of constant threatening phone calls and harassment of family members in the weeks leading up to the Ibero-American Summit in November. Outside the capital, journalists reported an increase in detentions, threats, and harassment during the same period.

In Santiago de Cuba, independent journalist Santiago Santana was detained three different times; on one occasion in September, security officials seized his camera and two tape recorders. Human Rights Watch reported that in January authorities in Santiago notified Margarita Sara Yero of the Independent Press Agency of Cuba that she would be evicted from her home, where she had lived for 35 years. The authorities claimed that she had abandoned the house, although neighbors confirmed that she resided there. On February 1, officials held a public meeting in which they criticized Yero for not voting for Communist candidates and for not participating in the local CDR; according to press reports, she received an eviction notice the following day. On March 4, Mercedes Moreno, director of the New Press Agency, criticized the security forces for their intimidating tactics against her and her husband, a former political prisoner, which included illegal entry into her home, and citing her and her husband to appear at different police stations in Havana. She also accused security agents of forcing traffic police regularly to issue traffic violations to her and her husband, with exorbitant fines.

In August in Ciego de Avila, neighbors rousted Jorge Enrique Rives, of the Patria Agency, and his family, including elderly relatives, from their beds and seriously assaulted them, while shouting revolutionary slogans. Also in August, independent journalists and private library owners Ramon Colas and Berta Maxidor, their young children (ages 9 and 13), and Colas's 73-year-old mother were evicted from their house in Las Tunas without warning, and all of their belongings were taken to a shelter many miles out of town. Security officials told Colas and Maxidor that they were occupying the house, which they had lived in for 13 years, illegally. The authorities temporarily detained Colas at that time for arguing with them.

In September the parents of imprisoned independent journalist Jesus Joel Diaz Hernandez were harassed and forced to submit to a strip search at the end of a strictly regulated visit to their son. In October unknown assailants damaged the house of Cubapress correspondent Jesus Labrador Arias in Guantanamo province by throwing stones at it in the middle of the night. On October 15, an immigration officer requested the return of the passport of Magaly de Armas, the wife of imprisoned Internal Dissident Working Group member Vladimiro Roca Antunez, shortly before she was scheduled to travel abroad to accept an award on behalf of her husband and the other three imprisoned Working Group members for a publication by the group that defended freedom of the press (see Section 2.d.).

In November the authorities detained independent journalist and activist for the blind Juan Carlos Rodriguez for 3 days, ostensibly to prevent him from covering activities related to the Ibero-American Summit. Rodriguez's wife also was called in repeatedly to her neighborhood police station and threatened. Also in November, the Government prevented independent journalists from covering a conference of small farmers in Matanzas.

In November the landlord of octogenarian Nestor Baguer, dean of the independent journalists and founder of the original Independent Press Agency of Cuba, asked Baguer to vacate his apartment after he was mentioned, along with several dozen other opposition members and foreign diplomats, by Fidel Castro in a 6-hour speech. Reportedly his landlord evicted him under pressure from members of the local CDR, who objected to living so close to a named criminal.

Many of the detentions, house arrests, and threats that occurred during the year were in conjunction with major events on the dissidents' and the Government's calendars. The authorities ordered dozens of independent journalists to remain in their homes on February 24, the anniversary of the 1996 shootdown of two civilian aircraft over international air space by the air force. The Government also detained or threatened many journalists before and during the March 1 trial of the four members of the Internal Dissident Working Group, and on March 15, the day of their sentencing (see Section 1.e.). Many of the dissidents detained and threatened prior to the Ibero-American Summit were journalists (see Sections 1.d. and 2.b.). The Government ordered several of them to return to their home provinces, including Edel Garcia to Caibarien, or ordered them not to travel to Havana at that time. The authorities detained journalists along with other dissidents during protests organized by the environmental organization Naturpaz on August 15 and September 20 (see Section 2.b.).

In Havana the authorities repeatedly detained Oswaldo de Cespedes of the Cooperative of Independent Journalists and threatened to reopen charges against him that date back to 1996. The authorities picked up Jesus Zuniga, also of the Cooperative of Independent Journalists, on his way to visit a foreign diplomatic mission, detained him for several hours, and interrogated him frequently about alleged connections with foreign radical groups.

In August officials denied permission to Raul Rivero, poet, journalist, and director of Cubapress, to travel abroad to receive a journalism prize. According to newspaper reports, when asked about keeping Rivero from traveling, Fidel Castro replied that Rivero would never leave the country. The authorities detained independent journalist Angel Pablo Polanco three times in connection with his activities with various dissident groups, and confined him to a military hospital, ostensibly for treatment of glaucoma. He subsequently was released.

During the year, the authorities retracted their previously granted permission for Mario Viera, founder of Cuba Voz, to depart the country as a refugee. In 1998 Viera's trial on charges of defaming a government official was postponed when prodemocracy activists began demonstrating outside the courthouse, but the charges against him were not dismissed.

Amnesty International, Human Rights Watch, the IAPA, Reporters Without Borders, and the Committee to Protect Journalists repeatedly called international attention to the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech.

Distribution of information continues to be controlled tightly. Access to computers is limited, e-mail is restricted tightly (see Section 1.f.), and access to the Internet virtually is prohibited, except to certain government offices, selected institutes, and foreigners. The Ministry of Interior controls Internet access.

The Government prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless those publications deal exclusively with conditions in a mission's home country and it receives prior Government approval. Many missions do not accept the validity of this requirement, but the Government's threats to expel embassy officers who provide published materials to Cubans have had a chilling effect on many missions.

The Government circumscribes artistic, literary, and academic freedoms and is reemphasizing the importance of reinforcing revolutionary ideology and discipline over any freedom of expression. The educational system teaches that the State's interests have precedence over all other commitments. Academics and other government officials are prohibited from meeting with some diplomats without prior approval from the Ministry of Foreign Affairs. The Ministry of Education requires teachers to evaluate students' and their parents' ideological character, and note it in records that students carry throughout their schooling. These reports directly affect the students' educational and career prospects. As a matter of policy, the Government demands that teaching materials for courses such as mathematics or literature have an ideological content. Government efforts to undermine dissidents include denying them advanced education and professional opportunities. Fidel Castro has stated publicly that the universities are available only for those who share his revolutionary beliefs.

b. *Freedom of Peaceful Assembly and Association.*—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be "exercised against the existence and objectives of the Socialist State." The law punishes any unauthorized assembly of more than three persons, including those for private religious services in a private home, by up to 3 months in prison and a fine. The authorities selectively enforce this prohibition and often use it as a legal pretext to harass and imprison human rights advocates.

The Government selectively continued to authorize the Catholic Church to hold outdoor processions at specific locations on important feast days during the year. It permitted a procession in connection with Masses in celebration of the feast day on September 8 of Our Lady of Charity in Havana for the second time in more than 3 decades. The Government also authorized other denominations to hold a few public events. In May and June, it allowed the main Protestant churches to hold a large-scale evangelical celebration across the island (see Section 2.c.). However, the Government also continued routinely and arbitrarily to deny requests for other processions and events.

The authorities have never approved a public meeting by a human rights group. On January 14, police and state security officers briefly detained about a dozen Havana dissidents to prevent them from holding a public event in commemoration of Martin Luther King at Butari Park in the Lawton section of Havana. Among the activists reportedly detained and subsequently released were Maria de los Angeles Gonzalez, Ernesto Colas, Alberto Martinez, Pablo Nelson, Juana Gonzalez, Miriam Garcia, Miriam Cantillo, Ofelia Nardo, Dr. Oscar Elias Biscet, and Rolando Munoz Yyobre. State security members also prevented activists Nancy Sotolongo and Ana Maria Agramonte from leaving their homes to attend the planned event.

Beginning on February 22, state security officers detained prodemocracy activists in different parts of the country to prevent them from staging activities commemorating the February 24, 1996 shootdown of two civilian aircraft over international airspace by the air force. Security agents also warned many more activists against any public demonstrations on February 24, and warned independent journalists not to cover incidents on February 24. On February 22, police detained Dr. Biscet and Munoz Yyobre at Biscet's home after he tried to stage a demonstration outside the hospital where he formerly worked. Female workers from the hospital physically assaulted Biscet, allegedly on the orders of the hospital's administrator. On February 23, the authorities detained prodemocracy activists Manuel Preval, Guillermo Diaz, Yvette Rodriguez and Ciro Roman in Santiago de Cuba; they detained three additional activists, including independent journalist Jesus Labrador Arias, in Manzanillo. On February 24, security officers detained Marcos Lazaro Torres Leon, Lazaro Naranjo, Carlos Alberto Dominguez, Victor Alfredo Gomez, Alejandro Garcia, and Ismael Torres in Havana. There were also reports that some 10 to 12 activists may have been detained in Pinar del Rio province west of Havana. Four of the activists in Havana shaved their heads in a protest covered by British Broadcasting Corporation television.

In order to prevent dissidents from expressing support for the four members of the Internal Dissident Working Group during their trial in March (see Section 1.e.), officials detained nearly a hundred prodemocracy activists. Among those detained were Oswaldo Paya Sardinas of the Christian Liberation Movement, Jesus Yanez Pelletier and his wife Marieta Menendez, Odilia Collazo of the Cuba Pro-Human Rights Party, Illeana Sommeillan of the Support Network Group of the Four, Leonel Morejon Almagro of Naturpaz and founder of Concilio Cubano, and a number of independent journalists. All of those detained were released within a few days after the trial.

In June and July, a number of activists from different organizations carried out a 40-day liquid fast at Tamarindo 34 in Havana and at other locations, to protest the Government's violations of human rights and to call for an amnesty for political prisoners (see Section 4). The organizer of the event, Dr. Biscet, and his colleagues then attempted to organize a civic forum made up of five organizations involved in the fast. However, the Government temporarily detained Biscet and his supporters whenever they planned any action toward this end, including visits to other houses where sympathy fasts took place. The Government closed a school they established on the use of nonviolence in civic actions, and on August 14 authorities detained Biscet as he was going to Butari Park to demonstrate. A policeman hit him in the face after Biscet told him that "God loves you," while another policeman crushed a burning cigarette on his elbow (see Section 1.c.).

On August 15, police arrested Leonel Morejon Almagro, the leader of the environmental group Naturpaz, as he was leaving his house to attend a peaceful public protest planned weeks in advance that was to be conducted under a mahogany tree that was planted in Lenin Park in 1986 at the founding of the organization. The intent was to protest the Government's lack of interest in addressing environmental degradation, and in particular to focus the public's attention on the imminent construction of a new airport near Cayo Coco, which Naturpaz asserted would damage irreversibly the nearby keys. Police also arrested five other persons, including a 78-year-old woman. All were released later that day. However, police impounded Morejon's car and did not return it. Meanwhile, at Lenin Park, security forces intercepted every person that tried to go to the mahogany tree, checked their documents carefully, and then drove them to a location far away from the park and their homes. Naturpaz later estimated that the police intercepted over 100 persons in this manner.

On October 28, Dr. Biscet announced in a press conference that on November 10, the FLDH and other organizations planned to lead a nonviolent protest march from Dolores Park to Butari Park in the Lawton area of Havana to protest the holding of the Ninth Ibero-American Summit in Havana. During the press conference, the Cuban flag was displayed upside down, as an indication of opposition to the Government. On November 3, police detained Biscet and told him that he would be prosecuted for his disrespect toward the national flag; he was still in jail and his case was still under investigation at year's end (see Section 1.d.). On November 9, police detained three of his colleagues—Jose Aguilar Hernandez, Alejandro Chang Cantillo, and Marcel Valenzuela Salt. On November 10, at the planned protest site, Dolores Park, the international press witnessed several hundred members of the Communist youth organizations, including school children, having a noisy progovernment party and rally. Three dissidents tried to stage a protest but were booed, chased by the crowd, and struck several times. Security agents then took away dissidents Reynaldo Gomez Gonzalez, Juan Carlos Padura Padilla, and Pedro Castro Ponce de Leon. In a press conference later the same day, Fidel Castro implied that the clash was a spontaneous reaction by ordinary citizens to political acts that they found distasteful. Castro brought to his press conference 14 persons who were at the park and who claimed that they were provoked while enjoying a party.

On November 12, fewer than 20 individuals of the more than 90 expected to attend arrived at the house of Moises Rodriguez Quesada near Havana airport for a 1-day meeting of domestic NGO's. Although bad weather was a factor in the low turnout, the detention and house arrest of about 150 persons, including the organizers of the meeting, starting days before the event, especially of those coming from other provinces, prevented the attendance of many. However, international press coverage of the event provided the dissidents that attended a rare opportunity to brief the journalists.

On November 10, security police also attempted to prevent a meeting of the National Alliance of Independent Small Farmers, which the organizers had planned to hold in Matanzas, by arresting the organizers—Antonio Alonso Perez, Tomas Fernandez Tiher, and Felix Navarro. The group nonetheless managed to hold the meeting in the house of an independent journalist in Las Tunas, albeit with a much reduced number of participants.

On December 4, the Government allowed human rights activists to march silently, after attending a Mass, from the Church of Saint Barbara to the Church of Saint Edward, a distance of about six blocks, in the municipality of Parraga in Havana. Because of the presence of members of a rapid response brigade, police provided security to allow the march. Representatives of the international press were present and interviewed a number of the marchers. This was the first protest march ever allowed by the Government, probably because of the presence of the international press and the Government's apparent desire to avoid an incident such as the one at Dolores Park on November 10.

On December 9, numerous human rights supporters were detained or told not leave their homes in order to prevent them from publicly commemorating the 51st anniversary on December 10 of the UDHR.

The Government generally denies citizens freedom of association. The Penal Code specifically outlaws "illegal or unrecognized groups." The Ministry of Justice, in consultation with the Interior Ministry, decides whether to give organizations legal recognition. The authorities have never approved the existence of a human rights group.

Along with recognized churches, the Roman Catholic humanitarian organization Caritas, Masons, small human rights groups, and a number of nascent fraternal or professional organizations are the only associations outside the control or influence of the State, the Communist Party, and their mass organizations. With the exception of the Masons, who have been established in the country for more than a century, the authorities continue to ignore these groups' applications for legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized "nongovernmental" groups are at least nominally affiliated with, or controlled by, the Government.

c. *Freedom of Religion.*—The Constitution recognizes the right of citizens to profess and practice any religious belief, within the framework of respect for the law; however, in law and in practice, the Government places restrictions on freedom of religion.

In recent years, the Government has eased the harsher aspects of its repression of religious freedom. In 1991 it allowed religious adherents to join the Communist Party. In 1992 it amended the Constitution to prohibit religious discrimination and removed references to "scientific materialism," i.e., atheism, as the basis for the Cuban State. Nevertheless, the State prohibits members of the armed forces from allowing anyone in their household to observe religious practices, except elderly relatives if their religious beliefs do not influence other family members and are not "damaging to the revolution."

The Government requires churches and other religious groups to register with the provincial registry of associations to obtain official recognition. In practice, the Government refuses to register new denominations. The Government prohibits, with occasional exceptions, the construction of new churches, forcing many growing congregations to violate the law and meet in private homes. Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes.

The Government's main interaction with religious denominations is through the Office of Religious Affairs of the Cuban Communist Party. The Ministry of Interior engages in active efforts to control and monitor the country's religious institutions, including surveillance, infiltration, and harassment of religious professionals and laypersons.

In 1998 following Pope John Paul II's January visit, the country's Catholic bishops appealed to the Government to recognize the Church's role in civil society and the family, as well as in the temporal areas of work, the economy, the arts, sports, and the scientific and technical worlds. The Government continued to limit the Church's access to the media and refused to allow the Church to have a legal independent printing capability. It maintained its prohibition against the establishment of religiously affiliated schools. Nonetheless, in September local government authorities, for the second time since 1961, allowed the Catholic Church to hold an outdoor procession to mark the feast day of Our Lady of Charity in Havana. Although visibly present, state security personnel did not harass any participants or observers as happened during 1998. However, prior to the event, security police told a number of human rights activists not to attend the procession. On December 25, the Government permitted the Catholic Church to hold a Christmas procession in Havana. The Government also granted a request by church leaders to broadcast on state television the Pope's annual Christmas Day message from the Vatican. As in 1998, in December the Government also allowed Cardinal Jaime Ortega to give a 10-minute address on the national classical music station.

In 1998 the Government announced in a Politburo declaration that henceforth citizens would be allowed to celebrate Christmas as an official holiday. (The holiday had been cancelled, ostensibly to spur the sugar harvest, in 1969, and restored in 1997 as part of the preparations for the Pope's 1998 visit.) However, despite the Government's decision to allow citizens to celebrate Christmas as a national holiday, it also maintained a December 1995 decree prohibiting nativity scenes in public buildings.

The Government allowed about 15 foreign priests to enter the country during the year, but some visas were issued only for periods of from 3 to 6 months, and applications of many other priests and religious workers remained pending.

The Government continued to enforce a resolution that prevented any Cuban or joint enterprise (except those with specific authorization) from selling computers, facsimile machines, photocopiers, or other equipment to any church at other than official—and exorbitant—retail prices.

On January 6, the Government closed the Bible Institute of the United Pentecostal Church of Cuba (Apostolic) and evicted its occupants. (In 1997 the Government had declared the United Pentecostal Church illegal after it split from the Apostolic Church of Jesus Christ because it disagreed with the Apostolic Church of Jesus Christ's membership in the Cuban Council of Churches.) On February 2, the authorities also reportedly closed local church headquarters in Manquitas, Cabaiguan, and Sancti Spiritus. On October 8, security agents expelled church leader Santos Osmany Dominguez Borjas from Havana to Holguin. According to a pastor of the church, Lazaro Williams Urbina Dupont, church members decided that all their pastors must leave the country if they are to survive as a church.

In recent years, the Government has relaxed restrictions on some religious denominations, including Seventh-Day Adventists and Jehovah's Witnesses. The Cuban Council of Churches continues to broadcast a monthly 15-minute program on a national classical music radio station, with the understanding that the program must not include material of a political character. The head of the Cuban Council of Churches is a member of the government-controlled ANPP. In May and June, the Government permitted most the country's Protestant churches—both inside and outside the Cuban Council of Churches—to hold an evangelical celebration. The celebration consisted of some 18 public events across the island, 4 of which—in Baracoa, Holguin, Camaguey, and Havana, respectively—were televised nationally. The culminating event was a service in Havana on June 20, which attracted tens of thousands of persons and was attended by President Castro.

State security officials visited some priests and pastors, prior to significant religious events, ostensibly to warn them about dissidents, in an effort to sow discord and mistrust between the churches and peaceful prodemocracy activists. State security officers also regularly harassed human rights advocates who sought to attend religious services commemorating special feast days or before significant national days, including inside churches and during religious ceremonies.

Human Rights Watch reported that in late January, police detained several members of the FLDH, including its leader, Dr. Biscet, for 4 to 6 days. The detentions prevented Biscet and his colleagues from participating in a January 25 celebration of the first anniversary of the Pope's 1998 visit. On July 13, the authorities arrested Marcel Valenzuela Salt, a member of the Organization of Fraternal Brothers for Dignity, and five other persons as the group was en route to a church in Guanabacoa to attend a Mass in memory of those who died in the 1994 sinking of the tugboat "13th of March" (see Section 1.d.). On December 17, security police arrested Valenzuela and three other human rights activists—Carlos Oquendo, Jose Aguilar and Diosdado Gonzalez—who were among a crowd of persons who gathered to participate in a pilgrimage to the Church of Saint Lazarus in El Rincon. The four were arrested after they took off their shirts to show T-shirts on which were printed the words, "Release All Political Prisoners." The day before the pilgrimage, security police told some human rights activists not to attend the event.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government kept tight restrictions on freedom of movement. The Government generally has not imposed legal restrictions on domestic travel, except for persons found to be HIV-positive, whom it initially restricts to sanatoriums for treatment and therapy before conditionally releasing them into the community. However, in recent years state security officials have forbidden human rights advocates and independent journalists from traveling outside their home provinces, and the Government also has sentenced others to internal exile. On October 8, security agents expelled Santos Osmany Dominguez Borjas, an evangelical church leader, from Havana to Holguin (see Section 2.c.). Just prior to the Ibero-American Summit, state security agents informed human rights activists in other provinces that they could not travel to Havana. For example, on November 11, authorities told Oscar

Horta Medina of the Avilena Foundation for Human Rights that he could not leave Ciego de Avila; the Government also prohibited prodemocracy activists Nestor Rodriguez Lobaina and Santiago Santana from leaving the province of Santiago de Cuba.

In 1997 the Council of Ministers approved Decree 217, aimed at stemming the flow of migration from the provinces to the capital city. Human rights observers noted that while the decree affected migration countrywide, the decree was targeted at individuals and families from the poor, predominantly black and mulatto eastern provinces. In March 1998, the government newspaper Granma reported that Decree 217 had succeeded in reducing the flow of persons to the capital city.

The Government imposed some restrictions on both emigration and temporary foreign travel. In August the Government denied an exit permit to Osvaldo Alfonso Valdes, president of the Democratic Liberal Party, and to Fernando Sanchez Lopez, president of the Democratic Solidarity Party, to attend the executive committee meeting of the International Liberal Party on September 4 in Managua, Nicaragua, despite their payment of $800 in exit fees. No explanation was given for the denials. In October the Government denied an exit permit to independent journalist Raul Rivero to travel abroad to receive a journalistic award. On October 15, an immigration officer requested the return of the Cuban passport of Magaly de Armas, the spouse of Vladimiro Roca Antunez, one of the four imprisoned members of the Internal Dissident Working Group (see Section 1.e.). De Armas was scheduled to leave the country the same day to attend the IAPA's 55th general assembly to receive on behalf of the four prisoners an award for "The Country Belongs to All," a publication by the group that defended freedom of the press (see Section 1.e.).

The Government allows the majority of persons who qualify for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delay or deny exit permits, usually without explanation. Some denials involve professionals who have tried to emigrate and whom the Government subsequently banned from working in their occupational field. The Government refused permission to others because it considers their cases sensitive for political or state security reasons. In July the Government issued Resolution 54, which provides for the denial of exit permits to recently graduated professionals, in particular medical professionals, until they have performed 3 to 5 years of service in their profession. There were reports that the Government also was denying exit permits to trained medical personnel who already have practiced their profession for more than 5 years, although the published regulations on the subject do not contain such a provision. The Government also routinely denies exit permits to young men approaching the age of military service, and until they reach the age of 27, even when it has authorized the rest of the family to leave. However, in most of those cases approved for migration to the United States under the September 1, 1994, U.S.-Cuban migration agreement, the applicants eventually receive exemption from obligatory service and are granted exit permits. The Government has a policy of denying exit permission for several years to relatives of individuals who successfully have migrated illegally (e.g., merchant seamen who have jumped ship overseas, and sports figures who have defected while on tour abroad).

Migrants who travel to the United States must pay a total of about $500 per adult and $400 per child, plus airfare. These government fees for medical exam, passport, and exit visa—which must be paid in dollars—are equivalent to about 5 years of a professional person's accumulated peso salary and represent a significant hardship, particularly for political refugees who usually are marginalized and have no income. In 1996 the Government agreed to allow 1,000 needy refugees to leave each year with reduced exit fees. However, after the first group of 1,000 in 1996, no further refugees have been accorded reduced fees. At year's end, 315 approved refugees remained in the country because they were unable to pay government exit fees for themselves and their families.

The Penal Code provides for imprisonment from 1 to 3 years or a fine of $15 to $50 dollars (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) has stated that it regards any sentence for simple illegal exit of over 1 year as harsh and excessive. Under the terms of the May 2, 1995 U.S.-Cuba migration accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, as a consequence of their attempt to emigrate illegally.

In 1994 the Government eased restrictions on visits by, and repatriation of, Cuban emigrants. Citizens who establish residency abroad and who are in possession of government-issued "permits to reside abroad" may travel to Cuba without visas. The Government reduced the age of persons eligible to travel abroad from 20 to 18 years and extended the period for a temporary stay abroad from 6 to 11

months. In November 1995, the Government announced that emigrants who are considered not to have engaged in "hostile actions" against the Government and who are not subject to criminal proceedings in their country of residence may apply at Cuban consulates for renewable, 2-year multiple-entry travel authorizations. However, during the year, the Government announced that it would deny entry permits for emigrants who had left the country illegally after September 1994. At year's end, it was not clear if the Government actually was implementing such a policy. The Constitution provides for the granting of asylum to individuals persecuted "for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; for socialism and peace." However, the Government has no formal mechanism to offer asylum to foreign nationals. Nonetheless, the Government honors the principle of first asylum and has provided it to a small number of persons. There was no information available on its use during the year. According to the UNHCR, there are about 43 foreign nationals living in the country and seeking asylum elsewhere. There were no reports of the forced return of persons to countries where they feared persecution.

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

Citizens do not have the legal right to change their Government or to advocate change, and the Government has retaliated systematically against those who sought peaceful political change. The Constitution proscribes any political organization other than the Communist Party. While the Constitution provides for direct election of provincial, municipal, and National Assembly members, the candidates must be approved in advance by mass organizations controlled by the Government. In practice, a small group of leaders, under the direction of President Castro, selects the members of the highest policy-making bodies of the Communist Party—the Politburo and the Central Committee.

The authorities tightly control the selection of candidates and all elections for government and party positions. The candidacy committees are composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDR's and are responsible for selecting candidates, whose names are then sent to municipal assemblies that select a single candidate for each regional seat in the ANPP. An opposition or independent candidate has never been allowed to run for national office.

On January 11, 1998, the Government held national elections in which 601 candidates were approved to compete for the 601 seats in the National Assembly. The Government claimed that they were voted in by over 93 percent of the electorate, according to the official media. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the government-controlled national media. The Government saturated the media and used government ministries, Communist Party organs, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form. In practice, the Communist Party approved candidates for all offices. A small minority of candidates did not belong formally to the Communist Party. The Communist Party was the only political party allowed to participate in the elections.

Although not a formal requirement, Communist Party membership is in fact a prerequisite for high-level official positions and professional advancement.

The Government rejects any change judged incompatible with the revolution and ignored calls for democratic reform. Although President Castro signed the Declaration of Vina del Mar at the Sixth Ibero-American Summit in 1996, in which government leaders reaffirmed their commitment to democracy and political pluralism, the Government continued to oppose independent political activity on the ground that the Cuban system provides a "perfected" form of democracy and that pluralism exists within the one-party structure.

An unprecedented number of foreign leaders held meetings with Cuban dissidents on the margins of the November Ibero-American Summit in Havana. Uruguayan President Julio Sanguinetti became the first Latin American head of state to meet with a dissident on Cuban soil. Other heads of state or ministers who met with dissidents were: Spanish Prime Minister Jose Aznar; Portuguese President Jorge Sampaio; Panamanian President Mireya Moscoso; Mexican Foreign Minister Rosario Green; and Nicaraguan Foreign Minister Eduardo Montealegre.

The Declaration of Havana issued at the conclusion of the Summit emphasized democracy, pluralism, and human rights. In closing remarks, several heads of state reiterated the need for greater openness in Cuba.

Government leadership positions continue to be dominated by men, and women remain underrepresented. There are very few women or minorities in policymaking positions in the Government or the Party. There are 2 women in the 24-member Politburo, 18 in the 150-member Central Committee, and 166 in the 601-seat ANPP. Although blacks and mulattos make up over half the population, they hold only six seats in the Politburo.

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

The Government does not recognize any domestic human rights groups, or permit them to function legally. The Government subjects domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refuses to consider applications for legal recognition submitted by human rights monitoring groups.

On June 7, members of several human rights organizations began a 40-day fast at Tamarindo 34 in Havana in support of respect for human rights and the release of political prisoners. The fast reportedly subsequently expanded to other locations in the country.

In its 1997 report, the IACHR examined measures taken by the Government and found that they did not "comprise the bedrock of a substantive reform in the present political system that would permit the ideological and partisan pluralism implicit in the wellspring from which a democratic system of government develops." The IACHR recommended that the Government provide reasonable safeguards to prevent violations of human rights, unconditionally release political prisoners and those jailed for trying to leave the country, abolish the concept of dangerousness in the Penal Code, eliminate other legal restriction on basic freedoms, cease harassing human rights groups, and establish a separation of powers so that the judiciary would no longer be "subordinate to political power."

The Government steadfastly has rejected international human rights monitoring. In 1992 Cuba's U.N. representative stated that Cuba would not recognize the mandate of the U.N. Commission on Human Rights (UNCHR) on Cuba and would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged and the Government refused even to acknowledge requests by the Special Rapporteur to visit Cuba. In April 1998, the UNCHR did not renew the mandate of the Special Rapporteur, following as yet unfulfilled assertions by the Government that it would improve human rights practices if it was not under formal sanction from the UNCHR. On April 23, the UNCHR passed a resolution, introduced by the Czech Republic and Poland, expressing concern about the human rights situation in Cuba.

In September the U.N. Special Rapporteurs on Violence Against Women and on Mercenaries visited the island, but issued no reports by year's end.

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

Cuba is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin, although evidence suggests that racial discrimination occurs often.

Women.—Violent crime rarely is reported in the press, and there are no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates report that violence against women is a problem. The law establishes strict penalties for rape, and the Government appears to enforce the rape law; however, according to human rights advocates, the police do not act on cases of domestic violence. In October 1998, a female religious worker was abused sexually and murdered. The Government quickly ordered an investigation and arrested one suspect. Prostitution is legal (except for prostitution by children under 17 years of age); however, pimping or otherwise benefiting from prostitution is a felony. Prostitution has increased greatly in the last few years; press reports indicate that tourists from various countries visit specifically to patronize inexpensive prostitutes. A government crackdown on prostitution beginning in late 1998 and continuing in 1999 appeared to have some effect, and fewer prostitutes (known as "jineteras") were visible in Havana and other major cities. This success was obtained through placing police on nearly every major street corner where tourists are present. Most observers believe that the Government clamped down on prostitution to combat the perception that the island promotes sex tourism.

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women are subject to the same restrictions on property ownership as men. The maternity law provides 18 weeks of maternity leave and grants work-

ing women preferential access to goods and services. About 40 percent of all women work, and they are well represented in the professions.

Children.—The Constitution provides that the Government protect "family, maternity, and matrimony." It also states that children, legitimate or not, have the same rights under the law and notes the duties of parents to protect them. Education is free and is grounded in Marxist ideology. State organizations and schools are charged with the "integral formation of children and youth." The national health care system covers all citizens. There is no societal pattern of abuse of children. However, child prostitution is a problem, with young girls engaging in prostitution to help support themselves and their families. Young girls have constituted the bulk of the prostitutes catering primarily to foreign tourists. It is illegal for a child under 17 years of age to engage in prostitution. The police began to enforce this law more actively in late 1998 and continued to do so during the year, as part of their crackdown on prostitution in general.

People with Disabilities.—The law prohibits discrimination based on disability, and there have been few complaints of such discrimination. There are no laws that mandate accessibility to buildings for the disabled.

National/Racial/Ethnic Minorities.—Many Afro-Cubans have benefited from access to basic education and medical care since the revolution, and much of the police force and army enlisted personnel is black. Nevertheless, racial discrimination often occurs. There have been numerous reports of disproportionate police harassment of black youths. In 1997 there were numerous credible reports of forced evictions of squatters and residents lacking official permission to reside in Havana. The evictions, exacerbated by Decree 217 (see Section 2.d.), primarily targeted individuals and families from the eastern provinces, which are traditionally areas of black or mixed-race populations.

Section 6. Worker Rights

a. *The Right of Association*.—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The "demands of the economy and society" take precedence over individual workers' preferences. The law prohibits strikes; none are known to have occurred. Established official labor organizations have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations are under the control of the State and the Communist Party, which also manage the enterprises for which the laborers work.

The Communist Party selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibits independent unions and none are recognized. There has been no change since the 1992 International Labor Organization (ILO) finding that Cuba violated ILO norms on freedom of association and the right to organize. Those who attempt to engage in union activities face government persecution. Workers can and have lost their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations have been created, but function without legal recognition and are unable to represent workers effectively and work on their behalf. The Government actively harasses these organizations. Police detained independent labor activist Jose Orlando Gonzalez Bridon of the Confederation of Democratic Workers of Cuba for brief periods in November and December 1998 and in January.

The CTC is a member of the Communist, formerly Soviet-dominated, World Federation of Trade Unions.

b. *The Right to Organize and Bargain Collectively*.—Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is almost the only employer in the country. Since all legal unions are government entities, antiunion discrimination by definition does not exist.

The 1995 Foreign Investment Law (Law 77) continued to deny workers the right to contract directly with foreign companies investing in Cuba without special government permission. Although a few firms have managed to negotiate exceptions, the Government requires foreign investors to contract workers through state employment agencies, which are paid in foreign currency and, in turn, pay workers very low wages in pesos. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consult with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen deserve to work in a joint enterprise.

There are no functioning export processing zones, although Law 77 authorizes the establishment of free trade zones and industrial parks.

c. *Prohibition of Forced or Compulsory Labor*.—Neither the Constitution nor the Labor Code prohibits forced labor. The Government maintains correctional centers where it sends persons for crimes such as dangerousness. They are forced to work on farms or building sites, usually with no pay and inadequate food. The authorities often imprison internees who do not cooperate.

The Government employs special groups of workers, known as "microbrigades," on loan from other jobs, on special building projects. These microbrigades have increased importance in the Government's efforts to complete tourist and other priority projects. Workers who refuse to volunteer for these jobs often risk discrimination or job loss. However, microbrigade workers reportedly receive priority consideration for apartments. The military channels some conscripts to the Youth Labor Army, where they serve their 2-year military service requirement working on farms that supply both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government requires children to work without compensation. All students over age 11 are expected to devote 30 to 45 days of their summer vacation to farm work, laboring up to 8 hours per day. The Ministry of Agriculture uses "voluntary labor" by student work brigades extensively in the farming sector.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The legal minimum working age is 17 years. However, the Labor Code permits the employment of 15- and 16-year-old children to obtain training or fill labor shortages. The law requires school attendance until the ninth grade, and this law generally is respected. The Government prohibits forced and bonded child labor; however, it requires children to work without compensation (see Section 6.c.).

e. *Acceptable Conditions of Work*.—The minimum wage varies by occupation and is set by the CETSS. The minimum monthly wage for a maid, for example, is $8.25 (165 pesos); for a bilingual office clerk, $9.50 (190 pesos); and for a gardener $10.75 (216 pesos). The Government supplements the minimum wage with free education and subsidized medical care (but reduces daily pay by 40 percent after the third day of being admitted to a hospital), housing, and some food—subsidized food is enough for about 1 week per month. However, even with these subsidies, the minimum wage does not provide a decent standard of living for a worker and family. Corruption and black market activities are pervasive. The Government rations most basic necessities such as food, medicine, clothing, and cooking gas, which are in very short supply.

The Government requires foreign companies in joint ventures with state entities to hire and pay workers through the State. Human Rights Watch noted that the required reliance on state-controlled employment agencies effectively leaves workers without any capacity directly to negotiate wages, benefits, the basis of promotions, and the length of the workers' trial period at the job with the employer. Reportedly these exploitative labor practices force foreign companies to pay the Government as much as $500 to $600 per month for workers, while the workers in turn receive only a small peso wage from the Government.

The standard workweek is 44 hours, with shorter workdays in hazardous occupations, such as mining. The Government also reduced the workday in some government offices and state enterprises to save energy.

Workplace environmental and safety controls are usually inadequate, and the Government lacks effective enforcement mechanisms. Industrial accidents apparently are frequent, but the Government suppresses such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary prescribed by law.

f. *Trafficking in Persons*.—In February the National Assembly revised the Penal Code to prohibit trafficking in persons through or from the country and to prescribe the following penalties for violations: A term of 7 to 15 years' imprisonment for organizing or cooperating in alien smuggling through the country; 10 to 20 years' imprisonment for entering the country to smuggle persons out of the country; and 20 years to life in prison for using violence, causing harm or death, or putting lives in danger, in engaging in such smuggling. These provisions are directed primarily at persons engaging in organized smuggling of would-be emigrants from Cuba to the United States. In addition, the revised Code made it illegal to promote or organize entrance of persons into or exit of persons from the country for the purpose of prostitution; violators are subject to 20 to 30 years' imprisonment.

There were no reports that persons were trafficked in, to, or from the country for the purpose of providing forced labor or services.

DOMINICA

Dominica is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A Prime Minister, a Cabinet, and a unicameral Legislative Assembly compose the Government. A President, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, is head of state. The United Workers Party (UWP), led by Prime Minister Edison James, won 11 of 21 seats in Parliament in free and fair elections in 1995 and gained an additional seat in 1996. The Constitution calls for elections at least every 5 years, and the UWP lost control of the Government in the January 2000 general elections. The judiciary is independent.

The Dominica Police is the only security force. It is controlled by and responsive to the democratically elected Government. There were occasional allegations of abuse by the police.

The country's primarily agrarian economy depends on earnings from banana exports. The Government is also developing the tourist industry, diversifying agricultural production, and promoting the export of fresh fruits, vegetables, and coconut products, both within and outside the region. Per capita gross domestic product was about $3,340 in 1997.

The Government generally respects the human rights of its citizens; however, there were problems in several areas. The principal human rights problems are occasional instances of use of excessive force by police, poor prison conditions, societal violence against women and children, instances of discrimination against indigenous Carib Indians, and societal discrimination against female Caribs in mixed marriages.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Constitution prohibits such practices; however, there were some allegations of occasional use of excessive force by the police.

In November 1997, the authorities forced the Commissioner and Deputy Commissioner of police to retire, as a result of recommendations by a Commission of Inquiry that investigated allegations of mismanagement, corruption, and police brutality. Under new leadership, the police created an Internal Affairs Department in December 1997 to investigate public complaints against the police and to provide counseling to police. In July 1998, a consultant from the United Kingdom conducted a 3-month study to update antiquated police regulations and to establish new operational guidelines for the police. This report was submitted to the Government in 1998 but was still under review at year's end. From January to September, the authorities received 19 complaints regarding excessive use of force by the police.

Prison conditions are poor. Overcrowding and unsanitary conditions continue to be problems in the sole prison facility. There are about 226 prisoners. The prison provides work therapy, sports programs, educational opportunities, and counseling for inmates. Twelve prisoners in the maximum security section of the prison conducted a 2-day hunger strike in July to protest what they claimed to be the poor quality of prison food. The strike ended after the prison superintendent promised to investigate and make any needed improvements in the quality of the food.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile*.—The Constitution requires that the authorities charge persons with a crime within 24 hours after arrest. If charges are brought, the police must bring the detainee to court within 72 hours. This requirement generally is honored in practice, although often those arrested on Fridays must remain in jail over the weekend and are not charged until the following Monday.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located with police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices. Government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for the right of free expression, and the Government respects this in practice. The political opposition openly criticizes the Government.

The principal radio station is state-owned and has a government-appointed board. There is also an independent radio station owned by the Catholic Church. The print media consist of two private newspapers and political party journals; all publish without censorship or government interference. Citizens also enjoy access to independent news sources through cable television and radio reception from neighboring islands.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the authorities respect them in practice. The Government may revoke passports if subversion is suspected but has not done so in recent times.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

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

In the last national elections in June 1995, the United Workers Party defeated the incumbent Dominica Freedom Party, taking 11 of 21 seats in Parliament. In a by-election in August 1996, the UWP gained an additional seat when it won a seat vacated by a member of the Dominica Freedom Party, giving the UWP a total of 12 seats. The Dominica Freedom Party currently holds four seats, and the Dominica Labour Party holds five seats. According to the Constitution, the next general election must take place by June 2000; at year's end, the Prime Minister called them for January 31, 2000.

There are no impediments in law or in fact to the participation of women in leadership roles in government or political parties; however, they are underrepresented in practice. Voters elected two women to Parliament in the 1995 elections. Indigenous Carib Indians participate in national political life.

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

There are no government restrictions on the formation of local human rights organizations, although no such groups exist. Several advocacy groups, such as the Association of Disabled People and a women's and children's self-help organization, operate freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

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

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities respect in practice.

Women.—Sexual harassment and domestic violence cases are common, and there is no family court to deal specifically with domestic violence issues. Women can bring charges against husbands for battery, and both the police and the courts prosecute cases of rape and sexual assault, but there are no specific spousal abuse laws. However, in April 1998, a new Sexual Offences Act went into effect to replace the previous act, which required medical evidence or witness corroboration for indictment. As a matter of policy, all rape cases are handled solely by female police officers. The Department of Labor recruited a permanent counselor and established a crisis response mechanism to assist women who are victims of domestic violence. The Welfare Department assists victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reports all cases of abuse to the police. The courts may issue protective orders, but the police do not enforce them consistently.

Beyond the general protection of the Constitution, women do not benefit from any specific civil rights legislation. While there is little open discrimination against women, property ownership continues to be deeded to "heads of households," who are usually males. When the male head of household dies without a will, the wife cannot inherit the property or sell it, although she can live in it and pass it to her children. In the civil service, the law establishes fixed pay rates for specific jobs, whatever the gender of the incumbent.

The Dominica National Council of Women, a nongovernmental organization (NGO), has developed local adult education and small business training programs for women. According to the Labor Department, many women in rural areas find it difficult to meet basic needs, at least in part owing to the decline in the banana export industry.

Children.—The law stipulates that the Government should protect the rights of children to education and health care. Education is compulsory through age 16, and primary health care is available throughout the island.

Various laws enumerate children's rights, but their enforcement is hampered by lack of staffing in government agencies. According to the Welfare Department, reported cases of child abuse, including sexual abuse, have increased over the past few years. In 1997 there were 267 reported cases of child abuse, 175 of which were sexual abuse cases. In 1998 there were 303 reported cases of child abuse, 124 of which were sexual abuse cases. At year's end, there were nine staff members in the social welfare office that handles all welfare problems, including complaints of child abuse.

Although the maximum sentence for sexual molestation (rape, incest) is life imprisonment, the normal sentence given is 15 years except in the case of murder. The age of consent for sexual relations is 16 years.

People with Disabilities.—Beyond the general protection of the Constitution, there is no specific legislation dealing with the disabled. However, the labor laws permit authorization of employment of a disabled person for less than the minimum wage, in order to increase opportunities for employment of the disabled (see Section 6.e.). There is no requirement mandating access for those with disabilities.

Indigenous People.—There is a significant Carib Indian population, estimated at 3,400, of a total population of 72,000. Most live on a 3,783-acre reservation created in 1903 and expanded in 1997. School, water, and health facilities available on the Carib reservation are rudimentary but similar to those available to other rural Dominicans. Most Carib Indians engage in farming, fishing, and handicraft. Unemployment is believed to be higher than in rest of the country, while the average income is below the national average. About 65 percent of the Carib population is between the ages of 18 and 35.

The reservation is governed by the 1978 Carib Constitution. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and eight members of the Council of Advisors. Elections are held every 5 years, and the latest election was held in July. According to the Carib Constitution, the Council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

There are credible reports of discrimination against Carib women who are married to, or who live with, non-Carib men, making it difficult for such couples to obtain permits to build homes within the reservation. Building permits are obtained from the Carib Council. Until 1979 the Carib Constitution allowed Carib men married to non-Carib women to continue living on the Carib reserve but dictated that Carib women married to non-Carib men had to move off the reservation. Although the law has changed, practice is not yet in keeping with the law. In one case, a Carib woman in a common-law relationship with a non-Carib man who tried to build a house on land reserved for her family received threats that her house would be burned down. An estimated 25 percent of the Carib Indian population is believed to be in mixed marriages or relationships.

Section 6. Worker Rights

a. *The Right of Association.*—All workers have the legal right to organize, to choose their representatives, and to strike, but unions represent less than 10 percent of the work force. All unions are independent of the Government. While there are no direct ties, members of certain political parties dominate some unions. There is no restriction on forming labor federations, and unions are affiliated with various international labor bodies.

b. *The Right to Organize and Bargain Collectively.*—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining is widespread in the nonagricultural sectors of the economy, including the government service, and there is also recourse to mediation and arbitration by the Government. The law prohibits antiunion discrimination by employers, and judicial and police authorities enforce union rights. In addition employers must reinstate workers fired for union activities. The law requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures. Department of Labor inspectors under the supervision of the Labor Commissioner enforce labor legislation, but the small Labor Inspection Office lacks qualified personnel to carry out its duties.

Labor regulations and practices governing the country's industrial areas and export firms do not differ from those prevailing in the rest of the economy.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including that by children, and such labor is not known to exist.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal age for employment is 15 years. Employers generally observe this law without government enforcement. The law prohibits forced or bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) is as low as $0.37 (EC$1.00) per hour if meals are included. However, minimum wages for most workers fall in a range between $0.74 (EC$2.00) per hour for tourist industry workers to $1.11 (EC$3.00) per hour for occupations such as shopclerks. Minimum wages are not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earn more than the legislated minimum wage for their category. The Minimum Wage Advisory Board met in 1998 and recommended increases in these wage levels. The Prime Minister, who is also Labor Minister, had not yet acted upon these recommendations at year's end.

The labor standards laws state that no employer shall establish or maintain differences in wages between men and women performing the same or similar work with parallel responsibilities under similar conditions. The law further states that no employer may reduce the wages of an employee to comply with equal wage standards. The labor laws also provide that the Labor Commissioner may authorize the employment of a disabled person at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks' paid vacation per year. The Employment Safety Act provides occupational health and safety regulation. Local NGO's and one major union consider it to be consistent with international standards. The Advisory Committee on Safety and Health is an established body but has never met. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons.

Recent press reports indicate that the country's economic citizenship program, which allows individuals to purchase passports through investments ranging from $15,000 (EC$40,000) to $50,000 (EC$135,000), has facilitated the illegal immigration of persons from China and other countries to North America. Criminal organizations reportedly provide funds to such individuals to pay these fees, and the persons later are trafficked to Canada and the United States, where they work under conditions similar to bonded labor until their debt is repaid.

DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral Congress. President Leonel Fernandez of the Dominican Liberation Party (PLD) took office in 1996 after a free and fair election. The opposition Dominican Revolutionary Party (PRD), after free and fair congressional elections in May, 1998, dominates the Senate and has the largest presence in the lower house. The efforts of the Supreme Court have led to a more effective judiciary independent of other branches of government; nevertheless, there have been attempts by both public and private entities, including the executive branch, to undermine judicial independence.

The National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the military (army, air force, and navy) form the security forces. The PN is under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and the DNCD, which have personnel from both the police and the military, report directly to the President. Although the security forces generally are responsive to civilian authority, there were many instances in which members of the security forces acted independently of government authority or control. Some members of the security forces continue to commit human rights abuses, sometimes with the tacit acquiescence of the civil authorities.

The economy, once heavily dependent on sugar and other agricultural exports, continues to diversify; tourism, telecommunications, and free trade zones (FTZ's) are major sources of income and employment. Remittances from abroad, estimated to exceed $1.5 billion, are equivalent to approximately 10 percent of the $1,800 per capita gross domestic product. The country's agricultural and tourism sectors and electrical power network largely have recovered from the effects of Hurricane Georges, which hit the island in 1998, while transportation infrastructure lags somewhat behind. During the year, the Government transferred the sugar mills and lands belonging to the State Sugar Council (CEA) by long-term lease to private control and privatized the distribution function and part of the power generating capacity of the Dominican Electricity Corporation. Income distribution in the country is highly skewed, and more than half of the population live in poverty.

The Government's human rights record continued to be characterized by serious problems. Police committed over twice as many extrajudicial killings as in 1998. The police beat suspects and regularly used excessive force to disperse demonstrators. Some security force personnel tortured prisoners. Prison conditions in general are extremely harsh. Police arbitrarily arrested, detained, and abused suspects and suspects' relatives. Lengthy pretrial detention and long delays in trials remained problems. Security forces committed break-ins of private quarters without cause to search for suspects, and regularly refused to obey judicial orders. The police were responsible for most of the human rights abuses committed by the security forces and in many cases commit such abuses with impunity. The administration and effectiveness of the justice system improved somewhat, although interference with the judiciary remained a problem, as did administrative corruption. The Government at times pressured editors not to publish unfavorable items, journalists practiced some self-censorship, and police on several occasions limited freedom of assembly. The Government restricts the movement of Haitian sugar cane workers. Violence and discrimination against women; trafficking in women and girls; prostitution, including child prostitution; abuse of children; discrimination against the disabled, discrimination against and abuse of Haitian migrants and their descendants; and forced labor and child labor are serious problems. Workers in the sugar plantations and mills of the CEA continued to work under unfair and unsafe conditions through the harvest season.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by government officials; however, police reportedly committed well over 200 extrajudicial killings during the year, nearly three times the number in 1998. The Dominican Human Rights Committee and others state that the police may employ unwarranted deadly force against criminal suspects in a kind of uniformed vigilantism. In addition, some victims are involved in private disputes with police agents who use their public authority and weapons to murder them, while other victims later were found to be honest citizens erroneously caught up in the wave of antigang violence carried out by the police. The circumstances of the vast majority of these killings are questionable, but witnesses other than the police usually are lacking.

Extrajudicial killings stem from the lack of basic education, poor training, and weak discipline of the members of the police force. These problems are aggravated by low pay and the fact that the Government's budgetary allocation for the police is too low to support the higher recruiting standards needed and to provide adequate training. For example, new recruits fire only one round during training, and there is no coherent policy on the use of deadly force or rules of engagement by the police. Finally, there is a lack of specific training in human rights as applied to police work.

In the majority of the more than 200 extrajudicial killings, the police characterized the victims as delinquents. The rest were wives, girlfriends, or associates of the officers, other civilians, or fellow officers. In most cases, the police said that the deaths resulted from the exchange of gunfire incident to arrest. In many cases, the police commit such killings with impunity. In October the Inter-American Commission on Human Rights (IACHR) issued a report that criticized the police for committing extrajudicial killings and neglecting to investigate and punish officers responsible for such abuses.

In Santo Domingo, police said that they shot a man known only as "Penita" when he confronted their patrol with a shotgun in the streets of Manoguaybo. The police said that Penita was wanted on a series of charges and that when he was spotted by a patrol he immediately began shooting. The police, according to their spokesman, returned the fire, mortally injuring Penita, who died en route to the hospital. There were no outside witnesses to confirm or dispute the police account, which was typical of police encounters with delinquents, as described by the police.

The police shot and killed Fausto Torres Estevez, whom they sought in connection with the murder of a fellow officer earlier the same day. According to the PN, Torres Estevez was a known delinquent in Santiago, and in possession of a 12-gauge shotgun with which he tried to fight off the police patrol. However, according to neighbors and other witnesses, Torres Estevez was walking when a vehicle suddenly swerved to a stop in front of him and several men carrying firearms leaped out and began shooting. When he was dead, they put his body in the trunk of their vehicle and drove him to the morgue. No investigation has been reported.

Police have claimed that the deaths of so-called delinquents result from shoot-outs requiring the police to act in self-defense. However, a number of cases highlight instances in which the public has been misinformed. In at least one confirmed case, the deaths occurred after the alleged delinquents were taken into custody. In Moca the police handcuffed three young men and placed them, alive, in the back of a police pickup truck. A young journalism student who happened to be present recorded their arrest and departure from the scene. When the truck arrived at the police headquarters, the three men were dead. The authorities arrested a general, a colonel, a legal consultant, and various police officers in connection with the three deaths and transferred them from the jail in Santiago to the National District in furtherance of the investigation.

Witnesses reported that the police shot and killed 26-year-old Felix Manuel, a Herrera man with a criminal record, moments after the police officers placed him under arrest. No investigation of this incident has been reported.

The police in La Romana detained a young man who had reportedly videotaped the arrest of a young man who was dead when he arrived at the police station. The police confiscated the videotape, but not long thereafter reported that two private citizens had erased it because they wanted to "avoid confusion among the public." However, the erasure occurred while the tape was in police custody.

Police courts may try police officers or may remand them to civilian court jurisdiction. Military courts try military personnel charged with extrajudicial killings. Chief of Police Pedro de Jesus Candelier announced that every time an officer is involved in a questionable incident, the case goes to a commission of superior officers for investigation. He said that if it is determined that the police officer has exceeded his authority, the case is sent to the police courts or to the civilian courts, depending on the severity of the offense. Out of a force of about 23,000 members, including officers and cadets, Candelier fired at least 2,300 during the year and investigated or detained hundreds of police officers because of their alleged use of excessive violence. Also, despite efforts to vet police recruits, many persons with prior criminal records reportedly have been incorporated into police ranks, either using false names or identification or with recommendations from other state institutions, such as the army. Candelier has undertaken an ongoing process to eliminate unqualified or abusive police officers.

The police used force—at times deadly force—to disperse demonstrators. The PN reported that nine persons were killed in the course of protest demonstrations during the year, mostly in the northeast and south of the country. For example, the military and police were called into service to clear former employees of the sugar

mills, squatters, and would-be alien smugglers off government-owned lands. In the process of removal of families with 15 to 25 years' residence in Los Valientes de la Caleta, near Boca Chica, government agents killed one man and shot several others. A young man of Punta de Moca died from a gunshot wound received when police attempted to stop a demonstration organized by community members to focus attention on unfinished public works projects in their area.

The IACHR report also criticized the Government for extrajudicial killings carried out by state agents in prisons.

There was no progress reported in trials of police officers detained for killing law student Franklin Bortolo Fabian Mejia in July 1998; for killing a suspected robber of a Santiago pharmacy, also in July 1998; for killing a priest after allegedly mistaking him for a murder suspect in August 1998 in Santo Domingo; or for the triple homicide on November 25, 1998, of three young male victims who might have been killed because of their refusal to share the proceeds of a recent robbery with the police.

There was some progress in the case of the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration, in the Criminal Chamber of the Court of Appeals in Santo Domingo. Although the authorities released one suspect from custody following a highly controversial judicial ruling, another of the accused, Mariano Cabrera Duran, is to stand trial. Former President Balaguer himself continues to be vulnerable to future charges of complicity and obstruction of justice, as well as to being called as a witness, should the case ever reach trial.

b. *Disappearance.*—There were no reports of politically motivated disappearances. In the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in May 1994, an examining magistrate questioned more than 20 people, 16 of whom were present or former members of the armed forces. The authorities detained three persons—retired General Constantino Matos Villanueva, retired General Leonardo Antonio Reyes Bencosme, and Colonel Manuel C. Perez Volquez—for different periods of time during the year. A court later released them from custody on writs of habeas corpus. The investigations continued at year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other forms of physical abuse; however, security forces' personnel continue to torture, beat, and otherwise physically abuse detainees and prisoners. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbate the problem of physical abuse. The IACHR's October report, human rights groups, and the press reported regular and repeated occurrences of physical abuse of detainees while in custody.

Shortly after her release from 2 years' confinement on drug-related charges, "Miss Najayo 98" Angela de la Cruz spoke of practices she witnessed at the Mexico section of the San Pedro de Macoris prison, including torture. The most graphic was the use of a punishment called "the toaster", where guards laid prisoners, shackled hand and foot, on a bed of hot asphalt for the entire day and, if they screamed, beat them with a club. The army administers San Pedro de Macoris prison.

Homosexual and transvestite detainees report to gay rights advocates that during detention the police have held them in a darkened room and have given them the alternative of performing fellatio on whichever guards so desired or being placed in a locked cell with the most dangerous prisoners, where the detainees presumed that they would be raped, beaten, or both. Other informants confirmed that the police use the prospect of being locked in with the most dangerous prisoners as a threat. For example, a police sergeant struck a newspaper artist arrested for a traffic infraction when the latter asked to make a telephone call and told him to shut up or be locked in with the most dangerous prisoners.

The National Coordinator for Human Rights cited the Department of Homicide and Robbery Investigations and DNCD for the persistent use of torture to extract confessions from detainees. The method most often used is beating. After several former detainees went to the press with credible reports that the police interrogators had beaten them repeatedly, the Chief of Police and Attorney General designated a commission to investigate. The beatings allegedly took place during periods of detention of up to 15 days without arraignment before a judge (the Constitution permits only 48 hours). The informants reported that the police repeatedly awoke them during the night for questioning.

The National District prosecutor's office continued to place lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to assure that detainees' rights are respected (see Section 1.d.). Most of the affected PN and DNCD investigators responded positively to this oversight, although some DNCD personnel reportedly complain that their hands were being tied. Still, the initiative remains largely limited to the Santo Domingo metropolitan area, with a less-

er presence in Santiago. There is some evidence that these assistant prosecutors at times acquiesce in traditional police practices, rather than attempt to raise these practices to constitutional standards. Less qualified prosecutors assigned to the rest of the country have not yet assumed stronger roles in managing criminal investigations and ensuring the rights of suspects. Human rights courses are an integral part of military and DNCD training, both for enlisted personnel and officers.

Civilian prosecutors sometimes file charges against police and military officials alleging torture, physical abuse, and related crimes. A 1997 law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. However, until recently these provisions were not known fully or applied by prosecutors and judges. In August the Government inaugurated a judicial training school, which eventually may remedy this type of lag between legislative action and judicial follow-through.

In December the PN chief ordered the arrest of Colonel Benito Diaz Perez after an investigation by the PN's Internal Affairs Department of allegations that he was torturing detainees in the police detachments that he commanded in Sabana Perdida, Villa Mella, Guaricanos, and other communities north of the National District. The charges included use of battery acid on suspects during questioning. Dozens of complaints of torture and mistreatment had been lodged against Colonel Diaz Perez during his career. He reportedly threatened the life of the president of the Dominican Committee on Human Rights, Virgilio Almanzar, when the latter visited La Victoria Prison during the Colonel's tenure there in 1994. Nevertheless, the PN had placed him in command of the police in a cluster of densely populated communities.

The police at times forcibly dispersed demonstrators, using tear gas and weapons (see Sections 2.b. and 3).

Election campaigning was relatively peaceful, although there were isolated instances of violence.

Prison conditions range from poor to extremely harsh, but most facilities fall in the latter category. The prisons are seriously overcrowded, health and sanitary conditions are poor, and some prisons are out of the control of the authorities. Prison conditions for the vast majority of prisoners are so harsh as to be in violation of the constitutional ban on punishments that involve the loss or diminution of the health or physical integrity of the individual. Reports of torture and mistreatment in prisons are common. A warden is responsible for running each prison and reporting to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel) who is appointed for 3 to 6 months only, reports to the warden and is responsible for providing security. However, in practice the colonel is in charge of the prison, and neither the Directorate of Prisons nor the individual wardens have much power. According to credible reports, some prisons are totally out of the control of the authorities. They are, in effect, operated by armed inmates, who decide whether an individual gets food, or space to sleep, or a needed visit to a doctor or dentist. Individual inmates only can secure a tolerable level of existence by paying for it. Only those with considerable personal or family resources can do so.

Conditions at La Victoria prison, run by the PN, pose a serious threat to life and health. This prison held 3,099 prisoners in a facility built for 1,000. Prisoners had 4 square yards of space apiece. In four prisons—Azua, Nagua, La Romana, and Higuey—inmates had one-half square yard each. In San Cristobal they had 1.5 square yards; in 12 other prisons the space available was 2 to 3 square yards. Nine others allowed 4 square yards per inmate. At Elias Pina, a prison built in 1922, there were 24 beds and—depending on the reports relied on—82 or 160 prisoners. There was no kitchen, no laundry, no workshops, no area for religious services, no recreation area, no dining room, no commissary, no dispensary, no warden's office, and no school. There was a sewer system, a cistern for water, and a septic tank. In May the press reported that inmates at Elias Pina had not seen the sun for 4 months and that the lack of light was the cause of many prisoners losing their sight—at least temporarily—when released or transferred from Elias Pina.

In 32 prisons around the country with a total capacity of 6,971 persons, the police and the military held more than 15,000 persons. During the first 6 months of 1999, the number of new admissions exceeded the number of releases by 1,461. Medical care suffers from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS are not transferred to a hospital, but some terminal-stage inmates were released early to spend their last days at home.

The General Directorate of Prisons falls under the authority of the Public Ministry and is seriously underfunded. An effort by the Director of Prisons to create a new corps of specially trained prison officers collapsed when it was omitted from the

Government's budget. Initial budget allocations for necessities such as food, medicines, and transportation were reduced still further during the year.

In June the wardens of 31 prisons reported that their money to buy food for the prisoners was exhausted in May, and that for 17 days they were unable to provide breakfast or supper to the inmates. A government food program for the general public was providing lunches at some prisons; at others, food came from the agricultural products raised, while at other prisons the inmates had for lunch whatever could be begged from persons who lived in the vicinity of the prison or brought by family members.

In September the Director of Prisons reported that funds to buy gasoline had run out. Consequently there was no way to transport prisoners to court for hearings or trials.

Prisons controlled by the military generally are administered better than those controlled by the National Police.

Female prisoners are separated from male inmates. In general, conditions in the female prison wings are superior to those found in male prison wings. There have been some reports of guards abusing female inmates.

The law requires that juveniles be detained separately from adults. However, a recent press report found a high incidence of violations, with 200 minors jailed with adults at Najayo prison.

The Government permits prison visits by independent human rights monitors and by the press.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are problems. The Constitution provides for the security of the individual against imprisonment without legal process, detention beyond 48 hours without being presented before judicial authorities, or failure by custodial authorities to present detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully withheld. However, the security forces continue to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The security forces traditionally detain all suspects and witnesses in a crime and use the investigative process to determine which ones are innocent and merit release, and which ones they should continue to hold. After the prosecutor's office placed its lawyers in several police stations in 1997, the police began to curtail the practice of arbitrary detention in those precincts. However, progress has been slow (see Section 1.c.), and this program has been limited for the most part to the Santo Domingo metropolitan area.

The prosecutor for the Court of Appeals in Santiago reported that the Department of Investigation of Homicide and Robbery of the National Police, Northern Command, routinely detained persons beyond the 48-hour limit. Detainees at police headquarters in Santo Domingo, known as "the palace", complained of being held for 15 to 21 days.

The police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrest and detain individuals arbitrarily. The alleged object of the roundups is to fight delinquency. Following the indiscriminate arrests, the police regularly detain individuals for up to 20 days or more, while they look for a reason to charge them with a crime.

The police say that they rely upon unlawful detention without presentation to a court because some cases involve more complicated investigations. However, there is a clear pattern of the police arresting individuals before investigating a crime thoroughly, relying on confessions to make their case. Without the education, training, or equipment to conduct modern forensic investigations, police instead hold suspects incommunicado (see Section 1.e.), repeatedly question them, and sometimes beat them, until they confess. The prosecutors who are assigned to monitor the criminal investigation phase at police stations appear to be unable to control the practice (see Section 1.c.).

A related problem is the police practice of arresting and detaining individuals solely because of their familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse are all vulnerable to this practice, the goal of which is to compel an at-large 65 suspect to give himself up or to coerce a confession from one already arrested.

A former police sergeant, Roberto Medina Guerrero, the brother of another former policeman wanted in connection with a gang known as Los Murdos, gave himself up to the police through the good offices of the president of the Committee on Human Rights. He complained that the police had unleashed a wave of repression upon his entire family, that they even arrested his 65-year-old mother, Esperanza Maria Guerrero, and held her for several days to pressure his brother Cristian to give himself up. Medina Guerrero reported that he was detained for 5 days, released

on a Friday, and on the following Monday the police were looking for him to arrest him again.

In December the PN chief ordered that this practice be ended immediately.

In September DNCD Director Vice Admiral Luis Alberto Humeau Hidalgo promised a full investigation of a case in which agents of the DNCD, as well as someone claiming to be with INTERPOL, arrested a young man and held him pending payment by his family of about $20,000 (300,000 pesos). Sotero Velez was detained for several days. His family collected $10,000 (150,000 pesos), bought their son's freedom, and promptly reported the case to the prosecutor.

During the days leading up to the general strike called in October to protest an increase in fuel prices, the PN arrested numerous labor union officials as well as others whom it suspected of supporting the strike or opposing the Government. The police held those taken into detention for several days, without warrant or arraignment.

Many suspects suffer long pretrial detention. In December over 74 percent of the national prison population were awaiting trial, almost the same proportion as in 1998. However, while suspects nationwide still suffer long pretrial detention, judicial statistics show reduced delays for the last 3 years in the Santo Domingo National District (an area that accounts for approximately 45 percent of all criminal cases in the country). In this area the average pretrial detention dropped from 13.8 months in 1996 to 6.1 months in 1999. However, the rest of the country apparently has experienced only modest decreases in judicial delays. In December prison statistics showed that 10,833 of the 14,604 inmates were in pretrial or preventive detention; only 3,771 actually had been convicted.

Because of the historical inefficiency of the courts (see Section 1.e.), the granting of bail serves as the de facto criminal justice system. As a rule, defendants awarded bail rarely face an actual trial. (Time already served counts toward a sentence.) This situation improved somewhat as a result of the steps taken by the Santo Domingo District Attorney and the judiciary, in cooperation with the Director of Prisons, to introduce a prisoner registry system whose goal is to ensure that prisoners receive a timely trial. The prison system (see Section 1.c.) remains underfunded and sometimes is unable to account for prisoners who are scheduled for trial or for release. The failure of the prison authorities to produce the accused caused 21 percent of all trial postponements. The authorities held some prisoners even though there was no formal charge against them, and kept some prisoners jailed even after a court ordered their release.

Jose Luis Amezquita spent 15 years behind bars without an official charge and without ever being presented to a judicial officer, before he was finally released on a writ of habeas corpus. During his incarceration, he spent at least some time in the majority of the country's prisons and his case finally came to the attention of the Public Defender program, which ultimately obtained his release. At the time of his release, then-Attorney General Mariano German Mejia launched an investigation to determine the identities of other persons incarcerated without official charges or convictions, saying that these cases represent the lack of order and structure within the judicial system. Other officials noted that there may be hundreds of such cases in the prison system.

The law prohibits forced exile, and there were no reports of its use. However, persons who credibly asserted that they were citizens were sometimes expelled to Haiti (see Section 1.f.).

e. *Denial of Fair Public Trial.*—The Constitution calls for an independent judiciary; however, there have been attempts by other public and private entities, including the executive branch, to undermine judicial independence. In August 1997, the National Judiciary Council chose members of the Supreme Court for the first time, beginning a new independence from the executive and legislative branches, and the efforts of the Supreme Court have led to a more effective judiciary independent of the other branches; nevertheless, interference from other branches continues.

The judiciary, based primarily on the French judicial system, includes the 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are also specialized courts that handle administrative, labor, land, and juvenile matters.

Military or police courts have jurisdiction over members of the security forces. There is increasing controversy over the use of military or police panels to judge the propriety of armed forces or police conduct. Public pressure has resulted in military or police boards remanding some cases involving serious crimes to civilian courts for review, after the boards ordered the perpetrators to be discharged dishonorably. In other cases, civil authorities have requested the PN to turn over their files so that cases of suspected extrajudicial killings might be evaluated independently for possible prosecution.

Judges, rather than juries, render all verdicts. Under the 1994 constitutional amendments, the Supreme Court is responsible for naming all lower-court judges in accordance with a judicial career law, which entered into force in August 1998. The National Judiciary Council selects new justices of the Supreme Court. The Council consists of the President, the President of the Senate, the President of the Chamber of Deputies, two at-large members designated by them, the President of the Supreme Court, and one other justice designated by the Supreme Court.

Following the commission of a crime, the criminal process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution provides for the right not to be arrested without judicial warrant except in cases where the suspect is caught in the act; the right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right to be presented to a competent judicial authority within 48 hours of one's detention; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial.

The most serious and common violation of these rights occurs when police detain suspects, sometimes for many days, without giving them access to a telephone call to family while subjecting them to frequent questioning. Although accused persons are entitled to have an attorney present, they often are not permitted to call one or, if one arrives, the attorney is not permitted to be present during the questioning. (The police complain that the presence of attorneys interferes with their investigations.) Under these circumstances, suspects may confess to acts that they did not commit merely to get relief from the intense questioning and the detention. The results of these interrogations frequently form the only evidence presented at the trial.

The Supreme Court broadened the remedy of "Amparo"—an action any citizen may bring for violation of a constitutional right—to include violations by judicial officials, in accordance with the terms of the American Convention on Human Rights.

The Supreme Court continued to combat judicial corruption and incompetence. In a series of operations, the trial court judges in the National District eliminated all but criminal cases from their dockets, then set themselves a target of hearing some 12 or 13 cases per day. Using this approach in cooperation with other segments of the criminal justice system, the trial judges succeeded in increasing the number of cases resolved so that they finally exceed, slightly, the number of cases taken into the system. The process of dispute resolution was assisted by recourse to the use of private reconciliation and mediation as alternatives to trial and incarceration.

There remains a backlog of 100,000 criminal cases in the National District alone, and a total of 200,000 throughout the country. The Supreme Court's plan to unclog the court dockets has been frustrated by the Government's failure to allocate sufficient funds. Dockets are crowded with traffic infractions that should be heard in the traffic courts provided for by statute; due to a lack of funds, the traffic courts have not been set up. Other complications in clearing the backlog arise from the exhaustion of funds for transporting prisoners to court; many cases must be sent back when the accused does not appear. The Government has not yet established 25 additional courts provided for by law and planned for the National District and elsewhere in the country.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—The Constitution contains provisions against invasion of the home; however, police sometimes break in to private quarters without cause to search for suspects, and the authorities infringe on citizens' privacy rights in other ways as well. Although the Government denies arbitrary use of wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it tolerates an active private wiretapping industry.

The law permits the arrest of a suspect caught in the act of committing a crime, and police may enter a residence or business in pursuit of such suspects. Otherwise judges must authorize arrests and issue search warrants. However, the PN and occasionally the DNCD continue to violate these requirements. Some prosecutors confess that out of "tactical necessity to combat criminality" and "with great reluctance", they tolerate the illegal search practices. They justify their actions by arguing that the Government has not provided sufficient resources or attention to criminal investigation and that, given the cumbersome and antiquated criminal procedures, adhering to the letter of the law would make law enforcement nearly impossible.

On a Saturday in early August, the police executed a series of dawn raids on motels in and near the National District in an attempt to locate and arrest suspected criminals. They woke up persons of whom there was no reason to suspect any criminal activity, before 6 a.m. and made them stand outside while their rooms were

searched. Human rights advocates complained vigorously that these raids interfered with the security of domicile provided for by the Constitution.

In September police agents in Barahona carried out a number of early morning break-ins at various homes in the community in search of the organizers of a strike held the previous day during which one person was killed and several others were wounded. The police detained several persons as a result of the searches.

The security forces continued to detain relatives and friends of suspects to try to compel suspects to surrender or to confess (see Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The law provides for these freedoms, and the Government generally respects them in practice; however, there are some exceptions. There are instances of government pressure on editors not to publish certain unfavorable items, such as negative poll results.

Citizens of all political persuasions exercise freedom of speech. Newspapers and magazines freely present a diversity of opinion and criticism. However, self-censorship is practiced, particularly when coverage could adversely affect the economic or political interests of media owners.

In an apparent attempt to suppress information, the police arrested a journalist who had listed the numerous extrajudicial killings during the year and held him for questioning.

Major supporters of the ruling PLD made significant financial investments in a major newspaper, which at the time faced bankruptcy. Those investments were followed by a perceptible change in the newspaper's content, as its coverage of government activities and PLD candidates became more favorable. This sequence of events created the appearance of improper government influence.

The numerous privately owned radio and television stations broadcast all political points of view. The Government controls one television station.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 100,000 mostly part-time students, has few restrictions on enrollment and maintains a policy of nonintervention (other than on curriculum development) in classroom affairs. The Government exerts no control over private universities, except for the preservation of standards, and teachers are free to espouse their own theories without government oversight.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice; however, there were some exceptions. Outdoor public marches and meetings require permits, which the Government usually grants; however, there were incidents in which the police used force to break up demonstrations. In January the security forces used tear gas and fired shots in clashes with PRD supporters during the campaign for control of the Dominican Municipal League (LMD), which has an important political role in influencing the flow of government funds to the relatively autonomous municipal governments. On several occasions throughout the year, the Government responded with force to disperse demonstrators calling for completion of public works projects, opposing evictions, or supporting a strike.

Judicial branch statistics concerning the use of the criminal charge of "association with criminal elements" suggest improvement in conditions for political dissent under the Fernandez administration. Under former President Balaguer, the authorities traditionally used this charge against dissidents and those involved in street demonstrations against the Government. From 1990 to 1996, this charge represented 13 to 16 percent of all criminal charges filed in the National District. In 1997 and 1998, this figure dropped to less than 2 percent. However, it rose slightly, to 3 percent, in 1999.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Political parties frequently affiliate with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others function freely and can maintain relationships with counterpart organizations.

c. *Freedom of Religion*.—The Constitution prohibits discrimination on religious grounds, and the Government does not interfere with the practice of religion. Many religions and denominations are active.

The Catholic Church, which signed a concordat with the Government in 1954, enjoys special privileges not extended to other religions. These include the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country. Attendance at Catholic Mass for members of the National Police is compulsory.

In August education authorities investigated a report that the directors of Pilar Constanzo Polytechnic School, in Villa Duarte, National District, were discriminating against students and teachers who were not Catholics. The publicly controlled school laid off at least 10 teachers, and there were also complaints that Protestant students were refused admission, despite excellent test scores and grades. Students whose parents are Jehovah's Witnesses, Seventh-Day Adventists, Mormons, and faiths other than Catholicism allegedly were refused entry to the school. The case was still under investigation at year's end.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation*.—The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence, or police regulations for immigration and health reasons. Citizens face no unusual legal restrictions on travel within or outside the country. The October IACHR report cited discrimination against Haitian workers, whom it said were subject to arbitrary and unilateral action by the authorities.

Haitians continue to migrate in great numbers to the Dominican Republic, some legally but most without legal documents, in search of economic opportunity. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. International observers estimated that the Government deported approximately 10,000 Haitians from the southwestern province of Barahona alone. In many cases, the Government denied those deported the opportunity to demonstrate that they resided legally in the Dominican Republic or to make arrangements for their families or property. Haitian Government officials complained that Haitians often were detained with little or no food and then deported without timely notice to Haitian authorities. At year's end, there was no accurate count of the number of persons affected by this practice.

The ongoing process of repatriating Haitian nationals accelerated during the second half of the year. According to the Director of Migration, hundreds of Dominican cedulas (identification cards) were confiscated from individuals during the month of November, before those persons were escorted to the Haitian side of the common frontier. Those expelled were told that their claim of nationality would be investigated, but no process for followup or investigation was in place.

NGO representatives working in rural areas reported that decisions to deport often were made by lower ranking members of the security forces, sometimes based upon the racial characteristics of the deportees. The Director of Migration described the process of rounding up illegal Haitians as one essentially performed by the rank and file of the armed forces and immigration officers. They approach persons who look to them like Haitians, usually persons who have very dark complexions and fairly poor clothing. They engage them in conversation about their work and residence, mainly to check their use of Spanish and any accent they may have. If such persons speak Spanish poorly or with a noticeable accent, they are detained and deported, regardless of any documentation they may have showing their legal right to live in the country.

The Haitian Government protested the failure to give detainees an opportunity for a hearing on their claim of citizenship or right to residence, although it acknowledges the Government's right to deport those individuals who are illegal aliens. NGO's and Catholic priests familiar with the process also have protested that children born of one or two Haitian parents in the Dominican Republic, heretofore denied registration as Dominican nationals, are frequently among those deported as illegal Haitians.

According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommission of the National Commission for Refugees by the National Office of Refugee Affairs. The Subcommission, which makes a recommendation to the Commission, is made up of members from the Foreign Ministry, the DNI, and the Immigration Directorate. The Commission, which makes a final decision on the application, consists of the three members of the Subcommission; the legal advisor to the President; and members of the PN, the Secretariat of Labor, and the Attorney General's office.

In practice, the National Office of Refugee Affairs is not yet functioning, although the subcommission makes recommendations, and the Immigration Directorate issues documentation to refugees certified as such by the U.N. High Commissioner for Refugees (UNHCR). While these documents are accepted routinely by the police and immigration officials, the process by which they are issued does not comply with the decree.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum and resettlement.

Citing fears of a massive influx of Haitians across the shared border, the Government backed away from its refugee policy with respect to Haitians, opting instead

for a policy of strictly enforced documentary requirements and repatriation for those found lacking. This policy has, in practice, been rendered somewhat arbitrary by the reality of dependence on Haitian labor for certain agricultural labor and most construction work. Thus, after being stopped as a suspected illegal Haitian, an individual may be allowed to remain in the country despite his lack of documents if his story about his work satisfies the official who stopped him.

In December the Government signed agreements with Haiti stipulating that it would not repatriate persons at night, on weekends, or on holidays; that it would only use four border crossing points where the Haitian authorities would have officials to receive deportees; and that it would avoid the separation of nuclear families in the process of repatriation. The agreements provide that the Government of Haiti would increase efforts to furnish Haitian migrants with identity documents and that it would put migration control posts along the Haitian side of the frontier.

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

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. The Dominican Republic is a constitutional democracy, and its citizens last exercised this right in free and fair congressional elections in May 1998. The President and all 179 members of the Senate and Chamber of Deputies are elected freely every 4 years by secret ballot. There is universal adult suffrage; however, active duty police and military personnel may not vote. In practice, voting is limited to those persons who can show a national identity document, which requires that their births have been registered properly by their parents.

The nation has a functioning multiparty system. Opposition groups of the left, right, and center operate openly. In practice the President can dominate public policy formulation and implementation. He can exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree. President Fernandez reduced the reliance on rule by decree during the first 3 years of his administration. The President appoints the governors of the 29 provinces.

Congress provides an open forum for the free exchange of views and debate. The main opposition party—the PRD—holds 18 of 30 seats in the upper house and 57 of 149 seats in the lower house. A third major party, the Social Christian Reform Party (PRSC) of former President Balaguer, contests all elections; various smaller parties are certified to contest provincial and national elections.

The Central Electoral Board (JCE) conducts all elections. In August 1998, the PLD and the PRSC began vigorously protesting the manner in which the PRD-dominated Senate had appointed the five-member JCE, calling the board unrepresentative and biased in favor of the PRD. In late 1998, the Fernandez administration showed its displeasure with the JCE by delaying disbursement of government funds. In April the leading political parties agreed that the Congress should approve legislation expanding the JCE to seven members until after the 2000 presidential elections. The PLD and the PRSC each nominated one new member to join the board.

Opposition groups and human rights organizations criticized the violent confrontation and the closing of the Dominican Municipal League in January. The LMD is the organization of the country's mayors, and is responsible for dispersing approximately 4 percent of the national budget to municipal governments. The PRD holds a majority of the municipal governments and expected to elect one of its members to the presidency of the league at the January meeting. The police sealed off the building where the group was to convene, as well as the Congress, after protesters assembled to demonstrate about the impending elections. Police reportedly fired rubber bullets into the crowds of protesters, forcefully restrained Congressmen and mayors from entering the buildings, and used tear gas against the crowds. The PRSC and PLD parties, and the PRD, then held separate elections to select the new president of the LMD. Opposition critics claimed that the incident was indicative of the growing rift between the PLD (and its PRSC allies) and the PRD, as well as the rift between the executive branch, the legislature, and local governments. The PRSC candidate, supported by the PRD, was eventually recognized as the head of the LMD, but the institution did not function effectively during the year.

Women and minorities confront no serious legal impediments to political participation; however, they are underrepresented in government and politics. By law parties must reserve 25 percent of positions on voting lists for women; a proposal to increase this proportion to 40 percent had not been approved by the legislature at year's end. However, the parties often place women so low on the lists as to make

their election difficult or impossible. Women hold 2 seats in the 30-member Senate and 25 seats in the 149-member Chamber of Deputies. Women continue to be represented in appointed positions, albeit to a limited degree. The president of the Chamber of Deputies is a woman, as is the Secretary of State for the presidency. Three of the 15 cabinet secretaries are women, but none of the 29 provincial governors are women. Women fill 5 of the 15 seats on the Supreme Court; there is 1 vacancy on the Court. The Government's Directorate for Women's Issues was elevated to cabinet level in August.

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

Nongovernmental human rights organizations operate freely without government interference. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (dealing with the Narciso Gonzalez case), several Haitian, church, women's, and labor groups exist.

At the beginning of the Dominican-Haitian migration crisis in November, the Legal Advisor to the presidency—in what some construed as a government attempt to chill the exercise of free enquiry, criticism of the Government, and support of victims of abuse by human rights organizations—suggested in the press that international and human rights organizations, supported by donations from other countries, were actually foreign agents and should be registered as such.

There is no ombudsman's office.

The Government accepted the jurisdiction of the Inter-American Court of Human Rights for the first time in March.

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

The law prohibits discrimination based on race and sex. Such discrimination exists in society; however, the Government seldom has acknowledged its existence or made efforts to combat it.

Women.—Domestic violence and sexual harassment are widespread. Under the 1997 Law Against Domestic Violence, the State can prosecute a suspect for rape, even if the victim does not file charges. This law also allows a rape victim to press charges against her husband without having her marriage annulled. However, because the law was passed relatively recently, its effectiveness cannot yet be determined. The Secretariat for Women assists women with outreach programs on domestic violence and legal rights. In 1998 the Government opened a center for the forensic examination of abused women, which handled 60 to 80 cases a day, most of them involving minors. However, at year's end, there were still no shelters for battered women.

Although rape is a serious problem, it is widely believed to be underreported. The Santo Domingo district attorney's office received only 238 reports of rape during the year in the National District. (By contrast, that office reported over 400 cases per month in Santo Domingo of sexual abuse of minors and incest.) Victims often do not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would not provide any redress. The police are reluctant to handle rape cases and often encourage victims to seek assistance from NGO's.

The Government does not vigorously enforce prostitution laws, except in cases involving child prostitution and international trafficking in women and girls (see Section 6.f.). Sex tourism is a growing industry throughout the country as the number of international visitors increases. NGO's have ongoing HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, as well as for hotel and industrial zone workers. The 1997 Law against Domestic Violence prohibits acting as an intermediary in a transaction of prostitution, and the Government has used the law to prosecute third parties who derive profit from prostitution.

Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Traditionally, women have not shared equal social and economic status or opportunity with men, and men hold the majority of leadership positions in all sectors. In many instances women are paid less than men in jobs of equal content and equal skill level. Some employers in industry reportedly give pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates report that pregnant women often are not hired.

Children.—Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carry the principal burden. The private institutions receive no government financing.

The 1994 Minor's Code requires only 6 years of formal education. In the National District, the Department of Family and Children, in the Office of the Prosecutor, administers the Minor's Code. The Department works with NGO's, law enforcement personnel, and the general public to publicize children's rights, to arrange conciliation of family conflicts, to execute court decisions with respect to child protection, and to interview children whose rights have been violated. The Department estimates that 50 percent of the children in the country are victims of some sort of abuse.

Sexual abuse is perhaps the most serious human rights violation affecting children. The PN's Department of Sexual Abuse received 200 to 300 reports per month of rapes of children between 4 and 11 years of age. Only 30 percent ever reached the courts, while the facts of other cases remained hidden behind doors within families. In 50 percent of the cases, the accused is a person close to the child: a father, grandfather, uncle, brother, cousin or close family friend. The criminal law provision on sexual abuse and intrafamily violence was modified to provide a penalty of 10 to 20 years incarceration and a fine of $6,600 to $13,200 (100 to 200 thousand pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

Typical cases of child sexual abuse include that of a 14-year-old girl who was raped in the home where she worked as a domestic in San Cristobal; and the case of two daughters, ages 13 and 14, who were abused sexually by their truck driver father. The latter case was prosecuted vigorously and the father sentenced to prison. Sexual abuse is commonly accompanied by other kinds of abuse, as in the case of a preadolescent girl who, on the pretext of foster care, was required to cook, clean, and wash clothes for her aunt's entire family, in addition to being sexually available to all the males. She also was beaten if any part of her performance displeased the family.

The Minor's Code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated or delinquent child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse is receiving increasing public attention.

Midyear reports from the Ministry of Health showed that 26 to 30 percent of female adolescents were pregnant or already had children. Many of these pregnancies were reported to be the result of rape or incest and often are accompanied by sexually transmitted diseases.

Some in the tourist industry have facilitated the sexual exploitation of children. Tours are marketed overseas with the understanding that boys and girls can be found as sex partners. Trafficking in girls for prostitution is a problem (see Section 6.f.). Journalists reported that the majority of prostitutes in brothels visited around the National District appeared to be between 16 and 18 years of age. There are no shelters that provide refuge to children who break free from the prostitution trade. For underage girls, prostitution is one of the few jobs available in the informal economy.

In August the Prosecutor for the National District rescued a 16-year-old Villa Mella girl from a brothel where she had been held against her will for 5 months and offered as a sexual attraction to tourists. The authorities who rescued the girl found evidence of drug use, as well as a large number of bedbugs and rats, at the site. They arrested six persons in connection with the kidnaping.

The judicial system commonly fails to protect the status of minors in criminal cases. The authorities sometimes treated minors as adults—most often when physical forensic examinations indicated the minors were probably adults—and incarcerated them in prison rather than juvenile detention centers. In 1997 the Government began to implement the 1994 Minor's Code, laying the groundwork for the juvenile court system that the code mandated. The Supreme Court inaugurated the first of 11 juvenile courts in August and chose judges for the other 10 courts. These juvenile courts are to be organized with a focus on rehabilitating offenders. There are legal advocates especially for juveniles in Santo Domingo and La Vega to provide them with representation in delinquency cases.

It is not uncommon for minors to be put on the street to fend for themselves as younger siblings claim the parent's meager resources. Homeless children are frequently at the mercy of adults called "Palomas", who collect these children into a gang and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they are allowed to have some sort of a roof over their heads. The ages at which the children work, the hours they put in, and their failure to comply with compulsory school attendance for 6 years all violate the law, but the Government has not been able to combat this practice.

Needy adolescent girls and boys are sometimes enticed into performing sexual acts by the promise of food or clothing; sometimes they are pushed into unsafe relationships with strangers by the need for money. Once involved, they may be held against their will by individuals who sell their sexual favors to others. Some of these minors are lured from their parental homes; others are already on the street, having been pushed out of the house by the demands of younger, even more dependent, children.

People with Disabilities.—Disabled persons encounter discrimination in employment and in the provision of other services. Although the law contains provisions for physical access for the disabled to all new public and private buildings, the authorities have not enforced this law uniformly. There is a Subsecretariat for Rehabilitation under the Secretariat of Public Health, a recreation center for the disabled in Las Caobas, and a department in the Sports Secretariat to facilitate athletic competition for the disabled. However, there is little consciousness of the need to make the daily lives of the disabled safer and more convenient. For example, new street construction made few provisions for the disabled to cross the streets safely.

A private entity founded in 1962, the Dominican Rehabilitation Association (ADR) has grown from a 1-room operation to a large complex with 17 affiliates throughout the country. It provides services for 2,500 persons daily. The Government provides about 25 percent of the ADR's budget.

National/Racial/Ethnic Minorities.—A strong prejudice against Haitians runs through society, disadvantaging many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of African ancestry. The Government has not acknowledged the existence of this discrimination nor made any efforts to combat it. Darker-skinned Dominicans also face informal barriers to social and economic advancement.

Efforts to stem the influx of Haitian immigrants have made it more difficult for those already in the country to live peaceably. Police regulations threaten those offering transportation to illegal immigrants with confiscation of their vehicles and have discouraged taxi and bus drivers from picking up dark-skinned persons. In the roundup of illegal immigrants, the authorities picked up and expelled darker Dominicans and legal Haitian residents, including some properly documented university students.

Perhaps 500,000 Haitian immigrants—or 7 percent of the country's population—live in "bateyes" or cane worker camps, in harsh conditions with limited or no electricity, running water, or schooling. Human rights groups regularly charge the Government with unlawful deportations of, and police brutality toward, these legal and illegal immigrants.

Credible sources also charge that the Government refuses to recognize and document as Dominican citizens many individuals of Haitian ancestry born in the country. Since many Haitian parents have never possessed documentation for their own birth, they are unable to demonstrate their own citizenship. As a result, they cannot declare their children's births at the civil registry and thereby establish Dominican citizenship for their offspring. Some civil registry offices do not accept late declarations of birth for children of Haitian immigrants, although they routinely accept late declarations for children of Dominican parents.

Haitian parents encounter difficulties registering their children for school. Lack of documentation usually deprives children of Haitian descent of the opportunity to attend school where there is one available. Some parents fail to seek documentation due to fear of being deported. It falls to the discretion of public school principals whether children may attend, when immigrant parents have no identity cards or birth certificates to register children formally. Even when permitted to attend primary school, it is rare that the offspring of Haitian parents progress beyond sixth grade.

Although the Government has largely eliminated the use of children for cutting sugar cane, poor Haitian and Dominican parents sometimes arrange for Dominican families to "adopt" and employ their children. The adopting parents can simply register a child of any age as their own. In exchange, the parents receive monetary payment or a supply of clothes and food. They believe that this ensures their children a more promising future. In many cases, adoptive parents do not treat the adoptees as full family members and expect them to work in the households or family businesses rather than attend school. The effect is a kind of bondage, at least until the young person reaches his majority. There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

The Government is doing little to improve the conditions of Haitian immigrants and generally relies upon relief organizations. A number of NGO's and other agencies provide assistance in the shantytowns.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the freedom to organize labor unions and for the right of workers to strike (and for private sector employers to lock out workers), and workers in all sectors exercise this right. All workers, except the military and the police, are free to organize. Organized labor represents only an estimated 10 percent of the work force and is divided among four major confederations and a number of independent unions.

Requirements for calling a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Labor Secretariat, and a 10-day waiting period following notification before proceeding with the strike. The Government respects association rights and places no obstacles to union registration, affiliation, or the ability to engage in legal strikes.

Nurses went on strike in July, and medical doctors working for health maintenance organizations and insurance companies struck in August. Professors of the Autonomous University of Santo Domingo struck in August, delaying the opening of classes for more than a week. Public school teachers struck at the beginning of the school year as well.

The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The code calls for automatic recognition of a union if the Government has not acted on its application within a specific time. In practice, the Government has facilitated recognition of labor organizations readily. Unions are independent of the Government and generally independent of political parties. However, there were reports of widespread albeit discreet intimidation by employers in an effort to prevent union activity. For example, unions in the free trade zones in Bonao report that their members hesitate to discuss union activity at work, even during break time, due to fear of losing their jobs.

Labor unions can and do affiliate freely regionally and internationally.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is lawful and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities.

The Labor Code establishes a system of labor courts for dealing with disputes. After a recent overhaul by the Supreme Court, these courts have proven more effective at enforcing the law.

The Labor Code applies in the 40 established FTZ's, which employ approximately 200,000 workers, mostly women. Workplace regulations and their enforcement in the FTZ's do not differ from those in the country at large, although working conditions are sometimes better. Some FTZ companies have a history of discharging workers who attempt to organize unions. There also have been reports of union organizers extorting money from business owners. Although there are approximately 70 unions in the FTZ's, many exist only on paper. The majority of the unions in the FTZ's are affiliated with the National Federation of Free Trade Zone Workers or the United Federation of Free Trade Zone Workers.

Many of the major manufacturers in the FTZ's voluntarily have signed the codes of conduct promoted by the "Labor, Yes, but with Dignity" campaign carried out by a combination of NGO's and trade union organizations between 1996 and 1999. These voluntary codes provide for protection against forced labor, freedom of association, freedom from discrimination, and prohibit the use of child labor. They also call for a workplace that is safe and healthy.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including that performed by children; however, such practices are common. Poor Haitian and Dominican parents sometimes arrange for Dominican families to "adopt" their children, in exchange for money or goods. Such children often are not treated as full family members and are expected to work in households or businesses, in effect in a kind of bondage (see Section 5). In addition, trafficking in women and girls for purposes of prostitution is also a problem (see Section 6.f.). There were numerous credible reports of coerced overtime in factories and of workers being fired for refusing to work overtime. Union officials state that newly hired workers are not informed that overtime is optional.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits employment of children under 14 years of age and places restrictions on the employment of children under the age of 16. These restrictions include a limit of no more than 6 hours of daily work, no employment in dangerous occupations or in establishments serving alcohol, and limits on nighttime work.

Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. The law requires 6 years of formal education.

Children who do not continue in school often seek illegal employment before reaching the minimum working age. The law prohibits forced or bonded labor by children; however, poor Haitian and Dominican parents sometimes arrange the adoption of their children by Dominican families in exchange for money or goods, and such children generally are expected to work in households or businesses (see Sections 5 and 6.c.).

The high level of unemployment and lack of a social safety net create pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children begin working before the age of 14. The Government does not sanction the parents of these children. Child labor takes place primarily in the informal economy, agriculture, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories are generally poor, unsanitary, and often dangerous.

e. *Acceptable Conditions of Work.*—The Constitution provides the Government with legal authority to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress also may enact minimum wage legislation. The minimum monthly salary is $125 (1,932 pesos) in the FTZ's and ranges from $101 (1,555 pesos) to $157 (2,412 pesos) outside the FTZ's depending upon the size of the company and the nature of the business. The minimum wage does not provide a decent standard of living for a worker and family. It covers only a fraction of the living costs of a family in Santo Domingo—about $400 (6,000 pesos) per month for a family of five—but many workers receive only the minimum wage.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek is Monday through Friday plus a half day on Saturday, but longer hours are commonplace. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week.

Conditions for agricultural workers are poor, especially in the sugar industry. Many sugar cane worker villages have high rates of disease and lack schools, medical facilities, running water, and sewage systems. On sugar plantations, cane cutters usually are paid by the weight of cane cut rather than the hours worked. Employers often do not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane has dried out and become lighter.

When the cane finally is weighed, workers are given tickets indicating the weight of cane cut (often rounded in favor of the employer) and the amount of money due. These tickets, issued to a specific person but payable to the bearer, may be turned in to the employer and redeemed for cash every 2 weeks. Many cane cutters earn less than $4.00 (60 pesos) per day. Because workers earn so little and sometimes cannot wait until payday to redeem their tickets, an informal barter system has evolved in which the tickets also are used to purchase items at private stores located on the plantations. These private stores make change by giving back a combination of tickets and cash. However, it is not unusual for these stores to retain 10 percent of the cash due a customer. The conditions are somewhat better at some of the privately owned sugar plantations. At year's end, it was not yet possible to determine how many, if any, of these practices persisted following privatization of the CEA.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. The existing social security system is seriously underfunded and applies to only about 9 percent of the population. Approximately 13,000 employees work in the IDSS bureaucracy to support fewer than 20,000 retirees.

Both the IDSS and the labor Secretariat have small corps of inspectors charged with enforcing standards. Inspector positions customarily are filled through political patronage, and bribes from businesses are common. In practice, workers cannot remove themselves from hazardous working situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and in August 1998 an alien smuggling law increased the penalties for those found guilty of various phases of the traffic in persons. Laws dealing with domestic violence, as well as the Minor's Code, create protection under both civil and criminal law against particular situations that may be conducive to—or acts that may be a part of—the traffic in persons, whether female or male, minors or adults. The law also prohibits acting as an intermediary in a transaction of prostitution, and the Government has used this law to prosecute third parties who derive profit from prostitution. However, trafficking of women and children is a serious problem.

The Directorate of Migration estimates that there are approximately 400 rings of alien-smugglers and purveyors of false document operating within the country. These individuals profit by facilitating the trafficking of women to Spain, the Netherlands, and Argentina under false pretenses, for purposes of prostitution. The Government also is concerned that some individuals coming to the country ostensibly to adopt children, may actually intend to use the children in the production of pornography or in the sex trade.

In March the Government created the Interinstitutional Committee for the Protection of Migrant Women (CIPROM), which is composed of representatives from government entities and NGO's. CIPROM is intended to provide a framework for integrated action by both groups, and to prevent and reduce social and economic problems in those regions from which most of the trafficked women originate and in the various countries to which they are sent. CIPROM is establishing unified criteria for management of cases of migrant women or trafficking victims. One NGO counsels women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues. The program also provides services to returning women.

In May the PN dismantled an expatriate ring that specialized in the prostituting of minors in Israel and used false documents to arrange their transportation. The ring was broken after the father of one of the girls taken to Israel made a report that his daughter had been kidnaped along with 10 other girls.

The Director General of Migration reported that the authorities have dismissed a number of immigration inspectors and supervisors for their links with the bands trafficking in women. In addition, since the passage in 1998 of an antismuggling law, the authorities have charged at least 80 individuals under the law. The courts convicted two of them, and the remainder of cases were still pending at year's end.

The executive branch also established an Oversight Organization for the Protection of Children to coordinate the approaches of various agencies involved in combating trafficking in children, whether for adoption, for sexual exploitation, or for other purposes. This organization works with the Attorney General's office, the Public Health Ministry, Migration, and other agencies. In the National District, the Department of Family and Children in the Office of Public Prosecutor focuses on identifying children who are victims of abuse of any kind and prosecutes offenders under the heightened penalties contained in the domestic violence law.

A primary concern of the Oversight Organization is to prevent the use of the child adoption process by those who intend to sell the children or to exploit them through prostitution or child pornography. The Department of Family and Children is very concerned with kidnapings, especially of infants, for sale to foreigners who, under the rubric of adoption, deliberately sidestep the legal formalities—including those of their own country—in place to protect children from victimization. Many children do leave the country as adoptees, but government officials have made obtaining them much more difficult and, they hope, have prevented some would-be traffickers from using this route.

Poor Haitian and Dominican parents sometimes arrange for more prosperous Dominican families to "adopt" their children, in exchange for money or goods. Such children often are not treated as full family members and are expected to work long hours in domestic service, agriculture, or industry under threat of corporal punishment and without compensation. Especially in the case of girls, these children often are abused sexually.

ECUADOR

Ecuador is a constitutional republic with a president and a 123-member unicameral legislature that was chosen in free elections in May 1998. In July 1998, voters elected President Jamil Mahuad to a 5-year term, and he took office in August of that year. A National Constituent Assembly approved extensive constitutional reforms, which also took effect in August 1998. The reforms included the termination of the Congress' power to dismiss cabinet ministers and the reduction of fringe parties' influence in the Congress. Members of the Supreme Court preside over a judiciary that is constitutionally independent, but in practice is inefficient and susceptible to outside pressure.

The military enjoys substantial autonomy, reinforced by guaranteed revenues from the nation's oil exports, as well as from civil aviation, shipping, and other commercial sectors. The National Police, responsible for domestic law enforcement and maintenance of internal order, falls under the civilian Ministry of Government and

Police. There continued to be credible allegations of human rights abuses by the police and, in some isolated cases, members of the military.

Ecuador suffered an extremely severe economic crisis as the economy contracted by 7.5 percent. The economy is based on private enterprise, although there continued to be heavy government involvement in key sectors such as petroleum, utilities, and aviation. The inflation rate for the year reached 78 percent, the currency depreciated by 260 percent, and the country defaulted on its international debt; in addition, to prevent a possible collapse of the financial sector, the Government temporarily closed the country's banks and froze all banking deposits. The principal exports are oil, bananas, and shrimp, which are the country's leading sources of foreign exchange. Manufacturing for regional export markets is of growing importance. Most citizens are employed in the urban informal sector or as rural agricultural workers; rural poverty is extensive, and underemployment is high. The per capita gross domestic product of $1,101 provides most of the population with a low standard of living. According to a 1999 study, 62.5 percent of citizens live in poverty and 15 percent are indigent, with an almost total lack of resources.

There continued to be serious problems in the Government's human rights record. There were isolated instances of extrajudicial killings. Police tortured and otherwise mistreated prisoners and detainees, and prison conditions remained poor. Persons are subject to arbitrary arrest and prolonged detention is a problem. Once incarcerated, persons may wait years before being convicted or acquitted unless they pay bribes. More than one-half the prisoners in jail have not been sentenced formally. The Government failed to prosecute and punish human rights abusers. The most fundamental human rights abuse stems from shortcomings in the politicized, inefficient, and corrupt legal and judicial system. The Government infringed somewhat on press freedom, and some self-censorship continues. On several occasions throughout the year, the Government declared or extended states of emergency that limit freedom of assembly and movement, and it ordered participants in nationwide strikes back to work. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians also remain problems. Child labor is a problem. Mob violence and killings persist.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of "preventing, eradicating, and sanctioning" human rights violations in the country. The three branches of government, as well as the independent Ombudsman's office and a number of nongovernmental organizations (NGO's) contributed to this plan.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of politically motivated killings; however, there continued to be credible reports that police committed extrajudicial killings. Through late September, the Ecumenical Committee for Human Rights (CEDHU) reported a total of 17 extrajudicial killings by the police, security forces, or semiofficial entities such as neighborhood brigades. (Neighborhood brigades are civic defense groups organized by the National Police to provide an anticrime presence in neighborhoods. They are not authorized to carry firearms.)

On January 10, police in a Guayaquil suburb hit Sergio Michael Zambrano in the face and then shot and killed him as he and his brother tried to intervene in an incident involving a third brother. The police asserted that they had acted in self-defense.

In March Irving O. Pazmino, Luis Echeverria, and Franklin Espinel were killed during a car chase and an exchange of gunfire with police in Guayaquil. Pazmino's family claims that police murdered Pazmino, but government officials' review of the incident cast doubt on these claims. At year's end, the matter was still under review.

In March in Guayaquil, 14-year-old Mickey Mendoza was killed during what appears to have been a tussle with a police officer over a gun. The police said that the killing was accidental. The case was under investigation at year's end.

On July 16, a drunken policeman identified as Carlos Alulema shot and killed cigarette vendor Victor Concha in Guayaquil. The authorities subsequently arrested Alulema, and he awaited trial at year's end.

On November 13, national police officers Alcivar Palma and Jose Palma shot and killed Richard Morales Cabrera in the Cisne-Reten neighborhood of Guayaquil. The police also injured three other persons in the incident. The victims' families said that the police confused innocent victims with robbers and lodged complaints with the authorities. At year's end, the incident was still under investigation.

In 1998 17 inmates died in prison due to traumatic injuries (see Section 1.c.).

In May in the Las Malvinas suburb of Guayaquil, vigilantes killed at least seven suspected criminals. The vigilantes were believed to be under the direction of Jaime Toral, a rightwing political boss, who himself is suspected of being an organized crime leader.

On February 17, unknown assailants killed Jaime Hurtado Gonzalez, an Afro-Ecuadorian member of Congress from the far-left Popular Democratic Movement (MPD) party, Pedro Tapia (Hurtado's alternate in the Congress), and Wellington Borja near the Supreme Court in Quito. The killings bore the hallmarks of a professional "hit," and the authorities brought charges against three police officers and a former police informant in the killing. Several theories were advanced as to the possible motive, but the case remained under investigation at year's end.

There has been no disposition of the November 1998 kidnaping case in Quito of Saul Filormo Canar Pauta, a leader of the Ecuadorian Confederation of United Working Class Organizations. In December 1998, a municipal worker found Canar's body in a trash dump. His hands and feet were tied and his body showed signs of torture. The authorities suspect that he may have been killed by private landowners in retaliation for his activities organizing land invasions by squatters.

In July massive Indian protests erupted in Latacunga against government austerity measures. Security forces opened fire, killing 25-year-old Segundo Aymacana and injuring scores of other persons (see Section 2.b.).

There were also instances in which citizens took the law into their own hands, inciting mob violence that resulted in lynchings and burnings of suspected criminals (see Section 1.e.). Mobs killed 16 crime suspects in the first 9 months of the year; individual lynchings continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, in September in La Chimba, northern Pinchincha, a crowd of 300 women reportedly burned to death 15-year-old William Iguamba for stealing property from private residences.

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

On December 18, all eight foreign hostages held since September 11 in the northern province of Sucumbios along the border with Colombia were released unharmed. The media had variously speculated that the kidnapers were guerrillas, members of paramilitary groups, Colombians, or common criminals. At year's end, the authorities were still investigating the identities of the kidnapers.

There was no progress in resolving the 1997 disappearance of Angel Heriberto Hinojoza.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits torture and similar forms of intimidation and punishment, the police continued to abuse suspects and prisoners, usually with impunity. For example, in May in Guayaquil, the police arrested Billy Navarrete Benavidez, coordinator for the Permanent Committee on Human Rights, severely beat him, and later robbed him in his cell. The incident was under investigation at year's end. Also in May, in the Bastion Popular section of Guayaquil, the police detained three youths (Alfredo Cabullales, Ivan Rivera, and Wilmer Padilla) for no apparent reason. The police took the youths to the police station where they whipped their buttocks with pieces of wood and iron. The youths' parents protested the abuses.

The CEDHU has published one detailed report on suspects who identified specific policemen as having tortured them. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them psychologically. There were also at least 14 reports of incidents involving physical mistreatment.

In May in Guayaquil, the police fired upon and wounded Joaquin Hernandez, an editorial writer for the newspaper Hoy, in an apparent case of mistaken identity. The incident was under investigation at year's end.

In July the security forces injured scores of persons at massive Indian protests in Latacunga against government austerity measures. Police in Quito used tear gas in March and July to repel demonstrators protesting higher prices and government plans to cut spending.

Conditions in detention centers generally continued to be poor. Prisons in the tropical coastal areas tend to be worse than those in the temperate highlands. Overcrowding is a chronic problem, although conditions are notably better in the women's prison in Quito than in other facilities. Prison overcrowding was reduced slightly by the release of several hundred drug addicts charged only with possession and of prisoners charged with minor offenses who had been held in preventive custody for more than a year. The Constitution that took effect in August 1998 requires that prisoners charged with lesser offenses (carrying a maximum sentence of 5 years) and who have been detained for more than 1 year without a sentence shall obtain

their freedom immediately. There are no separate facilities for hard-core or dangerous criminals, nor are there effective rehabilitation programs. New prisons have not been constructed due to lack of financial resources.

In September the National Directorate for Social Rehabilitation published a report that indicated that there was a total of 8,520 inmates incarcerated in facilities originally designed to hold a population of 5,964. Women represented 9.5 percent of the total. In 1998, 26 inmates died in prison. The report stated that traumatic injuries, reportedly inflicted by fellow inmates, were the cause of death in 65 percent of the cases. It attributed the other deaths to illness and drug use. The prison authorities routinely investigate deaths in custody.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and the Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority, but the authorities often violated these legal protections in practice. By law, the authorities must issue specific written arrest orders within 24 hours of detention—even in cases in which a suspect is caught committing a crime—and must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention within 48 hours of their arrest, but in practice few such petitions are brought. The senior elected official (usually the mayor) of the locality in which the suspect is held conducts this review. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period before being released. Bail is not generally available, and the law prohibits it in narcotics cases. Families of detainees sometimes intervene in an attempt to secure the prisoners' freedom through illegal means.

Human rights organizations reported occasional cases of incommunicado detention, although the law prohibits this practice. Even when the police obtain a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. In many instances, the system was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Preventive detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented.

Following the 1997 ruling by the Inter-American Court of Human Rights that the Government had violated due process provisions in connection with the arrest, investigation, and pretrial detention of Ivan Suarez Rosero, the authorities released him. In the aftermath of the Suarez ruling, the Government moved quickly to settle several other cases that were under consideration by the Inter-American Commission on Human Rights and one—the Consuelo Benavides case—that had been accepted by the Inter-American Court. Led by the then-Attorney General (and current Ombudsman), the Government took the unprecedented step of admitting fault officially and of negotiating and paying settlements to the families of Benavides and the Restrepo brothers, for wrongful death, and to the Putumayo 11, a group of rural workers, for illegal arrest, detention, and torture.

The authorities arrested hundreds of persons in Guayas province during a state of emergency that lasted from January 8 until early July. The measure was imposed to stem a soaring crime rate (315 persons had died in violent crimes in Guayaquil by early May). The police often arrested persons on mere suspicion or for lack of proper identification; they released most of them a few days later. The authorities reimposed the state of emergency in Guayas province in December.

The Government does not use exile as a method of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary. In practice, however, the judiciary is susceptible to outside pressure. Despite efforts begun in 1992 to depoliticize and modernize the court system, the judiciary continues to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly depending on political pressure or the payment of bribes. However, the norm is for lengthy delays before cases come to the courts.

The judiciary is composed of the Supreme Court, superior circuit courts, and other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the new Judicial Council. Military and police tribunals are at the same level as circuit courts, while criminal, provincial, and cantonal courts serve as lower courts, with first-instance jurisdiction.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police

court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The constitutional reforms by the National Constituent Assembly placed both police and military justice under the control of the Supreme Court. However, the three systems had not yet been integrated by year's end.

The Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In May 1998, the Supreme Court supervised the selection by open competition of all appellate judges. A new Judicial Council, charged with administering the court system and disciplining judges, took office in the fall of 1998. In November the council's disciplinary committee fired two judges and two court employees for their role in the release of suspected drug traffickers in May. All four are to face criminal charges. The council also sanctioned a judge in Guayas province, Isabel Segarra, for improper conduct in a banking scandal.

The inadequacies of the justice system led to a growing number of cases in which communities took the law into their own hands. There continued to be reports of lynchings and burnings of suspected criminals by outraged citizens (see Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of the major cities where there is little police presence.

The law provides for internationally accepted due process rights for criminal defendants, but the authorities often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty, and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there are relatively few attorneys available to defend the large number of indigent suspects.

Trial is supposed to begin within 15 to 60 days of the initial arrest, but in practice, initiation of the trial phase can take years. Less than 40 percent of all prisoners have been convicted and sentenced. Accused narcotics traffickers cannot obtain bail or be released on recognizance. The number of narcotics cases is likely to decline, however, following passage of a law decriminalizing possession of small amounts of narcotics by addicts for their own use.

In November Congress passed a new Criminal Procedures Code that was to take effect in 2000. On December 5, President Mahuad partially vetoed the law and proposed changes to the vetoed portions; Congress acquiesced in the changes. The new code is intended to change the criminal justice system from an inquisitorial to an accusatorial-style system. The Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to change to that of neutral arbiters presiding over oral trials. The new code is a step toward implementation of provisions in the 1998 Constitution intended to strengthen the justice system by improving due process and enhancing the rights of the accused, through measures such as habeas corpus and limits on preventive detention.

A foreign assistance program begun in 1994 has enabled the courts to computerize the National Register of Prisoners. Use of this system made it possible for the courts to track prisoners' status more easily and more accurately. In 1998, the courts used this system to help identify and release hundreds of accused minor offenders who had spent more than a year in preventive detention.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech, and the authorities generally respected this provision in practice, but with some notable exceptions. There are frequent charges of slander and libel brought by and against public figures, but few result in final decisions or judicial relief. Some self-censorship continues.

All of the major media organs—television, newspapers, and radio—are in local, private hands except for two government-owned radio stations. The law limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or air time, the Government can and does require television and radio to broadcast government-produced programs featuring the President and other top administration officials.

There is a free and vigorous press. Ownership of the media is broadly based, and editorials represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, particularly with respect to politically sensitive issues or stories about the military and its

related industries. In addition, most elements of the media cannot be independent of economic considerations and tend to reflect the narrow, regional interests of their owners.

The Government does not interfere in issues involving academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of free assembly for peaceful purposes, and the Government generally respected this right in practice. Public rallies require prior government permits, which generally are granted, although exceptions occur. Numerous labor and student demonstrations took place without incident in the capital and the outlying regions. In general the security forces intervened in demonstrations only when there was violence against bystanders or property. In March and July, protests in various parts of the country were marred by violence; the police injured scores of protesters (see Section 1.c.), several policemen were injured, and property was damaged. In both March and July, President Mahuad decreed 60-day nationwide states of emergency, which limited freedom of assembly. He decreed a state of emergency for Guayas province (primarily to help combat an increase in crime) from January to July and again in December.

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

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Government does not require religious groups to be licensed or registered unless they form NGO's that engage in commercial activity. Approximately 90 percent of the population considers itself to be Roman Catholic, although most citizens either do not practice the religion or follow a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allows missionary activity and religious demonstrations by all religions. The Government does not permit religious instruction in public schools; however, private schools have complete liberty in this regard. In early 1998, police in Pinchincha suspended the meetings of a group known as "Gnostico Cristiano Universal," following the suicide of 29 members of the "Heaven's Gate" cult in California, while they investigated possible links between the 2 groups.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. The Government requires all citizens to obtain exit visas when traveling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law includes provisions for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Since the return to civilian rule in 1979, citizens actively have exercised their right to change their national and local governments. In May 1998, voters elected members to a new Congress; in July of that year President Jamil Mahuad defeated Alvaro Noboa in the second round of the presidential election in a close contest. Noboa disputed Mahuad's election, but an OAS-led observer mission noted that the election had been conducted transparently and that the official results accorded with the observers' private sample of election day ballots.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military personnel from election to the Congress, the presidency, or the vice presidency. The National Constituent Assembly to reform the Constitution concluded its work in June 1998. The new Constitution took effect in August 1998, with changes intended to strengthen the presidency, improve management of the Congress, and ensure increased protection for the rights of women, children, indigenous groups, and minorities.

Few women, Afro-Ecuadorians, or indigenous people occupy senior positions in government, although no specific laws prevent women or minorities from attaining leadership positions. Women are underrepresented in politics and government, holding 16 of 123 seats in the Congress, the largest proportion of seats held by women

in the country's history. There were two female cabinet ministers. No Afro-Ecuadorians serve as members of Congress or in senior-level government jobs.

The indigenous movement, which previously shunned traditional politics, formed an electoral movement called Pachakutik (which means "cataclysmic change" in Quichua) and ran candidates for national, provincial, and local office in the 1996 and 1998 elections. A Pachakutik Congresswoman, Nina Pacari, was elected Second Vice President of the Congress. The first indigenous member to hold a top leadership rank, Pacari heads an eight-member congressional bloc whose cooperation with the majority in the Congress on some issues has ensured it significant influence. Indigenous members of the National Constituent Assembly, and their supporters, won important constitutional protections for indigenous rights, which took effect with the new Constitution in August 1998.

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

A number of human rights groups, both domestic and international, operate without restriction, investigating and publishing their findings on human rights cases. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the Government's record on specific cases. Nevertheless, the Government contracted with the ALDHU to provide human rights training to the military and the police.

The Truth and Justice Commission, established in 1996 to investigate reports of past rights abuse, is no longer active. The office of Ombudsman was created to ensure ongoing attention to human rights issues. In September 1998, Congress elected a new Ombudsman who, as Attorney General under interim President Alarcon, had earned a reputation as a human rights advocate.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of "preventing, eradicating, and sanctioning" human rights violations in the country. The three branches of government, as well as the independent Ombudsmen's office and a number of NGO's contributed to development of this plan. At the end of the year, the United Nations contributed $1.2 million to support the plan.

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

The Constitution prohibits discrimination based on race, religion, sex, or social status. In addition, the constitutional reforms explicitly increased the rights of women, children, and minorities, and required the new Congress to pass legislation implementing these rights promptly. However, women, Afro-Ecuadorians, and indigenous people face significant discrimination.

Women.—Although the law prohibits violence against women, including within marriage, it is a widespread practice. Many rapes go unreported because of the victims' reluctance to confront the perpetrators. Women may file complaints against a rapist or an abusive spouse or companion only if they produce a witness. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim, the charges against him or anyone else who took part in the rape cannot be pursued unless the marriage is subsequently annulled. While some communities have established their own centers for counseling and legal support of abused women, the Government only began to address this question seriously with the formation of the "Comisaria de la Mujer," or Women's Bureau, in 1994. Although this office can accept complaints about abuse of women, it has no authority to act on them itself. However, the Women's Bureau doubled the number of its outreach offices and actively referred abuse cases to prosecutors.

The 1995 Law Against Violence Affecting Women and Children, drafted by a coalition of women's organizations, criminalized spousal abuse for the first time, including physical, sexual, and psychological abuse. It also created family courts and reformed the Penal Code to give courts the power to remove an abusive spouse from the home.

Discrimination against women is pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement blames culture and tradition for inhibiting achievement of full equality for women. There are fewer women than men in the professions and skilled trades, and pay discrimination against women is common.

The Ecuadorian Women's Permanent National Forum, founded in 1994, comprises more than 320 women's organizations and promotes social, economic, and cultural change through various methods, including increasing political participation by women. In addition, the National Women's Council provides support for approximately 500 women's organizations, many of which promote social consciousness and greater participation by women in the political process.

Children.—The Government has not taken effective steps to promote the welfare of children. The Government rarely enforces the constitutional requirement of education through the age of 14.

There is no societal pattern of abuse against children. Government resources to assist children have traditionally been limited, although the Government instituted a program to care for the children of the working poor called "Operation Child Rescue." The IACHR concluded that this program reached only a small percentage of those affected. Approximately 45 percent of children under the age of 5 are malnourished. Government spending on education continued to decline, both in real terms and as a proportion of gross domestic product.

Several private organizations are very active in programs to assist street children, and the U.N. Children's Fund (UNICEF) also runs a program in conjunction with the Central Bank. Especially in urban areas, the children of the poor often experience severe hardships. It is common to see children as young as 5 or 6 years of age selling newspapers or candy on the street to support themselves or to augment the family income. Also, there are instances of prostitution by girls under 18 years of age in urban areas. In rural areas, young children often must leave school at an early age to help out on the family's plot of land.

People with Disabilities.—There is no official discrimination against disabled persons in employment, education, or the provision of other state services. However, there are no laws to ensure disabled persons access to public buildings or services, nor are they provided any other special government assistance.

Indigenous People.—While at least 85 percent of all citizens claim some indigenous heritage, culturally indigenous people make up about 15 to 20 percent of the total population. The vast majority live in rural areas, and most live in varying degrees of poverty. Land is scarce in the more heavily populated highland areas where high infant mortality, malnutrition, and epidemic disease are also common. In addition, electricity and potable water are often unavailable. Although the rural education system is seriously deficient, many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The new Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indigenous people continue to enjoy, in addition, the same civil and political rights as other citizens. In the Amazon area, indigenous groups have lobbied the Government, enlisted the help of foreign and domestic NGO's, and mounted protests (including kidnaping oil workers and tourists) in attempts to win a share of oil revenues and a voice in exploitation and development decisions. The new Constitution expressly recognizes the indigenous communities' rights to be consulted, but not to approve, oil exploration and development. Oil companies have increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continue to face criticism from indigenous groups that environmental damage ensues.

Despite their growing political influence (see Section 3) and the efforts of grassroots community groups, which were increasingly successful in pressuring the central Government to assist them, Indians continue to suffer discrimination at many levels of society. With few exceptions, indigenous people are at the lowest end of the socioeconomic scale.

The Confederation of Ecuador's Indian Nationalities (CONAIE) became increasingly militant during the year and mounted major demonstrations in March and July to protest economic austerity measures. Security forces killed one Indian and injured scores of other persons during the massive protests in July (see Sections 1.a and 2.b.). CONAIE is discussing the issue of compensation with the Government, which has agreed to pay some compensation to those injured in the protests.

Religious Minorities.—Although relations between religious communities generally have been amicable, there were a few incidents of interreligious or intrareligious tension or violence. In March 1998, in the pilgrimage town of Quinche, near Quito, Catholic residents burned an evangelical temple that was under construction. Catholic Church leaders criticized the act. Subsequently, in April 1999, a mob surrounded an evangelical indigenous church and briefly held 100 church members hostage.

During 1998 there was a series of nonviolent confrontations between groups of Protestants and Catholics in the town of Peguche, in the province of Imbabura. Some citizens claimed that commercial rivalry was at the root of the problem.

In April Southern Baptist workers reported increasing opposition from local residents to the development of a church and a medical clinic in the town of Chachas. The Baptist workers were accused of "starting a new religion." Based on official per-

mission from community leaders to operate the clinic, local police promised to give protection to the Baptist workers.

National/Racial/Ethnic Minorities.—The population of the rural, northern coastal area includes large numbers of Afro-Ecuadorian citizens. They suffer widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There were no special government efforts to address these problems.

There are five major Afro-Ecuadorian organizations active in the country; they estimate that Afro-Ecuadorians account for 700,000 people, or about 6 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, educational opportunities continue to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations note that despite the absence of official discrimination, societal discrimination continues to affect them. For example, they assert that the police stop Afro-Ecuadorians for document checks with greater frequency than other citizens.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and Labor Code provide most workers with the right to form trade unions. Members of the police and the military, and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms raised the number of workers required for an establishment to be unionized from 15 to 30, which the International Labor Organization's Committee on Freedom of Association considered too stringent a limitation at the plant workers' council level.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. Nevertheless, most public employees maintain membership in some labor organization, and there are frequent "illegal" strikes. Despite official threats, the Government rarely takes action against striking public workers. The National Constituent Assembly defeated an attempt to overturn November 1997 legislation that outlawed public sector strikes that paralyze key services, including schools. Although the labor confederations are politically independent, the two largest single labor unions, the Teachers' Union and the Union of Social Security Workers, are allied with the Democratic Political Movement, a far-left socialist party.

Approximately 12 percent of the work force is organized. There are four large labor centrals or confederations. None of the main labor centrals is firmly connected to any one political party, and there are no ties between the Government and any labor union.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike is declared. The Labor Code revisions limit solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In a legal strike, workers may take possession of the factory or workplace, thus ending production at the site, and receive police protection during the takeover. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation.

There were three significant strikes during the year, mainly in response to government austerity measures. They involved public sector employees such as teachers, social security and medical workers, as well as transportation workers; indigenous groups also protested during the strikes. In at least one case (involving health workers), the Government ordered strikers to return to work. Police in Quito used tear gas in March and July to repel demonstrators who sought access to the city center.

Unions may freely form and join federations or confederations, and three of the large labor centrals maintain international affiliations.

b. *The Right to Organize and Bargain Collectively.*—The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium to large industries. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Although approximately 12 percent of the work force is organized, collective bargaining agreements cover only one-quarter of these workers.

The Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by one labor union only. It prohibits discrimination against unions and requires that employers provide space for union activities upon

the union's request. The law does not permit employers to dismiss a worker without the express permission of the Ministry of Labor, whose rulings are not subject to judicial review. If the Ministry of Labor rules that a dismissal is unjustified, it can require the employer to pay large indemnities or separation payments to the worker, although the reforms set a cap on such payments. The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board comprising one representative of the Ministry of Labor, two from the union, and two representatives of management.

The Maquila (in bond processing for export) Law passed in 1990 permits the hiring of temporary workers for the maquila industries only. While there is no express prohibition on association rights in the Maquila Law, in practice it is difficult to organize temporary employees on short-term contracts. Since temporary workers are not recognized by the Labor Code, they do not enjoy the same level of protection offered to other workers. The maquila system allows a company and its property to become an export processing zone wherever it is located. Many such "zones" have thus been established; most are dedicated to textiles and fish processing.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution and the Labor Code prohibit compulsory labor, and there were no reports of it in general, or of forced or bonded labor by children.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution establishes that children must attend school until 14 years of age. However, because of the lack of schools in many rural communities and the need for children to work, this provision is rarely enforced. The law prohibits persons younger than 14 years old from working, except in special circumstances such as apprenticeships. It requires those between the ages of 14 and 18 years to have the permission of their parent or guardian to work. The law prohibits children between the ages of 15 and 18 years from working more than 7 hours per day or 35 hours per week, and it restricts children below the age of 15 years to a maximum of 6 hours per day and 30 hours per week. In practice, the Ministry of Labor fails to enforce child labor laws. A 1997 UNICEF report estimated that of the 2.1 million children between the ages of 10 and 17, 37 percent worked. In rural areas, many children attend school only sporadically after about 10 years of age in order to contribute to household income as farm laborers. In the city, many children under 14 years of age work in family-owned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. The law prohibits forced or bonded labor by children, and there were no reports of such practices (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Ministry of Labor sets the minimum wage every 6 months in consultation with the Commission on Salaries, but Congress also may adjust it. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. As of December, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately $55 (1,109,166 sucres). Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received significant other benefits through collective bargaining agreements. The majority of workers, however, work in the large informal and rural sectors without recourse to the minimum wage or legally mandated benefits.

The Ministry of Labor has the principal role in enforcing labor laws and carries out this responsibility through a corps of labor inspectors who are active in all 22 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities.

The Labor Code also provides general protection for workers' health and safety on the job. A worker may not leave the workplace of his own volition, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector may then close down the workplace.

The Government enforces health and safety standards and regulations through the Social Security Institute. In the formal sector, occupational health and safety is not a major problem. However, there are no specific regulations governing health and safety standards in the agricultural sector and, in practice, there is no enforcement of safety rules in the small mines that make up the vast majority of the mining sector.

f. *Trafficking in Persons.*—There is no law that specifically addresses trafficking in persons. The migration law provisions in the Penal Code impose sanctions on suppliers of false documents for purposes of travel or work, and provide for prison sentences for the crime of facilitating illegal immigration for the purpose of prostitution. Other laws dealing with kidnaping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. There were no reports of

persons being trafficked in, to, or from the country. However, police in Spain reported that they had arrested 50 Ecuadorian women working as prostitutes who were likely victims of trafficking.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. In a free and fair process, Francisco Flores of the Nationalist Republican Alliance (ARENA) was elected President in March and began his 5-year term in June. In free and fair legislative elections in March 1997, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won one-third of the seats in the Legislative Assembly, leaving the ARENA party with a one-vote plurality. Seven other parties, representing a broad political spectrum, hold seats, including the conservative National Conciliation Party and the centrist Christian Democratic Party. The judiciary is constitutionally independent but suffers from inefficiency and corruption.

Under the terms of the Peace Accords that ended the 12-year civil war in 1992, the Government has reduced the armed forces; removed the internal security function from the armed forces and placed it under civilian control; and replaced the discredited National Police with a new Civilian National Police (PNC). The former guerrillas have been integrated fully into the political system. The armed forces are less than one-fourth the size they were in 1991, and instruction in human rights is a routine part of the training for all military personnel. Although its internal policing mission has been eliminated, the military continues to provide support, on an emergency basis, for some PNC patrols in rural areas, a measure begun in 1995 to contain violence by well-armed, organized criminal bands. The PNC's level of professionalism continued to improve, but the force remains understaffed, undertrained, underfunded, and short on practical experience. Civilian authorities maintained effective control of the military and security forces. Some members of the police committed human rights abuses.

The country has a market-based, mixed economy largely based on agriculture and manufacturing. Some 40 percent of the work force are in the agricultural sector; coffee and sugar are the principal export crops and major sources of foreign exchange. The manufacturing sector employs 6.4 percent of the work force, is dominated by apparel manufacturing (mostly in export processing zones), and represents the main source of new jobs. The Government is committed to privatization and free market reforms. The economy is open, and private property is respected. The rate of real economic growth was about 2 percent, and per capita gross domestic product was estimated to be $2,024. The official unemployment rate averaged 7.5 to 8 percent during the year; however, the rate of underemployment (less than full-time work or total income below the minimum wage) was estimated at about 30 percent. About 45 percent of the population live below the poverty level.

There continued to be some problems in the Government's human rights record; however, the Government's performance continued to improve somewhat. There were several cases of reported extrajudicial killings by police. The police sometimes used excessive force, mistreated detainees, and arbitrarily arrested and detained persons; however, the PNC improved its procedures. The PNC, the Attorney General's office and the independent PNC Inspector General's office (IG) sought to identify and to punish police who committed criminal acts or violated established procedures, although with mixed results. There was a reduction in the number of human rights complaints against the police compared with the previous year. Prison conditions remained poor, but the Government continued to improve conditions and significantly reduced overcrowding. The judiciary remains inefficient; however, it made considerable progress in clearing up its backlog of cases, and the court system began to reduce lengthy pretrial detention and delays in trials. Implementation of new criminal and sentencing codes in 1998 continued to have a positive impact on the problems of violation of due process, prison overcrowding, overburdened court dockets, and trial delays. The Supreme Court made further progress in increasing the professionalism of the judiciary, but disciplining or dismissing corrupt or incompetent judges remained a slow process. Impunity for the rich and powerful remained a problem. The office of the Ombudsman for the Defense of Human Rights (PDDH), established by the Constitution and the Peace Accords, was an independent advocate for citizens' rights. However, its investigative capacity remained limited due to resource constraints. In addition, there were continuing complaints from nongovernmental organizations (NGO's) and some legislators about the performance of Ombudsman Eduardo Penate Polanco. Violence and discrimination against women are

problems. Discrimination against the disabled and the indigenous remained problems. Abuse of children and forced child prostitution were also problems. The Freedom of Association Committee of the International Labor Organization (ILO) charged that the 1998 dismissal of two groups of employees of the privatized state telephone company violated freedom of association and the right to organize. The Government began several internationally sponsored programs to combat the continuing problem of child labor.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, there were several cases of reported extrajudicial killings by police.

In July Wiliam Ernesto Rosales Bonilla, who worked for the major newspaper El Diario de Hoy in a nonjournalistic capacity, was shot five times in the head. Neighbors claimed that just prior to his death, men in civilian dress picked up Rosales at his home and took him away in what was described as a police vehicle. One of the men also took Rosales's personal vehicle. Two PNC agents being investigated in connection with Rosales's murder were part of a group of six PNC agents under investigation in August for burglary of a private residence. However, at year's end, there was no concrete evidence to link Rosales's murder to any police, and the case remained under investigation.

In August three men dressed in what neighbors said appeared to be police uniforms took Fernando Hernandez and Manuel Aguilar away from their home in Hernandez's truck near the western city of San Juan de Opico. The three men rode in the bed of the truck and later appeared to have opened fire on Hernandez (who was driving) and Aguilar (in the passenger seat), killing both and wrecking the truck. Hernandez's family reported that he had been shot at the previous week and blamed a local transportation cooperative that had been trying to stop Hernandez from forming a competing transportation business. In December the authorities arrested three police officers and charged them with the murders. At year's end, one of the accused officers was under detention and the other two were suspended from the police force but free on bail, pending trial.

In August police shot and killed two protesters near Sonsonate during a confrontation between police and several hundred members of the Association of Salvadoran Agricultural Producers (APROAS), the most vocal and militant of several organizations of former militia members. (These loosely organized militias assisted the armed forces in rural areas, but their members were not part of the armed forces and were not included in the settlement offered to most former combatants under the 1992 Peace Accords.) The Sonsonate demonstration was one of a dozen held throughout the country to demand government compensation for some 40,000 to 45,000 persons claiming to be former militia members for their services before and during the civil war. On the day of the killings, several of these organizations blocked major highways with burning tires. While most of the demonstrations were nonviolent, in Sonsonate police were unable to persuade demonstrators to disband peacefully. A clash ensued, and police shot and killed two former militia members. In addition, 7 other former militia members and 7 PNC agents were wounded; 47 demonstrators were jailed but subsequently were released. APROAS has been involved in several violent clashes with authorities over the years and had made thinly veiled threats of violence prior to the demonstrations. There was evidence that some members of APROAS were armed with machetes, slingshots, and other weapons during the demonstration and were belligerent prior to the killings. There also were charges that the PNC used excessive force. In September the local prosecutor ordered one police officer detained in the deaths of the two former militia members. The police officer, who had been injured by machete in the incident, claimed self-defense. At year's end, the killings still were under investigation.

In November Manuel de Jesus Parada died as a result of a beating after a police patrol flagged down a car to take him to a hospital. The five policemen in the patrol claimed that others beat Parada and that they simply were helping the victim of an assault. However, the Attorney General's office opened an investigation and charged that the five police agents picked up Parada for being drunk, that Parada resisted being taken into custody, and that they then severely beat Parada, causing his death. One of the accused police officers fled and was still at large at year's end; the remaining four officers were in custody awaiting trial.

Also in November, police shot and killed Carlos Lopez Regalo on the outskirts of San Salvador. Prior to the shooting, a police patrol stopped to question Lopez, who was standing on the side of a highway attempting to sell wild game. Lopez fled, and

in the ensuing foot chase, the police reportedly fired four shots, one of which hit and killed Lopez. Family members claimed that Lopez fled because the police had beaten him on a previous occasion for selling game by the road. At year's end, two police officers were in custody and faced a charge of aggravated homicide in the case.

A number of inmates died in prison due to violence and illness. (See Section 1.c.).

There was mixed progress in cases of extrajudicial killings from previous years. In 1998 the handcuffed body of Carlos Lobo was discovered in a river near San Salvador. The apparent cause of death was drowning. Two PNC agents had arrested Lobo on suspicion of carrying stolen goods. The PNC agents claimed that Lobo escaped from custody, still handcuffed, and ran toward the area where his body later was found. The PNC told Lobo's father that his son escaped. Both PNC agents involved were placed in custody for "negligence" in allowing Lobo to escape. In February the PNC internal Control Unit found both police officers not culpable for the escape or subsequent death of Lobo, but faulted the senior officer for failure to follow correct procedure to locate Lobo after he fled. The second police officer was a driver, and, according to police regulations, was not allowed to pursue Lobo. In March the PNC Disciplinary Tribunal suspended the senior agent for 362 days. The officer appealed, and his appeal was still under consideration at year's end.

In 1998 PNC agent Mariano Rodriguez shot and killed Jose Antonio Villalta in Santa Tecla. Villalta's family charged that the PNC agent shot him in the back when Villalta attempted to intervene to stop a group of police who reportedly were beating two of his friends. At the end of 1998, the PNC's independent IG office submitted the case to the PNC Control Unit with the recommendation that Rodriguez be investigated for improper use of a firearm. While not citing specific officers, the IG also recommended that other PNC agents be investigated to determine any shared culpability. At year's end, the Control Unit was investigating the case.

In 1996 a PNC agent shot and killed Francisco Manzanares during what the police said was surveillance of ongoing criminal activity during an investigation in an extortion case. Although not active in politics at the time of his death, Manzanares's past as an FMLN combatant and party member raised the issue of political killing. In January a court found four police officers guilty of killing Manzanares (three as accomplices). The court determined that Jose Antonio Guzman Ramirez had fired the gun that killed Manzanares, and sentenced him to 15 years in prison; the other three defendants received 10-year sentences. All four were serving their sentences at year's end.

There were no further developments in the cases of two FMLN activists murdered in Nejapa during the 1997 election campaign. No concrete evidence has been discovered indicating that the killings were politically motivated.

There were no new developments in the 1995 beating death of medical student Adriano Vilanova. In 1998 a jury unanimously found five PNC agents guilty of Vilanova's murder. Another two PNC agents charged with participation in the killing remained at large at year's end. The victim's parents had expressed satisfaction with the guilty verdicts, but they continued to allege that the police were covering up involvement of higher level government officials and called on the police and the Attorney General's office to identify and prosecute the "intellectual authors" of the crime. The case remained open at year's end.

There were no new developments related to the 1994 murder of Ramon Garcia Prieto. In 1996 a court found Jose Argueta Rivas, a former member of the National Police, guilty of the murder, and sentenced him to 30 years in prison. In 1997 the Garcia Prieto family charged before the Inter-American Commission on Human Rights (IACHR) that the Government had failed to investigate the crime properly to determine who ordered the killings. In 1998 the authorities arrested Jose Ismael Ortiz Diaz, a member of a criminal gang, for participating in the murder. At year's end, the case remained open and Ortiz Diaz remained in custody, but no trial date had been set.

In 1998 the authorities charged Ortiz Diaz, who was already under detention for participation in the Garcia Prieto murder, as an accomplice in the 1993 murder of FMLN leader Darol Francisco Velis Castellanos. Carlos Romero Alfaro, a former member of the National Police, also remained in custody. In 1998 the Supreme Court admonished a lower court for the delay in the case; at year's end, the case remained open but there still was no indication when it would go to trial.

In December the IACHR published a report on the 1989 murders of six Jesuit priests, their housekeeper, and her daughter. The report concluded that the State was responsible for violating the right to life of the eight murdered persons and had failed to investigate those violations effectively. The report also criticized the 1993 general amnesty law, which resulted in the release from custody of two military offi-

cers found guilty of the murders in 1992, and called on the Government to reopen the case. The Government had not responded to the report as of year's end.

b. *Disappearance.*—There were no confirmed politically motivated disappearances.

Most cases of disappearances have been kidnaping for profit, a common occurrence affecting all levels of society throughout the country. During the year, the PDDH accepted three cases for investigation charging forced or involuntary disappearance.

In March unknown persons abducted Margarita Posada, the director of the Center for the Defense of the Consumer (a domestic NGO), held her for nearly a day and then released her. Police linked her case to a criminal band captured in May while attempting to negotiate a ransom in another kidnaping. However, Posada said that her abductors released her without making any ransom demands and she asserted that her abduction was an effort to intimidate her for work the Center had done in opposition to powerful business interests. At year's end, the authorities had not charged anyone in the case.

In April unknown assailants kidnaped Miguel Montenegro, president of the Human Rights Commission of El Salvador (CDHES), in San Salvador, drove him around the city for 2 hours and then released him unharmed. During the 2-hour ride, the captors threatened Montenegro and his family, making direct reference to his work in human rights. Montenegro reported this incident to the Government, the police, the PDDH, NGO's, and the diplomatic community. At year's end, the police continued their investigation into the abduction but had made little progress in identifying the perpetrators.

There were no further developments in the 1995 kidnaping of Andres Suster, the 15-year-old son of the former president of the state telephone company. Rumors of political motivation had surrounded the kidnaping. In 1997 police arrested a number of persons in connection with the kidnaping. A principal suspect in the Suster and other kidnapings, who was associated with the disbanded Communist Party, fled the country in 1997. In 1998 a judge ordered five suspects released from detention due to lack of evidence, dropped charges against four additional suspects, and lifted arrest orders against six others. As of year's end, two suspects remained in custody, one suspect had died of natural causes, and one suspect remained at large.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, some members of the PNC continued to use excessive force or otherwise mistreated detainees.

During the year, the PDDH accepted 929 complaints (an average of 77 per month) of violation of the right of personal integrity (a category covering torture; inhuman or degrading treatment; mistreatment; disproportionate use of force; and improper treatment of detainees). The PDDH reported that the vast majority of these complaints involved the PNC and were the direct result of minor to serious violations of arrest procedures. Since 1996 complaints have fallen. From June 1998 to May, the PDDH accepted a monthly average of 82 complaints in this category compared with 87 per month for the period from June 1997 to May 1998 and 108 per month for June 1996 to May 1997. From June 1998 to May, the PDDH investigated 28.4 percent of the total complaints it received, and, of those accepted for investigation, found human rights violations in an average of 4.2 percent (covering all categories of human rights).

The PNC Inspector General's office, an entity separate from the PNC, answers directly to the Minister of Public Security and is charged with overseeing police activities and investigating allegations of human rights abuse. The IG investigated 181 cases of violation of the right of personal integrity during the year (a monthly average of 15), compared with an average of 15 per month in 1998 and 14 per month in 1997.

The PDDH continued to receive a large number of human rights complaints directed against the PNC (1,437 cases during the year, a monthly average of 120), indicating continuing problems. However, the PDDH's statistics showed a reduction in complaints over the course of the last few years; during that time, the police force more than doubled. The PNC grew from about 7,100 active members in June 1995 to 18,800 in the summer of 1999. From June 1998 to May, the PDDH accepted a monthly average of 126 cases against the PNC, compared with an average of 190 cases per month from June 1997 to May 1998, and 208 cases per month from June 1996 to May 1997.

Through July the IG's investigations of complaints that it received (71 percent initiated by private citizens and 29 percent by individuals or offices within the PNC) found sufficient merit in an average of 9 cases a month to remit them to the PNC internal affairs offices for further investigation. The large number of complaints involving the PNC reflected several factors: the PNC's authority to use force in carrying out arrests; its inexperience; the difficulty of its work in the face of critical

levels of often violent crime; and a continuing need for training in human rights, the use of force, and correct arrest procedures.

The PNC internal affairs offices—the Disciplinary Investigative Unit (UID) and the Control Unit—continued their efforts to identify and punish improper or illegal police actions. During the year, the UID investigated 992 charges against the police. Based on the complaints investigated, during the year the Disciplinary Tribunal of the PNC dismissed 363 PNC agents (a monthly average of about 30) and sanctioned an additional 1,124 agents (a monthly average of about 94). At year's end, a total of 131 police agents were held in jail on criminal charges or were serving prison sentences.

Working together to improve PNC human rights awareness, the PDDH and the National Public Security Academy continued to expand and refine the human rights content of the standard curriculum for the academy's police officer basic training program.

There were allegations from children's rights groups that street children suffer from police brutality; the PNC denied these charges (see Section 5).

In August seven demonstrators and seven PNC agents were wounded in a violent clash between police and former militia members demanding government compensation for service rendered during the civil war (see Section 1.a.).

There were no further developments in 1998 shooting of FMLN communications adviser Leonardo Mena Marroquin. However, no evidence has been discovered indicating a political motive for the crime.

Prison conditions remained poor, but are improving measurably. The Government improved medical care and provided better food. As a result of the implementation in 1997 and 1998 of the new sentencing and penal codes, which limit preventive detention to more serious crimes, the prison population fell about 23 percent from December 1997 to December 1999. During the year, the Government increased the prison system's capacity by about 10 percent, and it now has the capacity for holding 6,480 prisoners in 18 penal facilities. While there was still some overcrowding in individual facilities, it was less severe than in past years, except in the women's facility. At year's end, there were 6,618 men held in 17 prison facilities with a combined capacity of 6,360; 296 women in the single women's prison with a capacity of 120; and 44 men in 3 secure hospital wards with a combined capacity of 75.

Gang violence, especially in the country's three largest and oldest penitentiaries and its juvenile holding facilities, continued to plague the prison system, despite government efforts to separate different gangs. According to press reports, 1 inmate was killed and over 40 were injured when fighting broke out in July between rival gangs at a youth rehabilitation center in San Francisco Gotera. In September a pitched battle between two rival gangs at a juvenile detention center left 1 detainee dead (killed by rival gang members) and 15 detainees wounded. PNC officials investigated allegations that guards had used excessive force in the riot. Prison authorities reported that during the year, there were nine deaths in the prison system due to violence. The authorities also reported that a total of 27 prisoners died during the year: 18 died as a result of illness, of whom 7 died from AIDS or other HIV-related illnesses; 6 died from wounds; 1 died in a prison riot; 1 died in an escape attempt; and 1 committed suicide. In September the Ministry of Interior assumed from the Ministry of Security and Justice responsibility for administering the prison system.

The 1995 Juvenile Offenders Law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence. Most criminal cases involving juveniles are brought to trial or conciliation within 3 months.

There are separate facilities for female detainees and prisoners.

The Government permits prison visits by independent human rights monitors, NGO's, and the media.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest; however, at times the PNC arbitrarily arrested and detained persons.

During the year, the PDDH accepted a total of 225 complaints (an average of 19 per month) for violations of personal liberty. The PDDH accepted a monthly average of 21 cases in this category from June 1998 to May, 47 cases per month from June 1997 to May 1998, and 62 per month from June 1996 to May 1997. PDDH statistics continued to show moderate improvement in PNC respect for personal liberty. The courts generally enforced a ruling that interrogation without the presence of counsel amounts to coercion, and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived. Substantially increased salaries and improved supervision contributed to a growing pool of public defenders, greatly increased their ability to represent indigent detainees properly, and improved the protection of human rights.

By law the police may hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often are sent to the regular prisons, where they may be placed together with violent criminals. The law allows 120 days to investigate serious crimes and 45 days for lesser offenses, before a judge must bring the accused to trial or dismiss the case. However, many cases were not completed within the legally prescribed time frame.

The 1997 Penitentiary Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention. At the beginning of September, 4,867 inmates in the prison system were awaiting trial, a steady improvement over the situation as of September 1998, when 5,506 inmates were awaiting trial, and at the end of 1997, when 6,167 inmates were awaiting trial. Also, beginning in 1998, new court cases were handled under new criminal and sentencing codes, which are designed to reduce the court caseload by sending cases to the prosecutor's office first and only allowing cases with merit to enter the court system. During the year, the justice of the peace courts, where most court cases originate, accepted a daily average of 157 cases. Of these, a daily average of 16 cases were resolved through conciliation and an additional 86 cases were resolved through other abbreviated procedures.

The new system also is designed to improve court efficiency by removing the time-consuming investigative responsibilities from the judge and placing them with the police and the prosecutor's office. The number of backlogged cases was reduced steadily. The Supreme Court reported that 28,539 backlogged cases were resolved during the year.

The Constitution prohibits forced exile, and it is not practiced.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. However, the judiciary suffers from inefficiency and corruption.

The court structure has four levels: Justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council. The Council is an independent body provided for in the Constitution to nominate, train, and evaluate judges. All lower court judges serve until they voluntarily resign or are dismissed for cause. The Legislative Assembly elects, by a two-thirds majority, 5 of the 15 Supreme Court justices and 5 of the 15 alternate justices every 3 years from a list provided by the National Judicial Council and the National Association of Lawyers. A justice serves for 9 years and may be reelected. Separate court systems for family matters and juvenile offenders were established in 1996; they stress conciliation as an alternative to adjudication. The Criminal Sentencing Court has responsibility for executing and monitoring the sentences imposed by the trial courts.

Judges, not juries, decide most cases. A jury verdict cannot be appealed. However, the defendant may appeal the sentence to the Supreme Court for reduction. A jury verdict may be overturned by a mistrial determination resulting from serious problems with jury panel selection or errors in trial procedures.

The Government continued to implement the wide-ranging reforms of the criminal justice system that went into effect in 1998, specifically the Criminal Procedures Code (enacted in 1996) and the Penal and Penitentiary (Sentencing) Codes (enacted in 1997 and designed to speed up the trial process and reduce the number of detainees). The 1995 Juvenile Legal Code required minors under the age of 18 to be tried only in juvenile courts, included greater provisions for due process, raised the age of majority from 16 to 18 years, limited sentences for minors to a maximum of 7 years, and introduced alternatives to incarceration.

In June and September, the Legislative Assembly approved a number of additional changes to the Criminal Procedures and Penal and Penitentiary (Sentencing) Codes. These changes included the establishment of more severe penalties for some crimes (including increasing the maximum possible prison sentence from 30 to 35 years); the elimination of parole for some crimes; and the addition of new crimes to the code. One of the June reforms strengthened the legal protection afforded to children and the disabled by prescribing a 6-to-8-year prison sentence for individuals convicted of sexual aggression against adults incapacitated by a mental or physical condition or against minors.

Under the Constitution, defendants have the right to a presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and com-

pensation for damages due to judicial error. They also have the right to be present in court. While these rights are not always respected fully in practice, compliance with these provisions improved, in part due to increased judicial training programs and to evaluations and monitoring of judges conducted by the National Judicial Council and the Supreme Court. The Constitution and law require the Government to provide legal counsel to the indigent. While this requirement has not always been implemented in practice, the Government continued to make progress during the year toward ensuring provision of legal assistance to indigents. In 1998 the Public Defender's office began adding new attorneys and increased salaries for public defenders. At year's end, the Public Defender's office had 339 attorneys compared with 279 in 1998 and 113 in 1997.

The new sentencing code implemented in April 1998 stresses criminal rehabilitation and prevention of future crimes and stipulates the provision of humane conditions in prisons as well as the separation of violent offenders and pretrial detainees. It also established the Criminal Sentencing Court. Previously, the same judge that investigated, judged, and sentenced the accused was also responsible for the imposition, monitoring, and suspension of the sentence. The new code also provides for alternatives to imprisonment for nonviolent offenders, designed to reduce prison overcrowding.

There are still problems of corruption and incompetence in the judicial system, but the Supreme Court stepped up its efforts to discipline judges. While the court system steadily improved, the process remains deliberative and slow. Pay and benefits for judges, prosecutors, and public defenders increased, and are sufficient to attract well-qualified individuals. However, despite significant investment in physical infrastructure, working conditions remain barely adequate, contributing to inefficiency. Training programs improved, but focused on overcoming inadequate university education rather than judicial procedure and advanced professional development. While representing a marked improvement in procedures, the new criminal and sentencing codes entail a massive reeducation effort for the judicial sector.

Impunity for those who are politically, economically, or institutionally well-connected continued, although there was some progress in addressing this historic problem. The continued systemic weaknesses in the criminal justice system contribute to this impunity. Such impunity might take the form of a reluctance on the part of authorities to pursue aggressively and to conclusion allegations involving acts of violence or other major crimes. There is a clear perception among the public that those who are well-connected, especially the rich and powerful, often have impunity with respect to the country's civil and criminal laws. Public suspicion that special groups receive special treatment under the law clearly diminishes confidence in the justice system, although during the year, the Government investigated prominent citizens involved in suspected criminal activity, including current and former government officials, political leaders (across the political spectrum), diplomats, and persons in the business community. However, there were no convictions, nor did the authorities make serious progress in prosecuting these individuals. The authorities also had little success in addressing general criminal impunity.

The implementation of judicial reforms continued to create confusion and uncertainty among police, prosecutors, public defenders, and the courts. Inadequate police coverage (due to limited resources and lack of sufficient personnel) and intimidation (especially by gangs) of victims and witnesses made it difficult to identify, arrest, and prosecute criminals, diminishing public confidence in the justice system.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution requires the police to have the resident's consent, a warrant, or a reasonable belief that a crime is under way or is about to be committed, before entering a private dwelling, and government authorities generally respected these rights in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of the press, and the Government respects this right in practice. Print and broadcast journalists from all major media outlets regularly and freely criticize the Government and report opposition views. Opposition figures are interviewed routinely on television and radio, and in the written press. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations complained that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy.

There are 5 daily newspapers, with a combined circulation of more than 250,000 copies per day, and 12 television stations. Four independent VHF television stations

reach most areas of the country, while the government-owned and operated VHF station has poor signal quality even in San Salvador. Seven independent UHF stations serve San Salvador, and several can be received as far as 30 miles from the capital. Two cable television systems cover much of the capital, and other cable companies operate in San Miguel, Santa Ana, and Sonsonate. All carry the major local stations and a wide range of international programming. There are as many as 20 small cable television stations across the country, serving limited local areas. While most of them appear to be authorized broadcasters, several are believed to be pirating signals. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the new Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the Inter-American Press Association (IAPA) asserted that the provision abridged press freedom. Several legislative deputies have argued that misuse of the provision could lead to impunity and corruption by limiting the "watchdog" role of the press.

The August 1997 murder of Lorena Saravia, a news reader employed by a commercial radio station, remained under investigation at year's end. In 1997 the IAPA listed this case among examples of violence directed against the media; however, there still is no concrete evidence linking the murder directly to Saravia's profession and the motives for the murder remained unclear.

There were no instances of censorship of books, other publications, films, or plays.

The Constitution provides for academic freedom, and the Government respects this right in practice, although it was criticized for efforts in 1998 and 1997 to implement minimum academic and administrative standards for the operation of universities.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for peaceful assembly for any lawful purpose, and the Government respects this right in practice. There is no requirement for permits to hold public meetings, and public demonstrations are common and generally peaceful. However, in August police killed two demonstrators during a violent clash (see Section 1.a.).

The Constitution provides for freedom of association, and the Government respects this right in practice. In 1997 the Government implemented a 1996 law that charges the Ministry of Interior with registering, regulating, and overseeing the finances of NGO's and non-Catholic religious groups in the country. The law specifically exempts unions, cooperatives, and the Catholic Church, and the Interior Minister stated that it would not affect other churches, which already were being registered, under other laws, with the Ministry of Interior.

Leaders within the NGO community expressed continuing concerns that the law would be used by the Ministry to control certain organizations. Several small, domestic human rights NGO's have reported that they have not been able to register. The law requires the Ministry to respond to applications within 15 days; if the Ministry fails to do so, the law dictates that the NGO receives automatic registration. At year's end, the Supreme Court was considering a constitutional challenge to the NGO registration law brought by a group of NGO's in 1998.

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

The Constitution specifically recognizes the Roman Catholic Church, and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law. The Civil Code specifies that a church must apply for formal recognition through the General Office of Nonprofit Associations and Foundations within the Ministry of Interior. The 1996 law and the 1997 implementing regulations on registration of NGO's and non-Catholic churches (see Section 2.b.) did not change the existing mechanism for church registration, and there were no allegations that churches encountered problems in obtaining registration.

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

The law does not include specific provisions for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has procedures for handling such requests, in accordance with these principles.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise in 1999 and has not arisen in recent years. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and Vice President are elected every 5 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

Ten political parties, representing the full political spectrum, fielded seven candidates in the March presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

The March presidential election followed the free and fair 1997 legislative and municipal elections. In 1997 the FMLN—the principal opposition party—and its allies won nearly one-third of the assembly seats and many of the largest municipalities (including San Salvador, in which an FMLN coalition candidate was elected mayor). The governing ARENA party lost its legislative working majority and important mayoral races. The next two largest opposition legislative parties won significant blocs of seats.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems; however, women are not accorded equal respect or stature in these areas and are underrepresented in government and politics. Women represented 49 percent of the registered voters in the March election, and party campaigns and slates reflected strong attention to this vote. The FMLN chose Maria Marta Valladares (known during the civil war as Nidia Diaz) as its vice presidential candidate. President Flores named women to head three ministries (Foreign Affairs, Education, and Environment), the Social Security Institute, and a substantial number of vice- and sub-ministerial jobs. In 1997 voters elected 14 women to the 84-seat legislature, an increase from the previous Assembly's 9. However, women held fewer positions (2 of 11) on the Assembly's governing board than in the previous legislature.

Minorities are not barred from voting or participating in government and politics; however, they are underrepresented.

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

The Government demonstrated a willingness to discuss human rights issues and problems with domestic, international, and nongovernmental organizations. Numerous domestic NGO's operated freely as did various international human rights groups, including migration and other humanitarian and technical assistance groups. Domestic and international NGO's were required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties (see Section 2.b.). In March unknown persons kidnaped and held for a number of hours the president of the Center for the Defense of the Consumer (see Section 1.b.). In April unknown assailants briefly kidnaped the head of the CDHES (see Section 1.b.).

The principal human rights investigative and monitoring body is the Ombudsman for the Defense of Human Rights, elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by a constitutional amendment that defined its role. Although the 1998 budget gave the PDDH a modest increase in funds, its investigative capacity remained limited due to resource constraints. The PDDH has been spread increasingly thin as the organization sought to expand its scope of attention, extend its presence throughout the country, and meet increased public demand.

In 1998 in a drawn-out and politically charged process, the Legislative Assembly elected Judge Eduardo Antonio Penate Polanco as Ombudsman to replace Victoria de Aviles, whose term expired early that year. However, after the vote and during the 30-day confirmation stage, the FMLN, the Social Christian Unity Party, and many in the NGO community questioned Penate's selection, citing a lack of experience in the human rights field, reports of poor performance as a judge, and charges that defendants in his court were not afforded the right to a speedy trial. The Supreme Court found no substance to these allegations, and the Assembly found no grounds to annul the election. The Assembly confirmed Penate in July 1998. However, his appointment and subsequent performance as Ombudsman continued to generate controversy during the year, with continuing charges from NGO's, the FMLN, and some other parties that he was unqualified. In January a coalition of NGO's petitioned the Assembly to remove Penate on grounds of incompetence.

Penate claimed that the campaign against him was motivated by political considerations. The Assembly postponed action until after the June inauguration of the new President. On December 1, the Assembly's Political Committee created a subcommittee to evaluate Penate's tenure as Ombudsman and determine whether to present charges against him for inadequate performance. The subcommittee still was considering the matter at year's end.

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

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, sex, or religion. In practice, discrimination against women, the disabled, and indigenous people occurs in salaries, in hiring, and in access to credit and education.

There were some instances of violence against homosexuals. On June 29, an unknown assailant shot and wounded a man who was accompanying William Hernandez, director of the domestic homosexual rights organization Entre Amigos, as the two left the organization's office. At year's end, neither the motive nor the perpetrator were determined. In October Jose Armando Rivera, a transvestite prostitute known as "Doris," was murdered in San Salvador. In December Nestor Adonai Marenco (known as "Gloria"), another transvestite prostitute and a witness in the Rivera murder investigation, was killed in the same area. At year's end, the motive for the Rivera murder remained unclear; the killing occurred in an area known for illegal drug dealing and police had detained Rivera twice earlier in the year, once for threatening another transvestite prostitute and once for assaulting a police officer. The investigation of the Marenco killing also was inconclusive at year's end, although it suggested that the murder might be linked to his testimony in the Rivera case. Beginning in November, Hernandez reported receiving telephonic death threats that he believed were in response to public statements that Entre Amigos made about the Rivera murder. Although they took place in the same general area, as of year's end, there was no evident connection established between the two 1999 murders and a series of six murders of transvestite prostitutes in 1998. There was little progress in the investigations carried on by the PNC and the Attorney General's office into the 1998 murders. Both the 1998 and 1999 murders, and the threats against Hernandez, remained under investigation at year's end. In August Entre Amigos charged that PNC agents in Chalatenango department hit, insulted, and threatened a group of six homosexuals. The incident was under investigation at year's end.

Women.—Violence against women, including domestic violence, is a widespread and serious problem. Once a taboo social subject, increasingly it is being recognized publicly and has become a topic for national debate. Government institutions such as the PDDH, the Attorney General's office, the Supreme Court, and the PNC coordinated efforts with NGO's and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family maintains a hot line for victims to report domestic abuse. Statistics from the Salvadoran Institute for the Development of Women (ISDEMU) show a growing trend of reported domestic violence cases (principally against women) over the past few years. The upward trend of reports of violations may reflect broader public debate of family violence issues, rather than a worsening problem. ISDEMU received 6,451 cases of domestic violence through November (a monthly average of 586), compared with 3,543 cases in 1998 (a monthly average of 295) and 3,845 cases in 1997 (a monthly average of 320).

Incidents of domestic violence and rape continued to be underreported for several reasons: Societal and cultural pressures against the victim; a fear of reprisal; poor handling of victims by the authorities; fear of publicity; and the belief that cases are unlikely to be resolved. The PDDH noted that hundreds of domestic abuse victims who underwent psychotherapy refused to report their cases formally. ISDEMU received 359 cases of "sexual aggression" through November (a monthly average of 33) compared with 298 cases (a monthly average of 25) in 1998 and 479 cases (a monthly average of 40) in 1997. For the year, the Institute of Legal Medicine, using different criteria, reported 1,082 cases of sexual crime against women of all ages, an average of 89 cases per month. Under the new Criminal Procedures Code (implemented in 1998), victim testimony is admissible evidence. The former law did not allow victims to testify, and since the rape victim is often the only witness, this resulted in little chance for conviction in rape cases. In 1996 the Assembly repealed an old law that exonerated a rapist if he offered to marry the victim and she accepted.

Prostitution is common. There were credible reports that some women and girls were forced into prostitution (see Section 6.f.).

The Constitution grants women and men the same legal rights, but women suffer discrimination. The 1994 Family Legal Code amended laws that discriminated against women, especially affecting the large number of women in common-law marriages. The law also established special courts to resolve family disputes. Several NGO's are engaged in promoting women's rights and have conducted several rights awareness campaigns.

Women suffered from cultural and societal discrimination, resulting in significantly reduced economic opportunities. Priority generally is given to male children for schooling, to men for available jobs and promotions, and to sons for inheritances. Of the economically active female population, 65 percent worked in the informal economy. Women are not accorded equal respect or stature in traditional male-dominated areas such as agriculture and business. While there is no definitive evidence available, it is widely believed that women often are paid less than men for equal work. The one sector in which there is an exception to this practice is in the export processing zones and in-bond assembly plants, the largest source of new jobs, where women made up 85 to 90 percent of the work force (see Section 6.b.). However, even in this sector, men hold the great majority of management jobs. Training for women generally was confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, and small businesses.

Children.—The Government's focus on children's rights and welfare was concentrated more toward reducing poverty and promoting family stability through economic growth than in direct expenditure on children's programs. Considerable publicity and the personal campaign of the former First Lady focused attention on this problem. The law requires education through the ninth grade (up to the age of 14). Although there was progress in increasing the availability and quality of schooling throughout the country, rural areas still fell short of providing a ninth grade education to all potential students. A 1997 study by the Business Foundation for Educational Development indicated that 17 percent of urban children and 34 percent of rural youth were not attending classes.

The Government worked closely through state institutions and with the United Nations Children's Fund (UNICEF) to promote protection and general awareness of children's rights. However, children continued to fall victim to physical and sexual abuse, abandonment, exploitation, and neglect. The Salvadoran Institute for the Protection of Children (ISPM), an autonomous entity, is responsible for protecting and promoting children's rights. The ISPM estimated that it averaged 2,600 to 2,700 children (its maximum capacity) in its shelters, some abandoned and others victims of mistreatment. For the year, it reported a monthly average of 126 cases of physical mistreatment (compared with 109 per month in 1998), a monthly average of 55 cases of negligence (compared with 21 per month in 1998), and a monthly average of 59 cases of abandonment (compared with 10 per month in 1998). Approximately 55 percent of all its cases involved girls. Using different criteria, ISDEMU reported a significant increase in child abuse. ISDEMU recorded 9,751 cases of "abuse of a minor" through November (a monthly average of 886), compared with 6,312 cases (a monthly average of 526) for 1998, and 4,334 cases (a monthly average of 361) for 1997.

A 1997 study by the NGO network Procipotes estimated that 1,000 children (up to age 16) were living on their own in the streets, 42 percent of whom were under the age of 5. Substance abuse (glue and paint sniffing) was an endemic problem among urban street children. In 1998 the Assembly passed a law regulating the sale of glue and other substances used as street drugs, prohibiting their sale to minors. There are allegations from children's rights advocates that street children suffer from police brutality. The PNC denies these charges and has incorporated PDDH human rights training into programs for police units that deal with juveniles. The PDDH also has called for the creation of drug treatment centers for minors.

For the year, the Institute of Legal Medicine recorded 1,073 cases of sexual abuse of children under 15 years of age (a monthly average of 90). A majority of the victims were female. The ISPM reported that it received a monthly average of 9 cases of sexual abuse during the year, compared with an average of 8 per month in 1998. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, and only a small percentage of these cases were reported to the authorities.

In June the Legislative Assembly approved the addition of a new provision to the Criminal Code that mandates a 6-to-8-year prison sentence for individuals convicted of sexual aggression against minors (see Section 1.e.).

The PDDH estimated that 270,000 minors work, mostly as street vendors (see Section 6.d.). Besides losing their opportunity for an education, these children often fell victim to sexual abuse and were exploited and forced into prostitution (see Sec-

tions 6.c. and 6.f.). Since 1997 the PDDH, NGO's, and the media have conducted a publicity and investigative campaign to highlight the plight of children. A 1998 study on child prostitution by the Commission on the Family, the Woman, and the Child of the U.N. High Commissioner for Human Rights concluded that child prostitution in the country was promoted by poverty, lack of a strong nuclear family, discrimination against women, and organized crime. A separate NGO study in 1998 on the same problem indicated that at least 44 percent of the estimated 1,300 prostitutes in 3 major red light districts of San Salvador were between the ages of 13 and 18. The NGO report pointed to poverty and familial problems as the two major factors pushing children and adolescents into prostitution.

The Government, the International Program for the Elimination of Child Labor (IPEC), and local NGO's and business groups consulted throughout the year and joined forces in August and September to begin several projects to combat child labor in specific industries (see Section 6.d.).

The level of infant malnutrition decreased, but continued to be a problem. A National Family Health Poll, conducted in 1998 and released in December 1999, found that 1.1 percent of children under 5 years of age suffered from grave malnutrition, with an additional 21 percent experiencing less severe malnutrition. The Ministry of Health listed malnutrition as one of the 10 principal causes of infant mortality in the country. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and vitamins, and to encourage breast feeding, but all of these remain problem areas, especially among the rural poor.

People with Disabilities.—Except for the war wounded, who have secured both government and international funding for rehabilitation and retraining programs, the Government has no program to combat discrimination against the disabled. There are no laws mandating provision of access to public or private buildings for the disabled. The Government has not enforced the 1984 law requiring employers with over 50 workers (private companies, state-owned enterprises, and government offices) to have "persons with physical limitations" represent a minimum of 2 percent of their work force. Access by the disabled to basic education was limited due to lack of facilities and appropriate transportation. There was no provision of state services for the physically disabled. Only a few of the Government's community-based health promoters have been trained to treat the disabled, and they rarely provided such service, tending rather to focus on life-threatening conditions and preventive care for mothers and children. The Ministry of Health estimated that some form of disability afflicts 10 percent of the population. In 1997 the National Council of Disabled People estimated that there were 500,000 persons with disabilities, of whom 12,500 had disabilities directly attributable to the civil war. Other factors contributing to the large number of disabled persons were lack of prenatal care, misuse of pesticides in food production, malnutrition, auto accidents, and criminal violence.

There were few organizations dedicated to protecting and promoting the rights of the disabled. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of the disabled population. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled (ISRI), also provided assistance to the disabled. The ISRI offered medical treatment, counseling, special education programs, and professional training courses. Founded in 1957, the ISRI has 10 centers throughout the country and received assistance from the Government and national and international private and nongovernmental organizations.

In June the Legislative Assembly approved a new provision to the Criminal Code that mandates a 6-to-8-year prison sentence for individuals convicted of sexual aggression against persons incapacitated by a mental or physical condition (see Section 1.e.).

Indigenous People.—The country is ethnically homogeneous, although a very small segment of the population still claims indigenous status. The Constitution makes no specific provisions for the rights of indigenous people.

Early in the century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree without repression or interference. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem. Indigenous people reportedly earned less than other agricultural laborers, and indigenous women in particular had little access to educational and work opportunities. As with the poor rural sector in general,

access to land was a growing problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The largest and best known is the National Association of Indigenous Salvadorans (ANIS). In 1998 a long-running internal political fight and land dispute caused a major split in ANIS. One faction held a direct election that replaced long-time leader Adrian Esquino Lisco, who was accused of corruption and lying. Esquino refused to step down, claiming that his leadership position was perpetual. Police arrested him on civil charges of occupying ANIS property illegally after his removal as leader and criminal charges of fraud in his administration of ANIS. Esquino was exonerated of the criminal charge of fraud. In August the Supreme Court ruled against Esquino's 1998 petition to stop eviction procedures against him and his extended family, on charges of illegal possession of land and several houses. In the last 2 years of his leadership of ANIS, Esquino had charged that the Government was targeting the indigenous community, and especially its leaders, with legal harassment and threats. There has been little evidence to support these allegations, and the new ANIS leadership does not endorse them.

Religious Minorities.—During February and March, eight break-ins and burglaries occurred at offices of the Lutheran Church, including four at the Church's Office of Human Rights. The PNC opened an investigation into the incidents. Initially there was concern that these incidents might have been attacks directed against the Lutheran Church or its work in human rights. However, they occurred in high-crime areas, and the available evidence indicated that they were common crimes. The incidents remained under investigation at year's end.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution prohibits the Government from using nationality, race, sex, creed, or political philosophy as a means to prevent workers or employers from organizing themselves into unions or associations. In practice, the Government generally has respected this right. However, in March the International Labor Organization Committee on the Freedom of Association cited the Government for its failure to provide protection or remedy for a number of labor leaders fired in 1998 in the process of privatizing the state-owned telephone company. The decision concluded that the Labor Code imposed a series of excessive formalities for the recognition of a trade union, and found that the application of the law was used to refuse legal status to a number of efforts to establish a trade union in the telephone company. The Committee also emphasized that changing ownership of a business should not threaten unionized workers and questioned the propriety of the January 1998 dismissal of 72 labor leaders, but noted that 70 of this group had accepted legal compensation. The Committee called on the Government to complete the process for recognition of the telephone union, amend the Labor Code to remove the excessive formalities that the Committee concluded infringe on the right to form a union, seek to have the two union leaders who had not yet accepted severance pay reinstated, and ensure that future changes of company ownership do not threaten labor leaders or labor organizations. A legal action brought by the union to oblige the Ministry of Labor to grant the union's 1998 petition for recognition still was pending before the Supreme Court at year's end.

Military personnel, police, and government workers may not form unions (but are allowed professional and employee organizations) and may not strike. The 1994 Labor Code streamlined the process required to form a union in the private sector, extending union rights to agricultural, independent, and small-business workers, and extending the right to strike to union federations. The Labor Code prohibits partisan political activity by unions. The unions routinely ignored this prohibition, but the Government took no punitive action against them.

There is a small organized labor sector with approximately 150 active unions, public employee associations, and peasant organizations, representing over 300,000 citizens, approximately 20 percent of the total work force. By law only private sector workers have the right to form unions and strike; some employees of autonomous public agencies may form unions if they do not deal with essential services. In fact, some of the most powerful labor groups are public employee associations. These public sector labor groups take on the same responsibilities as unions, including calling technically illegal strikes and collective bargaining. The Government has negotiated with public employee associations and generally treated strikes as legitimate, although the Labor Code provides for mandatory arbitration of public sector disputes. However, during the year, the Government refused to accede to strikers' demands in the cases of several public sector strikes, which continued at year's end.

Two judicial employee associations went on strike on November 30 to protest a presidential veto of a bill authorizing pay raises for judicial workers. The Supreme

Court ended the strike by raising the workers' pay using funds from within its existing budget. The public water works union went on a partial strike in December, unsuccessfully demanding pay increases and opposing water works privatization. The union for nonmedical employees of the Social Security Institute (ISSS) staged a series of partial strikes and blockages of public and employee access to public medical facilities during the year to protest the ISSS's failure to pay raises negotiated by the previous administration in 1998, a presidential decree freezing public sector wages, and alleged government plans to privatize two hospitals and eventually the entire health system. The workers defied a court decision that found the strike illegal and ordered the strikers back to work. The ISSS fired over 200 strikers who refused to honor the court order to return to work, and withheld pay and legal bonuses of other strikers. The President vetoed legislation passed in November that would have granted pay increases for ISSS employees and restored pay to teachers whose pay was docked for striking illegally earlier in the year. The legislation was passed by a bloc of opposition parties outside the framework of the year's national budget. Following these developments, the ISSS's medical professionals' union announced its support for the strikers; both groups threatened to abandon the public hospitals unless the President created a high-level committee to negotiate with the strikers, and the ISSS rehired fired workers and paid wages and bonuses that had been withheld from other strikers. In December mediation efforts failed and the dispute went to binding arbitration, as called for by the Labor Code. The Government and the ISSS did not accede to any of the strikers' demands, and the two unions broadened the strike. The standoff continued at year's end.

The law prohibits antiunion actions before a union is legally registered and provides specific job protection to workers whose names appear on a union application. The Labor Code forbids foreigners from holding positions in unions.

Unions and other labor organizations freely affiliated with international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—The Constitution and the Labor Code provide for collective bargaining rights, but only to employees in the private sector and to certain categories of workers in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

The Ministry of Labor oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Ministry of Labor only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry is biased against labor. Corruption continued to affect labor inspectors and courts, but improvements in training and an increase in pay in 1997 for Ministry of Labor employees have begun to address this problem.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. Employers generally observed this provision in practice, but credible reports continued of employers using illegal pressure, including dismissal of labor activists, to discourage organizing. The law requires employers to rehire employees fired for any type of union activity, and the Ministry of Labor has increased efforts to enforce this requirement. However, in many cases, employees chose to take a cash payment in lieu of returning to work.

There are six export processing zones (EPZ's) and several "maquila" (in-bond assembly or processing) plants operating outside of these zones. The Labor Code applies in the EPZ's; there are no special EPZ labor regulations. During the last few years, most EPZ companies and a large portion of the maquila plants have accepted the provisions of voluntary codes of conduct from their parent corporations or foreign purchasers. In addition, two EPZ's have instituted their own codes of conducts for all their tenants. These codes include worker rights protection clauses. In 1997 the apparel industry association announced implementation of an industrywide code of conduct with worker rights protection. The great majority of companies in the EPZ's provided much better salaries and working conditions than those offered elsewhere in the private sector (see Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and only one EPZ company was unionized, with two active plant unions.

On August 7, a group of workers at Industrias Caribbean Apparel (ICA), a Korean-owned EPZ maquila company, formed a small sectional union of the textile sector union within the Federation of Associations and Independent Unions of El Sal-

vador (FEASIES) and applied to the Ministry of Labor for formal recognition. On August 9, ICA fired two employees who were members of the sectional union's executive board; in early September, the company fired four more union board members. FEASIES and the first four employees fired filed a complaint against ICA with the Ministry of Labor for violation of worker rights and the Labor Code, which specifically grants job protection to leaders of unions in formation. In August local labor leader Jiovanni Fuentes charged that he had received anonymous telephone warnings and thinly veiled threats from ICA's lawyer as a result of his work to assist in the organization of the union. None of the fired ICA union board members reported receiving similar threats. The Ministry of Labor investigated the charges against ICA, and in October recognized the union and completed its registration; instructed ICA to pay back wages to the fired union board members; and advised ICA to meet with the fired workers to work out a mutually acceptable solution to their disagreements or face legal penalties. After a series of Ministry-hosted mediation sessions, representatives of the union board, Fuentes, and representatives of ICA appeared in person at the Ministry to report that they had reached a mutually acceptable economic settlement.

On November 24, the Salvadoran Workers' Central (CTS), an umbrella labor organization, charged that the Korean-owned factory DOALL in the San Marcos EPZ had fired illegally 22 of 38 workers who had formed a union and applied to the Government for recognition on November 20. A week later, the CTS asserted that the number of union employees dismissed rose to 35. DOALL claimed that several of the union's organizers had resigned voluntarily 2 hours before the union was constituted and that the union therefore was not legal. On November 24, the Ministry of Labor began investigating the case. In December, following pressure from its major foreign customer, DOALL claimed that it had offered to rehire the fired workers. However, the union claimed that these workers had not been asked to return to work. At year's end, the Ministry's investigation was still underway and the dispute was unresolved.

In 1998 the PDDH released a detailed analysis of the maquila sector (covering both EPZ and non-EPZ in-bond plants) that indicated that 20.8 percent of the sector's workers "trusted" unions while 55.3 percent "did not trust" unions. Credible accusations persisted that some factories abused their workers, and that some women were not hired because they were pregnant. According to the PDDH report on maquilas, 37.7 percent of the workers surveyed stated that they had been mistreated, 37.7 percent had been threatened, 3.2 percent had been hit in some fashion, 3.5 percent had been harassed sexually by bosses, and 3 percent had been harassed sexually by other workers. Although the Ministry of Labor improved its efforts to increase inspection and follow up on such complaints, it still had insufficient resources to cover all the EPZ's, much less the much larger national private sector.

Although under 1996 legislation, the Government authorized the Ministry of Economy to withdraw free zone privileges from companies that violated labor regulations, there have been no instances in which this has been threatened publicly. There is also a tripartite (government, business, and labor) commission, established in 1996, to help resolve conflicts in EPZ and other bonded companies.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, except in the case of calamity and other instances specified by law, and the Government generally enforces this provision; however, there were credible complaints of forced overtime in the maquila sector and of forced prostitution by children.

While not dealing directly with the issue of forced overtime, the PDDH report on the maquila sector indicated that 7.8 percent of workers in its survey sample were not paid legally required extra pay for working beyond the normal 44-hour work week, a strong indication of forced overtime. The survey also found that 50.2 percent of maquila workers did not work any overtime and 28.7 percent averaged 5 hours or less overtime a week (roughly 10 percent of regular time). Although not specifically prohibited by law, forced and bonded labor by children are covered by the general prohibition, and there were no reports of their use in the formal sector; however, there was strong evidence that minors have been forced into prostitution (see Section 5.). There also were credible reports that women were forced into prostitution.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits the employment of children under the age of 14. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is absolutely indispensable to the sustenance of the minor and his or her family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. Those legal workers under the age of 18 have special additional rules governing conditions of work (see Section

6.e.). The law limits the workday to 6 hours for youths between 14 and 18 years of age and sets a maximum normal workweek for youths at 36 hours.

Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, mostly in the informal sector (see Section 5.). Children in these circumstances often do not complete compulsory schooling through the ninth grade (up to the age of 14) as the law requires. A 1998 joint report of the ISPM and UNICEF, based on nationwide data collected in 1996, indicated that of the 1.8 million children between 5 and 17 years of age, roughly 6.6 percent, or 118,800, worked without attending school, and 36,200 of these were under the age of 14. An additional 5.8 percent, or 104,400, worked but also attended school. Of these, 55,300 were under the age of 14. The primary reason for working for over 45 percent of each group was familial economic survival. However, the average income for child workers was less than half of the minimum wage and represented 18.7 percent of average family income. The second most important reason for working for 10 percent of the nonstudent child workers and nearly 34 percent of the child workers attending school was to learn a trade. Child labor is not found in the industrial sector and has disappeared in the EPZ's. The PDDH report on the maquila industry found no workers under the age of 17 and only 0.5 percent who were 17 (a legal working age, with some restrictions).

The Ministry of Labor is responsible for enforcing child labor laws and made an effort to do so; however, scarce resources and the difficulty of monitoring the large informal sector limited its effectiveness outside the urban formal sector. In 1997 the Government helped establish the National Committee for the Eradication of Child Labor (CNETI). The CNETI was designed to be a coordinating body of the Government, NGO's, and the private sector (labor and business) to combat child labor. However, there has been little CNETI activity. The Labor Code does not specifically prohibit forced and bonded labor of children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Sections 6.c. and 6.f.).

The Government collaborated with the International Program to End Child Labor under the auspices of the ILO on two country projects and two Central American regional projects aimed at directly combating child labor. These projects are designed to discourage children from working, promote schooling and recreation, help develop new economic options for both children and their families, and eventually be self-sustaining and permanent. In August the Government, IPEC, and the ISPM inaugurated a project in the southeastern shore area to remove children from the unhealthful harvesting of mangrove clams. In September the Government, the ISPM, local NGO's, the Coffee Growers Association, and IPEC joined forces and resources to begin a project in the coffee sector to help remove children from the fields and enroll them in school. A similar project was planned to help children in the sugar sector, with participation from the Sugar Foundation (representing the sugar industry). Also in September, the Government, IPEC, and an NGO began implementing a project that focused on removing children from the cottage production of fireworks.

e. *Acceptable Conditions of Work.*—The minimum wage is set by a tripartite (government, labor, business) committee. Effective May 1, 1998, the committee set the minimum daily wage at $4.81 (42.00 colones) for commercial, industrial, and service employees; $3.57 (31.20 colones) plus food allowance for coffee plantation workers; $2.61 (22.80 colones) plus food allowance for sugar and cotton plantation workers; and $2.47 (21.60 colones) plus food allowance for all other agroindustrial workers. By law a full-time minimum wage employee is paid a full 7 days (56 hours) for the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. There were continuing allegations that the maquila sector underpaid workers. The PDDH 1998 report on maquilas found that 42.3 percent of the maquila workers surveyed received the minimum wage, 25.1 percent earned an amount moderately above the minimum wage, and 10 percent earned significantly more than the minimum wage. Of the 23.3 percent of the workers earning less than the minimum wage, many were apprentices or workers in training, and under the law were not ensured the minimum wage. The minimum wage with benefits does not provide a decent standard of living for a worker and family. The Ministry of Labor is responsible for enforcing minimum wage laws and does so effectively in the formal sector.

The law limits the workday to 8 hours, and it mandates premium pay for longer hours. The Labor Code sets a maximum normal workweek of 44 hours. It requires bonus pay for overtime and limits the workweek to no more than 6 days for all workers.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their work-

places. These laws prohibit the employment of persons under 18 years of age, and of all women, in occupations considered hazardous. Nevertheless, health and safety regulations are outdated, and enforcement, while improved, is inadequate. The Ministry of Labor attempts to enforce the applicable regulations and has devoted resources to improving the professional training of its staff and inspectors. Increasingly, its investigations lead to fines or other findings favoring workers. The Ministry has restricted powers and only limited, but growing, resources to enforce compliance. The maquila sector continues to be subject to charges that it maintains "sweatshop" conditions in its factories. The PDDH study found that 70 to 80 percent of the workers surveyed were satisfied with bathrooms, drinking water, and eating facilities but that only 53 percent were satisfied with the ventilation, i.e., there were problems with dust and heat. The serious problems with working conditions that existed were concentrated in smaller, non-EPZ plants. In general, the larger plants (which employ the majority of maquila workers) have adequate to excellent working conditions. Some of the largest companies have dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

Workers can remove themselves from dangerous work situations without jeopardizing their employment only in situations where they can present a medical certificate issued by a doctor or the Social Security Institute indicating that their health is at risk while using certain equipment or substances.

f. *Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons. However, it stipulates that any crime involving "commerce in women or children" automatically carries a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime. The Government enforces this provision.

There were credible reports of some regional trafficking in women both to and from the country for purposes of forced prostitution. According to press reports, during the year agents of the international police organization Interpol operating in the country discovered a prostitution network trafficking young girls from several Central American countries to work in bars along the border with Guatemala. Interpol reportedly had rescued approximately 20 Salvadoran girls from such prostitution rings over the past 3 years. There also were unconfirmed charges that children were brought into the country from neighboring countries and forced to beg in the streets.

GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. In January parliamentary elections, Prime Minister Dr. Keith Mitchell's New National Party (NNP) won all 15 seats and formed a new government. The elections were contested openly and fairly and were free of violence. The judiciary is independent.

The 755-member Royal Grenada Police Force is responsible for maintaining law and order. It is controlled by and responsive to civilian authorities. There were occasional allegations of abuse by the police.

Grenada has a free market economy based on agriculture and tourism. The estimated real economic growth rate was 5.8 percent in 1998, and the projected annual growth rate for 1999 was 6.1 percent. Per capita gross domestic product was approximately $3,000 in 1999.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Human rights problems include an allegation of police brutality during arrest, which has not been confirmed judicially. The Commissioner of Police has spoken out strongly against police use of unlawful force. Violence against women is common but appears to be on the decline. Child abuse is a problem.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reported incidents of torture. Flogging, a legal form of punishment, is rare but has been used as punishment for sex crimes and theft cases.

There were no reports by the press of police brutality during the year. The 1998 case of an allegation of police brutality, which involved excessive use of force in

making an arrest, was not resolved because the officer fled and has never been apprehended. Allegations of police brutality are investigated internally by the police. There were no reports that disciplinary action was taken against a police officer during the year. The Police Commissioner can discipline officers in valid cases of brutality with penalties that may include dismissal from the force. The Police Commissioner has spoken out strongly against police use of unlawful force.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides the police with the right to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours. The police adhered to this time limit in practice. If the police do not charge a detainee within 48 hours, they must release the person.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There is a functioning system of bail, although persons charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General.

In 1997 the authorities arrested a Belgian national and detained him for a period of 2 years. Because he had not been charged formally, the judge ruled that he should be released because he had been held so long without trial. Upon release, he was returned to Belgium to face charges there.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The judiciary, a part of the Eastern Caribbean legal system, is highly regarded and independent. Final appeal may be made to the Privy Council in the United Kingdom. There are no military or political courts. Those arrested on criminal charges are brought before a judge to determine whether there is sufficient evidence to substantiate the charges; if there is, the judge remands the defendant for trial.

The law provides for the right to a fair public trial, and the authorities observe it in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person's rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court similarly will appoint a lawyer to represent the accused if the defendant was not previously represented or reappoint earlier counsel if the appellant no longer can afford that lawyer's services. Due to the backlog of cases caused by a shortage of judges and facilities, up to 6 months can pass before those charged with serious offenses face trial in the high court. With the exception of persons charged with murder and foreign-born drug suspects, the courts grant most defendants bail while awaiting trial.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for protection from these abuses, and there were no reports of such actions. The law generally requires judicially issued warrants for searching homes, except in cases of hot pursuit. The Firearms Act of 1968 and the Drug Abuse Prevention Act Number 7 of 1992 contain other exceptions that give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice police obtain warrants in the majority of cases before conducting any search.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government does not restrict these rights. There are three weekly newspapers and several other newspapers that publish irregularly. One of the weeklies is affiliated with an opposition political party, but the three most widely circulated newspapers are independent and often critical of the Government. The newspapers routinely carry press releases by the opposition parties, including regular weekly columns expressing the opposition parties' views.

There are six radio stations. The main station is part of the Grenadian Broadcasting Network (GBN), a privately owned organization in which the Government holds a minority share. The principal television station is also part of the GBN. A privately owned television station began broadcasting in 1992. A cable company began operating in the capital area and since has expanded to most areas of the country. All newspapers, radio, and television stations enjoy independence from the

State and regularly report opposition views. The television news often carried reports on opposition activities, including coverage of political rallies held by various political parties and candidates, public forums featuring political leaders of each of the major parties, and other public service broadcasts.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble for any peaceful purpose, and the Government respects this right in practice. Supporters of political parties meet frequently and hold public rallies; the authorities require permits for the use of a public address system but not for public meetings themselves.

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

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country, and all citizens have the right to enter and leave the country, except in special circumstances as outlined in and limited by the 1986 Act to Restrict the Freedom of Movement of Certain Persons. This law allows the Minister for National Security to restrict travel out of the country by any person whose aims, tendencies, or objectives include the overthrow of the democratic and parliamentary system of government; it has not been invoked in the past few years. Anyone so restricted may appeal after 3 months to an independent and impartial tribunal. The Chief Justice appoints an accredited lawyer to preside over such a tribunal.

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections must be held every 5 years; on January 18, Prime Minister Dr. Keith C. Mitchell's NNP was returned to office, securing all 15 seats in Parliament.

There are no restrictions in law or practice on participation by women in government and politics. Four of the 15 elected members of Parliament are women; there are no women among the 13 appointed Senators. Women account for 7 of the 13 permanent secretaries, the highest civil service position in each ministry; in addition, a woman is the Cabinet Secretary, the highest civil service position in the Government.

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

Local human rights groups operate without government restriction, and the Government cooperates with visits from international human rights organizations.

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

The Constitution prohibits discrimination based on race, place of origin, political opinions, color, creed, or sex, and the Government generally adheres to these provisions.

Women.—Women's rights monitors believe that violence against women remains a serious problem; however, they reported a decrease in such incidents during 1998. The police state that most cases of abuse are not reported, and others are settled out of court. The law stipulates a sentence of 15 years' imprisonment for a conviction of rape. Sentences for assault against a spouse vary according to the severity of the incident. On September 1, a shelter for battered and abused women and their children opened in the northern part of the island, with medical and psychological counseling personnel on its staff. The home houses 20 persons.

There is no evidence of official discrimination in health care, employment, or education. Women frequently earn less than men performing the same work; such wage differences are less marked for the more highly paid jobs.

Children.—The Social Welfare Division within the Ministry of Labor provides probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or foster children, and financial assistance to the six children's homes run by private organizations.

Government social service agencies reported a further increase in the number of child abuse cases, including sexual abuse. Abused children are placed either in a government-run home or in private foster homes. The law provides for harsh penalties against those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest. Women's organizations and other nongovernmental organizations increased their public awareness efforts to recognize and combat sexual abuse of women and children.

People with Disabilities.—The law does not protect job seekers with disabilities from discrimination in employment, nor does it mandate provision of accessibility for public buildings or services. The National Council for the Disabled and the National Children's Home assist the Government in placing disabled students into community schools. The Council also seeks assistance from architects and builders in the construction of ramps at hotels and public buildings, and ramps have been installed at some hotels.

Section 6. Worker Rights

a. *The Right of Association.*—All workers are free to organize independent labor unions. Labor Ministry officials estimate that 35 percent of the work force is unionized. Union leaders play a significant role in the political process, and one labor leader serves in the Senate on behalf of the Grenada Trades Union Council (GTUC).

Workers in the private and public sectors are free to strike, once legal and procedural requirements are met. There were several incidents of industrial action, including brief strikes by road workers, teachers, farmers, and private sector workers. However, all were short-lived and settled with the intervention of the Labor Commission, the Minister of Labor, or the Industrial Court. All unions are technically free of government control, and none receive government financial support. However, all the major unions belong to one umbrella labor federation, the GTUC, which is subsidized by the Government. The GTUC holds annual conventions and determines some policies for member unions.

The GTUC and its unions freely affiliate with regional and international trade union groups.

b. *The Right to Organize and Bargain Collectively.*—Workers are free to organize and to participate in collective bargaining. Legislation requires employers to recognize a union that represents the majority of workers in a particular business. The law prohibits discrimination by employers against union members and organizers. If a complaint of discrimination arises, mechanisms exist to resolve it. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labor Commissioner. If the Labor Commissioner is unable to find a resolution to the impasse, the Minister of Labor intervenes and, if unable to reach an agreement, may appoint an arbitration tribunal if both parties agree to abide by its ruling. The law requires employers found guilty of antiunion discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of antiunion discrimination reported to the Ministry during the year.

Unions may organize and bargain anywhere in the country, including, in theory, export processing zones (EPZ's), which are not exempted from labor legislation.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced or bonded labor, including that of children, and there were no reports of it.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Child labor, including forced or bonded labor, is illegal (see Section 6.c.); however, children sometimes work in the agricultural sector. The statutory minimum age for employment of children is 18 years. Inspectors from the Ministry of Labor enforce this provision in the formal sector by periodic checks. Enforcement efforts in the informal sector are lax.

e. *Acceptable Conditions of Work.*—There are no minimum wage laws in force. Most workers, including nonunionized workers, receive packages of benefits from employers set by collective bargaining agreements between employers and labor unions. In many cases, overall wages and benefits are insufficient to provide a decent standard of living for a worker and family. Many agricultural workers earn only about $5.37 to $5.55 (EC$14.50 to EC$15.00) per day.

The law does not prescribe a set number of hours as the standard workweek, except for the public sector, which is expected to work a 40-hour week Monday through Friday. The normal workweek in all sectors seldom exceeds 40 hours, although in the commercial sector this includes Saturday morning work.

The Government sets health and safety standards, but the authorities enforce them unevenly. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked in, to, or from the country.

GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The 1985 Constitution provides for election by universal suffrage of a one-term president and a unicameral congress. In the December runoff elections, Guatemalan Republican Front (FRG) candidate Alfonso Portillo won 68 percent of the vote in a free and fair election. He replaced President Alvaro Arzu Irigoyen of the National Advancement Party (PAN) on January 14, 2000. In the November general elections, the FRG won a majority (63 seats) in the 113-member Congress. The Arzu administration took limited steps to implement the Peace Accords that it signed with the Guatemalan National Revolutionary Unity (URNG) guerrillas in 1996. The judiciary is independent, but suffers from inefficiency, intimidation, and corruption.

The Minister of Government oversees the National Civilian Police (PNC), created in January 1997 under the terms of the Peace Accords. The PNC has sole responsibility for internal security; however, during the year some members of the predecessor National Police (PN) remained on duty, awaiting mandated training to become PNC officers. There are no active members of the military in the police command structure, but in 1998 and 1999, President Arzu ordered the army to support the police temporarily in response to a nationwide wave of violent crime. During the year, military forces were subordinated to civilian police in joint operations. The Constitution requires the Minister of Defense to be either a colonel or a general in the military. Some members of the security forces committed human rights abuses.

The mostly agricultural-based, private sector-dominated economy grew by approximately 4.7 percent in 1998. Coffee, sugar, and bananas are the leading exports, but tourism, textiles, and apparel assembly are key nontraditional export industries. More than half the work force is engaged in some form of agriculture, and subsistence agriculture is common in rural areas. Officially, inflation was about 7.5 percent in 1998, although most observers acknowledge that the official price index does not measure accurately actual price movements. In October 1998, Hurricane Mitch caused approximately 250 deaths and infrastructure, crop, and other losses totaling an estimated $550 million. However, with the help of foreign assistance, virtually all physical damage was repaired and the residual economic effects of Hurricane Mitch were minimal. There is a marked disparity in income distribution, and poverty is pervasive, particularly in the large indigenous community. Approximately 83 percent of citizens live in poverty; this figure rises to 90 percent among the indigenous population. Combined unemployment and underemployment was estimated at 64 percent. Per capita gross domestic product (GDP) was approximately $1,700 in 1998. Remittances from citizens living abroad constituted a significant contribution to the national economy.

The Government generally respects the human rights of its citizens in many areas; however, despite some continued improvement in certain areas, serious problems remain in others. Some police officers were accused of extrajudicial killings and there was one credible report of forced disappearance attributed to the police. There were credible reports that police tortured, abused, and mistreated suspects and detainees. According to the United Nations Human Rights Verification Mission (MINUGUA), established in November 1994 to monitor compliance with the Government-URNG human rights accord, the number of human rights violations committed by police increased during the first 9 months of the year. Allegations of abuse and misdeeds by police officers increased, likely in part because PNC deployment greatly expanded the number of police on duty throughout the country. In May a nongovernmental organization (NGO) publicized the existence of what appeared to be a genuine military intelligence dossier documenting the abduction, torture, and in many cases, killing of 183 persons at the hands of state forces between 1983 and 1985. In June construction workers claimed to have discovered a clandestine cemetery on the grounds of a former military facility, but no human remains were found during an excavation of the site in October. Prison conditions remained harsh. Arbitrary arrest and detention and lengthy pretrial detention continued to be problems. With judges and other law enforcement officials subject to intimidation and corruption, the inefficient judicial system frequently is unable to ensure fair trials and due process. In October Congress elected magistrates to fill all seats on the Supreme Court of Justice (CSJ) and Court of Appeals (CA). Efforts to reform

the judiciary continued, but the climate of impunity persisted. The Government achieved convictions in a few important cases involving past human rights violations; however, courts more often annulled or overturned convictions and commuted sentences in a number of significant human rights cases. Intimidation of witnesses, victims, prosecutors, and judges continued to be a problem. Allegations persisted that the security forces infringed on citizens' privacy rights.

On February 25, the Historical Clarification Commission (CEH) published its report on the internal conflict, in which it found government forces responsible for 93 percent of human rights abuses during the conflict. The Government failed to take an active role in carrying out the CEH's recommendations, and on May 16, voters defeated a package of key constitutional reforms in a national referendum, which represented another setback to the peace process. The MINUGUA continued monitoring peace implementation and human rights issues. Violence and discrimination against women persisted, as did societal abuse of children and discrimination against the disabled and indigenous people. Workers' efforts to form unions and participate in union activities are hindered by an ineffective legal system. Child labor and trafficking in children also are problems. Lynchings and mob violence continued, often resulting in deaths, and the Government frequently was unable to prosecute the perpetrators. The investigation continued into the 1998 murder of an internationally renowned Catholic bishop and human rights activist. In October leaders of the principal banana workers' union were held at gunpoint by a group of armed civilians and forced to resign from both their jobs and union positions.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no allegations of politically motivated killings by government agents; however, members of the police committed some extrajudicial killings. The Government demonstrated a willingness to arrest and prosecute those responsible; however, in many cases the scarcity of law enforcement resources and a weak prosecutorial and judicial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators.

The number of reported extrajudicial killings continued to decline significantly. The office of the Human Rights Ombudsman (PDH), which generally compiles data based on personal interviews with victims and their families, reported 16 complaints of extrajudicial killings during the year (3 were confirmed), compared with 32 in 1998, 134 in 1997, and 173 in 1996. From January 1 to September 30, based on 27 complaints alleging 39 extrajudicial killings, MINUGUA investigated 18 cases and confirmed 13 by year's end. It reported 35 such complaints in 1998. The Archbishop's Office of Human Rights (ODHAG) reported one extrajudicial killing by police officers and the killing and apparent torture of four prisoners.

On January 2, PNC officers detained three drunk individuals in Chiquimulilla, Santa Rosa, and beat them severely for allegedly having resisted arrest. Two were put in a cell while a third, Eliseo Rivera Padilla, was beaten further, until he lost consciousness. Rivera died en route to a hospital. An autopsy declared that the cause of death was "asphyxia by strangulation." According to MINUGUA, PNC officials in Chiquimulilla attempted to blame Rivera's two companions, but an internal investigation by the PNC's Office of Professional Responsibility (ORP) determined that the death had been caused by the beating administered by the PNC officers. On January 21, the authorities arrested 11 PNC officers and by May 11, the prosecutor had opened a case for extrajudicial killing and a subsequent coverup. Later, the charges were downgraded: Officer Armando Cante Tobar and inspectors Dario Gomez de Leon and Carlos Amilcar Grijalva were accused of unintentional homicide while several others were charged with covering up the crime. The authorities dropped charges against nine other officers. On April 8, the PNC suspended all officers against whom charges were filed, pending the outcome of the case, which remained before the courts at year's end.

On February 14, PNC officers Luis Antonio Monzon Flores and Rony Perfecto Carpio Diaz arrested Jose Martin Reynoso for public drunkenness in Poptun, Peten. Less than 30 minutes later, police officers brought Reynoso's dead body to a hospital. An autopsy determined that the cause of death was a heart attack, but noted several injuries to the body that suggested Reynoso had been tortured. MINUGUA reported that several witnesses changed their story after allegedly receiving considerable sums of money from relatives of the PNC officers involved. MINUGUA also noted that both the investigation of the case and the medical examination of the body suffered from a serious lack of thoroughness and numerous procedural errors.

On August 19, at the request of the prosecutor, a judge dismissed the case against the PNC officers.

On February 20, PNC officers chased and apprehended robbery suspect Noe Vincente Gomez in a butcher shop in Guatemala City. They also apprehended a shop customer, Santiago Rafael Ruiz, taking both individuals outside to a police vehicle, where witnesses reported hearing shots fired within the vehicle. The officers then drove the two to a nearby location, where other witnesses reported hearing additional shots fired inside the vehicle. By the time Ruiz and Gomez were taken to a hospital, Gomez was injured seriously and Ruiz was dead from gunshot wounds. Results of an investigation by the ORP were turned over to the judicial system for prosecution and two PNC officers, Gerson Andres de Rosa Rodriguez and Neftali Elixalon Lopez Salguero, were suspended from duty pending the outcome of the court case.

On March 9, in Ocos, San Marcos, during a PNC roundup of undocumented aliens, officers heard several shots and then found a recently killed Salvadoran citizen, Manuel de Jesus Ortega. Officers conducted an on-the-spot weapons check, which revealed that the weapon of a recent PNC Academy graduate, Nahum Perez Morales, had been fired. Perez denied killing Ortega. According to MINUGUA, witnesses reported seeing several officers fire their weapons and that a significant amount of money was missing from the victim's bag. MINUGUA reported that the initial investigation was mishandled significantly—for example, the authorities did not collect shell casings, take witness statements, or protect the crime scene. Prosecutors declined to reconstruct the events leading up to the crime and failed to investigate conflicting witness testimonies. An ORP investigation failed to shed light on the incident. Later, PNC officials informed MINUGUA that they had decided to transfer four high-ranking officers in San Marcos and replace all officials in nearby Tecun Uman and Malacatan.

On March 19, a group of civilians in remote Chiantla, Huehuetenango, detained Juan Jose Arguello for fighting and took him to the local National Police station. Arguello complained to a friend who visited him in jail that he had been beaten severely, first by businessmen and later by the police. His arrest was never documented formally. In exchange for Arguello's release, a PN inspector solicited a bribe from his mother. After paying for his release, Arguello's mother took him to a hospital, where he died on March 24 of internal injuries. Based on the mother's complaint and the autopsy report, prosecutors obtained arrest warrants for the three officers, of which two were captured and one, Inspector Merany Garcia Castellanos, escaped; he remained at large at year's end. An ORP investigation established the responsibility of the three officers and the prosecutor's investigation continued at year's end.

On April 10, PNC motorcycle officers chased and trapped criminal suspect Abelisario Hernandez Barillas in front of a business in Guatemala City. According to witnesses, the officers then shot and killed Hernandez and left him in the street. Ballistic tests and investigations by the ORP and the Public Ministry implicated officers Nicolas Hernandez Enriquez and Gerardo Juarez Gabriel. Hernandez was suspended and made available to the courts for prosecution while Juarez remained on duty. By year's end, the prosecution had made little progress in bringing the case to trial.

On August 18, in San Juan Chamelco, Alta Verapaz, PNC officers arrested Rodrigo Larios Poou, and Manuel Xol for drunkenness and then allegedly beat them severely before taking them to a prison in Coban, Alta Verapaz. Twenty-one hours after arriving at the prison, Larios was taken to a local hospital where he eventually died of internal injuries. The PNC claimed that Larios' and Xol's injuries were caused when they allegedly attacked each other prior to their arrest. However, a medical examiner determined that their injuries could not have been caused in such a way and that they were instead victims of torture and abuse. The prison director received death threats for implicating police officers in Larios' death and cooperating with MINUGUA representatives investigating the incident. The authorities arrested two police officers shortly after the crime, and prosecutors were investigating and preparing a case at year's end.

On June 9, in the high security prison in Esquintla, prisoners Fredy Ayala Ramirez, Genio Alberto Ramirez Mejia, Guillermo Castellanos Rios, and Sergio Aroldo Monzon Sotoj were found hanged in their prison cells by makeshift ropes made from mattress strips. The bodies showed signs of torture, including bruises from an apparent beating with a metal object, puncture wounds, and broken legs. The authorities began an investigation of prison guards as well as other prisoners, but there was no progress by year's end.

On May 3, oil refinery businessman Edgar Ordonez Porta was kidnaped in El Paraiso, Puerto de San Jose. Three days later, his body was found in an abandoned

well in a neighboring town. The victim's brother, Hugo Ordonez Porta, claimed that the military was involved in the murder and had interfered with the subsequent investigation by prosecutors. Hugo Ordonez is a partner in the small oil refinery and a member of the editorial staff of one of the major daily newspapers, El Periodico, which was sharply critical of the military during President Arzu's regime. Although the motive for the crime remained unclear, witness testimony linked government and military personnel and vehicles to the crime scene. Anomalies in the investigation, including the amputation of the victim's fingers after the body was found, changes in witness testimony, and several instances of involvement by military intelligence, seem to suggest at a minimum a coordinated coverup by prosecutors and the military. In May the authorities arrested a local municipal official, Lazaro Obispo Solorzano Lopez, and a disgruntled former employee of Ordonez, Henry Orlando Hernandez Montepeque; on September 24, Solorzano was charged with homicide. A trial was pending at year's end.

Although most cases from past years remained unresolved, there were some convictions during the year for past extrajudicial killings by members of the security forces. However, in several high profile cases, courts overturned, annulled, or reversed prior convictions against alleged human rights abusers. Observers and human rights groups criticized these decisions as confirmation of the ongoing impunity that pervades the weak and corrupt legal system. At year's end, trials continued in several high profile cases.

In the January 1997 killing of congressional Deputy Joel Salomon Mendoza Pineda and his nephew, a trial court found two individuals guilty and sentenced them for the crime. The court case against two former congressional deputies and the former mayor of Escuintla remained open, although a trial date had not been set at year's end.

The Constitutional Court in the summer rejected an appeal by coplaintiff ODHAG to reverse the Supreme Court's April 1998 decision that commuted the prison term of Obdulio Villanueva Arevalo, the member of the Presidential Military Staff (EMP) who was convicted of killing milkman Pedro Sas Rompich in 1996. Villanueva was on duty as a presidential bodyguard when he shot and killed Sas Rompich for allegedly driving his truck toward President Arzu in a threatening manner. Sas Rompich's family rejected the Court's decision requiring that Villanueva pay restitution in the amount of about $161,000 (1 million quetzals), arguing that the incident should be characterized as an extrajudicial killing by the Government, not a common crime by Villanueva as an individual. There was no apparent progress on the investigation of the EMP interception of laboratory test results relating to the victim's body in this case.

On August 13, after nearly 4 years of pretrial detention and the longest oral trial in the country's history, a 3-judge panel in Coban found Second Lieutenant Camilo Antonio Lacan Chaclan and each of the 24 members of his former patrol guilty of either negligent homicide or complicity in negligent homicide in the Xaman massacre. In October 1995, an army patrol entered a refugee-returnee community at Xaman, Alta Verapaz, and became involved in a confrontation with an angry but unarmed populace. In the conflict that ensued, the patrol members fired over 250 rounds, killing 11 returned refugees, including women and children, and injuring 30. The court sentenced 11 defendants, including Lacan Chaclan, to 5 years in prison, commutable for about $0.65 (5 quetzals) per day. It found the remaining 14 defendants guilty of negligent homicide and sentenced each of them to 4 years in prison, which are also commutable. Although some welcomed the verdict as a modest blow against impunity, human rights groups strongly criticized the sentences, which amount to little more than time served, as too lenient. In the months before and during the trial, observers noted apparent judicial bias, anomalies, and the harassment and intimidation of prosecutors, judges, and witnesses. The prosecutor appealed the court's decision because he believed that the sentences were too lenient. Claiming that the verdict was negotiated with the military, the former private plaintiff in the case, the Rigoberta Menchu Foundation, threatened to bring the case before the Inter-American Commission on Human Rights (IACHR), but had not done so by year's end. On December 6, an appellate court in Coban annulled the trial court's verdict, citing "fundamental errors", including "failure to observe, correctly interpret, or correctly apply the law." The court found 15 of the 25 members innocent, including Lacan Chaclan, and released them. The court resentenced the remaining 10 soldiers to 12-year sentences for homicide and causing other nonlethal injuries. Those sentenced could be eligible for release as early as April 2000, since the law provides for a 50 percent reduction in sentences for good behavior, and the defendants already have served 4 years in prison. Shortly after Lacan Chaclan was released from prison, the Army announced that he soon would receive a scheduled promotion. This statement resulted in widespread public criticism, and the Army

later stated that it would conduct a full review of the situation before making its final decision.

On July 17, one of the former police officers sentenced to death in 1996 in the so-called Patrol No. 603 case, Anibal Archila, died in prison of a diabetic episode, reportedly due to lack of medical attention. The case stems from a 1995 murder and attempted murder in what appeared to be a "social cleansing" operation, defined as a killing in which persons deemed socially undesirable (e.g., gang members, local delinquents, or convicts released from prison) are found murdered in circumstances suggesting that the murder was planned and carried out by an organized group. Defense attorneys for the remaining two inmates filed a series of motions in an attempt to delay their executions. The Constitutional Court had denied all three men an appeal of their death sentences in July 1998.

On February 3, a trial court sentenced former military commissioner Armando Tucubal to 30 years in prison for the 1994 murder of evangelical minister Pascual Serech in Chimaltenango. (Military commissioners were generally local civilian leaders who represented the army, serving as intermediaries with members of civilian defense patrols [PAC's]; the commissioners were formally decommissioned in 1985.) Tucubal had been convicted in September 1997 for the killing and sentenced to 20 years in prison. Charges remained pending against former military commissioner Victor Roman, an alleged collaborator in the crime and also the accused perpetrator of the 1995 murder of evangelical pastor Manuel Saquic. Roman remained at large despite an order for his capture and the offer of a reward.

On April 5, the Supreme Court denied an appeal by the private plaintiffs to reinstate homicide convictions against several former senior government officials and a former officer in the now-defunct National Police in the 1994 shooting death of University of San Carlos student demonstrator Mario Alioto Lopez Sanchez. The plaintiffs appealed the Supreme Court's ruling in the Constitutional Court. An officer of the PN remains in prison after having been convicted of unintentional homicide in the case.

An appellate court ruling remained pending in the case of the April 1994 murder of Constitutional Court president Epaminondas Gonzalez Dubon. Both the prosecution and defense appealed aspects of the May 1998 murder conviction of Marlon Salazar and Roberto Antonio Trabanino, who were serving 27-year prison sentences for the crime at year's end. A third suspect, Mario Rene Salazar, remained at large at year's end.

The August 1994 killing by police of four workers at La Exacta farm remained under investigation, and the criminal case remained suspended, but it could be reopened with additional evidence. The parties continued to seek a resolution through the IACHR's amicable settlement procedures. The parties also failed to negotiate a settlement in the pending labor court charges. The Center for Legal Assistance in Human Rights (CALDH) continued to represent the families of the deceased, the injured, and those who lost their jobs and homes during the illegal eviction in these discussions with the Government, represented by the President's Human Rights Commission (COPREDEH).

On April 29, a criminal court confirmed the convictions and 25-year sentences imposed on 12 former PAC members for their role in the 1993 killing of Juan Chanay Pablo. On April 30, a crowd of approximately 500 persons, armed with sticks, machetes, homemade explosives, and smoke bombs, broke into a police station in Huehuetenango and freed the 12. Although arrest warrants were issued to recapture the escapees, they remained at large at year's end, despite credible media reports that they returned to their home region of Colotenango and were being protected by former PAC comrades. Prosecutors in Huehuetenango claimed to be waiting for information from the PNC's Criminal Investigations Service (SIC) regarding the whereabouts of the escapees. MINUGUA and other observers believe that military or former PAC members planned and executed the jailbreak, which was timed to take advantage of reduced police staffing during the transfer of authority from the PN to the new PNC. There was no progress in the investigation of Brigadier General Luis Felipe Miranda Trejo, the alleged intellectual author of the crime, who was elected to Congress in the November elections and therefore enjoys legislative immunity from prosecution.

On April 28, an appeals court overturned the 1997 conviction and 30-year prison sentence of former PAC member Juan Acabal Patzan for the 1993 murder of newspaper publisher and former presidential candidate Jorge Carpio and three associates, citing the unexplained loss of key evidence, including the alleged murder weapon. The court also ordered the release of brothers Marcelino and Nazario Tuy Taniel, who were serving 5-year sentences for manufacturing and possessing explosives thought to be connected to the murders. The case remained open, including charges against former PAC member Francisco Ixcoy Lopez, who remained at large;

a warrant for his arrest has been outstanding since 1995. A court decision remained pending on the private plaintiffs' motion to reopen charges against a number of persons—including former senior government officials—believed to have participated in the crime as material or intellectual authors, or to have assisted in its coverup. There was also a case pending before the IACHR.

In a hearing on the evidence in January, Judge Henry Monroy ordered a trial of the three high-ranking military officers accused of ordering the 1990 murder of anthropologist Myrna Mack, ruling that sufficient evidence existed that the three ordered or covered up the killing. However, based on the May rejection of the constitutional reforms, which would have ratified the abolition by Congress of military tribunals, the defendants filed yet another motion seeking to have the case removed to the military tribunals. (The military tribunals no longer are used to bring criminal charges; they still exist, but address only violations of military codes and rules.) On September 3, the court denied the defendants' motion, allowing a trial to be scheduled for spring 2000. A case also was pending before the IACHR at year's end. Enlisted man Noel de Jesus Beteta, who confessed to the killing, is serving a 30-year sentence.

On December 3, the Inter-American Court of Human Rights ruled that there was sufficient evidence that police officers Samuel Rocael Valdes and Nestor Fonseca were responsible for the 1990 deaths of three minors—Julio Roberto Caal Sandoval, Jovito Josue Juarez Cifuentes, and Anstraun Villagran. The bodies of the three youths, who had been living on the street, were found mutilated on the outskirts of Guatemala City. The Court also ruled that the Government failed to protect the rights of the victims and to provide them with justice.

The 1989 disappearances of 10 university students, 5 of whom later were found dead, and the 1996 murder of Miguel Us Mejia, a member of CERJ (an indigenous human rights organization), and his wife, Lucia Tiu Tum, remained unresolved.

Proceedings to set the amount of compensation owed to the families of the victims in the "white van" case remained open, pending a petition for reparations from these families. In March 1998, the IACHR had found the Government liable in the case, in which members of the now-disbanded Treasury Police kidnaped and then either released or killed 11 persons in 1987–88.

On May 20, the National Security Archive, an NGO, announced its possession of what appeared to be a genuine military intelligence dossier that documented the abduction, torture, or killing of 183 persons by government forces during the 1983–85 period. Commonly referred to as the "military diary," the document's release provoked a prolonged and intense public debate about its veracity and admissibility as evidence in potential criminal suits against the Government. Shortly after the document's public release, human rights groups began locating relatives of the victims and preparing to file dozens of criminal cases. The Government responded by appointing 35 prosecutors to handle the cases, with an additional prosecutor designated to manage the cases and their investigation.

On February 25, an appeals court in Alta Verapaz annulled the November 1998 convictions and death sentences of 3 former PAC members for their roles in the 1982 massacres in the villages of Rio Negro and Agua Fria, in which some 250 persons are believed to have been killed. In its decision, the appellate court cited errors, inconsistencies, and insufficient evidence to support the trial court's decision, remanding the case back to the lower court for a September 7 retrial. On September 14, the retrial was suspended temporarily when a crowd of several hundred persons armed with stones and clubs surrounded the jail in Salama, Baja Verapaz, threatened to kill the judge, and attempted to free the accused. On September 20, the trial resumed under heightened security, and on October 7, the trial court in Salama again convicted and sentenced to death the three defendants found guilty of murdering two of the Rio Negro victims. Because the Rio Negro case represented the first conviction of the perpetrators of a wartime massacre, human rights groups considered the trial court's decision an important legal precedent in the fight against impunity.

For much of the year there was no significant progress in the case of the 1982 military massacre at Las Dos Erres, as prosecutors worked to secure relocation abroad for two potential key witnesses and their families in exchange for testimony against their former army comrades.

On March 18, the court cited a technical deficiency and declared a mistrial in the case against Vicente Cifuentes, the former PAC member arrested in March 1997 for the 1985 killings of American journalists Nicholas Blake and Griffith Davis. The indictment had given the date of the killing incorrectly. The case was remanded to the trial court to correct this error, and was expected to come to trial in January 2000. Three other suspects in the case remained at large, despite at least one attempt to capture them. On January 22, the IACHR ordered the Government to pay

Blake's survivors about $161,000 (1 million quetzals) in compensation for impeding the investigation of the death, to investigate those responsible for the murders, and to sanction them. The COPREDEH, which represents the Government in the case, stated that it accepted the IACHR's decision and fully intended to pay the damages award. However, due to budgetary constraints, the Government petitioned the IACHR to allow installment payments, rather than one lump sum. The IACHR denied that petition, and imposed a March 30, 2000 deadline for payment; after that date, the Government would be required to pay interest as well as the amount of the award. At year's end, the COPREDEH was seeking the budgetary restructuring that would be necessary to make the payment before the deadline.

In the April retrial of former military commissioner Candido Noriega on 155 criminal charges for crimes committed mostly in the early 1980's, the court once again found Noriega innocent, citing insufficient evidence. Alleging a series of irregularities and judicial bias in favor of the accused, the Conference of Religionists of Guatemala (CONFREGUA), a Catholic organization and a coplaintiff in the case, appealed the decision. On July 23, an appellate court annulled the lower court's decision and remanded the case for a third trial, ordering that a panel of judges from the neighboring department of Totonicapan consider the case, to ensure impartiality. On September 20, the new trial began, but because numerous witnesses refused to testify due to fear of reprisals, Noriega was retried for a reduced list of crimes, including 11 killings, 7 abductions, rape, breaking and entering, arson, and various threats. On November 12, the trial court found Noriega guilty of 6 murders and 2 cases of manslaughter, and sentenced him to a total of 220 years in prison. Due to lack of evidence, the court absolved Noriega of other charges, including rape, torture, kidnaping, and burning persons alive. The court also ordered the Public Ministry to investigate further Noriega's alleged accomplice, Juan Alesio Samoya, as well as the military officers who served at the so-called Base 20 in Quiche in 1982. In late November, Noriega's attorney appealed the court's decision, and the appeal was pending at year's end.

In the past several years, approximately 70 clandestine cemeteries have been exhumed by forensic anthropologists. Most of the bodies recovered have been those of victims of military or paramilitary killings in the 1980's from areas such as Rabinal, Las Dos Erres, and Panzos. Forensics groups use the information obtained from the exhumations to verify eyewitness reports of massacres and to determine, at least in general, who might have been responsible. The forensic evidence has been used in some criminal cases. During the year, the ODHAG's Forensic Anthropology Unit exhumed bodies from burial sites at the following locations: Tablero (San Marcos), San Luis Tinajas, Chijotom and Santa Maria Sibhia (Alta Verapaz), and Petanac (Huehuetenango). As of September, workers at these sites had found 87 skeletons and identified 26. During the year, the Foundation of Forensic Anthropology (FAFG) conducted excavations of 13 massacre sites from the early 1980's, where they exhumed a total of 180 human remains. Threats and intimidation against persons working on exhumations continued, but at lower levels than in previous years.

On July 9, a newspaper reported the discovery of a clandestine cemetery on the grounds of a facility formerly used by the now-defunct Mobile Military Police (PMA). In late 1998, workers claimed to have found what they believed to be human skeletons with pieces of olive green clothing and military-style boots while building a dormitory for female police officers on the grounds of the new PNC academy. The workers reportedly were told to continue construction, and the discovery was not revealed to the Public Ministry until June. The discovery generated considerable public interest because it was believed to be the first clandestine cemetery found on the grounds of a former military facility. In October a court-ordered excavation of the site was conducted but no human remains were found. FAFG anthropologists found only animal remains and fragments of license plates suspected to have been used in clandestine operations during the internal armed conflict. In July PNC Academy Director Brigido Fuentes reported receiving death threats for having revealed the cemetery's existence publicly.

On December 2, indigenous leader Rigoberta Menchu filed a criminal suit in a Spanish court against eight former military and civilian leaders for human rights abuses committed during the internal conflict. The suit alleges that the defendants, including retired General and former de facto President Efrain Rios Montt, former President and retired General Fernando Lucas Garcia, former de facto President Oscar Humberto Mejia Victores, and others were responsible for "crimes against humanity," including genocide, torture, and terrorism. The suit cites 3 cases—the 1980 assault on the Spanish Embassy in which over 30 persons died, the killing of Menchu's mother and her 2 siblings, and the killing of 4 Spanish priests over the course of the conflict. On December 18, Spanish Judge Guillermo Ruiz Polanco accepted Menchu's suit. Attorneys for Mejia Victores later filed criminal charges in

Guatemala against Menchu, accusing her of treason, violating the Constitution, and failing to report a crime (for filing charges in Spanish court.)

Intimidation of witnesses continued to be a problem, although there were no reports of the killing of witnesses. For example, in the second trial of former military commissioner Candido Noriega, witnesses received death threats and harassment so intense that many chose not to testify in the third trial in September. As a consequence, the list of charges against Noriega had to be reduced significantly. In May unidentified individuals abducted, assaulted, and interrogated lay worker Jeremias Tecu, who was accompanying witnesses in the Candido Noriega trial. Witnesses and relatives of murder victim Juan Chanay Pablo received death threats following the May jailbreak of former PAC members convicted of his 1993 murder. Many observers reported threats and intimidation against witnesses, lawyers, and family members of the plaintiffs in the Xaman massacre trial. In August a family member and witness in the murder of presidential candidate Jorge Carpio Nicolle received death threats after an appeals court annulled the convictions of four former PAC members. ODHAG personnel and prosecutors investigating the killing of Bishop Juan Gerardi reported increased threats and other acts of intimidation as the investigation gained momentum; during the year both the judge and the prosecutor resigned and fled the country, due in part to threats.

There were several allegations of politically motivated killings during the year, and the authorities demonstrated a willingness to investigate these murders.

On January 4, Olman Alexis Viera Rodriguez, an alleged member of the organized criminal gang Valle del Sol, was shot to death in his home by unidentified assailants. Prior to the killing, based on his own "private investigation" of the Bishop Gerardi murder case, former Judge Juan Carlos Solis Oliva, who is related to two of the military suspects being investigated in the case, had alleged that the Gerardi murder was linked to a smuggling ring involving the Valle del Sol gang, the military, and several clerics. At the time of his death, Viera Rodriguez was rumored to be the inside source of information (and therefore a potential witness) for Solis Oliva's now-discredited theory. Investigation of the murder continued as police concluded that gang-on-gang violence was the motive. By year's end, Solis Oliva's independent investigation apparently had ended and was regarded widely as an effort to absolve his relatives.

On January 12, Zacapa Municipal Workers Union leader Robinson Morales Canales was killed, followed by the March 8 murder of Angel Pineda. Both men had protested labor rights violations and corruption in the Zacapa mayor's office, including charges of corruption in several municipal construction projects. Police were investigating Zacapa Mayor Carlos Vargas y Vargas, his driver, and bodyguard as the intellectual and material authors of the murders, and the investigation was pending at year's end. On February 3, police arrested Carlos Anibal Paz Gordon, a former employee of a company owned by persons close to Mayor Vargas, as the material author of the crime. Police continued to search for Paz Gordon's alleged accomplice, whom they know only by a nickname. Charges were filed against Paz Gordon and his trial is scheduled to begin on February 15, 2000. MINUGUA reported that the legal system in Zacapa seriously mishandled several aspects of the investigation against the material authors, including poor evidence collection at the crime scene, faulty and untimely delivery of arrest warrants, illegal detention, and exposure of a witness to death threats by improperly revealing his name. In addition, prosecutors made little effort to investigate possible connections between the material authors and the suspected intellectual author, Mayor Vargas.

On May 13, four masked men killed New Guatemalan Democratic Front (FDNG) executive committee member Roberto Gonzalez Arias in his car. He previously had received a series of death threats. Although FDNG party officials concluded that the murder was politically motivated, police focused their investigation on an unpaid debt owed by Gonzalez Arias. On May 25, the PNC arrested Alejandro Garcia Monterroso, a suspect in the murder, which they believe may have resulted from a vendetta stemming from the death of one of Gonzalez's neighbors. No progress was reported in the case at year's end.

On May 18, unknown assailants abducted and killed Tomas Tol Salvador, another FDNG leader, in Quiche. Tol Salvador was also a human rights activist for the Council of Ethnic Communities, an indigenous organization (see Section 4).

On May 25, former Judge Herberto Zapata Gudiel was killed in a restaurant parking lot in Puerto Barrios. Zapata allegedly received numerous death threats prior to the attack. In 1998 Zapata had sentenced to death brothers Helse and Obdulio Hernandez Salazar, members of the Agosto Negro gang, for two murders. On June 3, police arrested the sister of the Salazar brothers and one other person and continued to search for additional suspects. However, by year's end, the prosecutor was focused on a new theory of motive, based on evidence tying Judge Zapata

to a narcotics trafficking ring involving another prosecutor and a member of the military. The prosecutor has requested the release of the Hernandez siblings because he established that they were not involved in the crime.

On July 27, unidentified assailants shot and killed Mayan priest Raul Coc Choc at his home in the department of Chimaltenango. Coc Choc was a leader of the National Association of Mayan Priests; members of the board reported that he had received numerous death threats over the telephone. Religious and indigenous leaders called for a thorough investigation. After detaining and later releasing a suspect, the judge ordered the case provisionally closed for lack of evidence, thereby enabling the prosecutors to continue their investigation.

On August 30, unknown assailants shot and killed sociologist Maria Ramirez Sanchez, in what appeared to be a professional killing. Because Ramirez was an employee for the same organization where anthropologist Myrna Mack worked when she was killed for political reasons in 1990, the media and human rights groups speculated that the motive for Ramirez's murder also was political. However, her coworkers discounted the possibility of a work-related political motive, and there was no evidence to suggest that the killing was politically motivated. The prosecutor was unable to find a suspect using a police composite photo, and there was little progress in the investigation at year's end.

Several past cases of politically motivated killings remained unresolved, including the murders of Bishop Gerardi, acting mayor of Santa Cruz del Quiche Luis Yat Zapeta, and Retalhuleu prosecutor Shilvia Jerez Romero de Herrera.

The investigation continued in the April 1998 murder of Bishop Juan Gerardi Conedera, the Coordinator of the Archbishop's Office on Human Rights (ODHAG), but was hampered by the resignations of both judges and prosecutors. Bishop Gerardi was killed just 2 days after his public delivery of the final report of the "Recovery of Historical Memory" project, which held the military, military commissioners, and civil patrols responsible for approximately 80 percent of the human rights violations committed during the 36-year-long internal conflict. In January a new prosecutor, Celvin Galindo, took over the case and revitalized the investigation, with increased focus on the military's potential political motive for the killing. Lawyers for Father Mario Orantes, who was held in jail as a suspect, had asked the Court of Appeals to recuse Judge Isaias Figueroa; on January 12, the court rejected their motion. However, Judge Figueroa withdrew from the case, citing defense counsel's lack of confidence in his impartiality, and was replaced by Judge Henry Monroy. On February 17, Judge Monroy ordered that Father Orantes be released from jail for lack of sufficient evidence, although he remains a suspect. (Orantes had been arrested and charged with the killing in October 1998.) The press reported in March that Guatemala City Bishop Mario Rios Montt said that in November 1998, he had been offered the release of Father Orantes in exchange for formally stating that the army and Government were not involved in the killing. Rios Montt declined to name the person who offered him this deal. On March 23, Judge Monroy suddenly resigned and fled the country, primarily because of persistent threats and intimidation, and eventually was replaced by Judge Flor de Maria Garcia Villatoro. In October former Judge Monroy said that he had been approached during his tenure as judge in the Gerardi case by Howard Yang, then-Secretary of Strategic Planning for the Arzu administration, who allegedly suggested that Father Orantes was the most likely suspect and that the investigation should focus on him.

In May prosecutors obtained DNA samples from 17 suspects, including Father Orantes and 12 active or former members of the military, and sent them for comparison with DNA samples found at the scene of the crime. Preliminary and final DNA test results failed to shed light on the identity of the crime's material author. New witnesses, including a taxi driver and a former member of the EMP, gave testimony implicating the EMP and several of its officers. During the year, the prosecutor took the testimony of current and former senior military officers, including the former Defense Minister General Hector Barrios Celada, and impounded various EMP records and log books. Threats and other acts of intimidation against prosecutors and ODHAG personnel increased sharply as the investigation gained momentum. On October 6, Celvin Galindo suddenly resigned as prosecutor and fled the country with his family, citing increased death threats and intimidation, including an unconfirmed plot to kidnap one of his children. In an earlier incident in August, Galindo's neighbors had reported a suspicious vehicle circling the streets near his home. When police stopped the vehicle, they identified the five occupants as army Lieutenant Victor Canagui and four army specialists. Galindo and his staff in the Bishop Gerardi investigation reported wiretapping and surveillance. ODHAG personnel also complained of death threats, wiretapping, and surveillance. On April 16, just days before the first anniversary of Bishop Gerardi's death, armed men broke into the home of ODHAG Director Ronalth Ochaeta, threatened his maid, but stole

nothing of value. The break-in was interpreted widely as an act of intimidation related to the Gerardi case (see Section 4).

The high-level government commission established in 1998 to support the investigation took no action during the year and was defunct by year's end. The Government's own investigation of the murder had not yet established the motive for the killing by year's end. In April the ODHAG publicly accused Otto Ardon Medina, the former public prosecutor for the Gerardi case, of misconduct in his investigation of the case; in July the ODHAG filed criminal charges against Ardon. The investigation continued at year's end.

Police continued to investigate the May 1998 murder of acting mayor of Santa Cruz del Quiche Luis Yat Zapeta. The authorities arrested Bernardino Zapeta Vicente, Tomas Zapeta Ixcoy, and Manuel Pacajoj Mejia as material authors. In July 1998, the authorities had arrested former mayor Silverio Perez de Leon and treasurer Cayetano Alvarez Velasquez, who remained the primary suspects in the murder that police believe was committed in revenge for Yat's successful effort to remove Perez de Leon from office on charges of corruption. A trial remained pending against all five suspects at the end of the year, although a specific trial date had not been set.

In the case of murdered Retalhuleu Prosecutor Shilvia Jerez Romero de Herrera, a trial court found Tirso Valenzuela Leiva, a suspected member of the Agosto Negro criminal gang, guilty of the murder, and sentenced him to death. Suspects Jorge Lopez Monroy, Juan Vidal de Leon, Jaime Quezada, and Waldemar Hidalgo Marroquin, also alleged Agosto Negro members, were set free. On February 23, a court sentenced other members of the gang to prison for the killing of Danita Gonzalez Plank, one of several sensitive cases formerly handled by Jerez, and the possible motive for her killing.

Unlike the previous year, there were no reports of alleged social cleansing operations, nor were there developments in cases reported in prior years, other than in the Patrol 603 case.

In June and August, the ODHAG and CALDH brought criminal charges against former leaders of the Guerrilla Army of the Poor (EGP) for the alleged killings of five former EGP guerrillas in the early 1980's. The charges were initiated after relatives of the EGP members who disappeared broke off negotiations with former EGP leaders to determine the whereabouts of the remains. The CALDH later halted the legal process after negotiations resumed. The ODHAG reported little progress in the investigation based on its charges. A prosecutor proposed travelling to Nicaragua to establish contact with potential witnesses, but this trip had not occurred by year's end.

Popular frustration with the inability of the Government to control crime, and of the courts to assure speedy justice, as well as a tradition of extrajudicial repression of crime during years of military rule, led to continued lynchings and mob violence. Lynchings, which often involved burning victims alive, increased significantly. MINUGUA reported 90 lynchings or attempted lynchings by September 30, in which 41 victims died and 93 were injured (an average of 10 lynchings a month). These figures are significantly higher than the previous 3-year period in which 182 lynchings were reported (an average of 5.4 lynchings a month). However, there was a decrease in the number of deaths and injuries, due mostly to the increased presence and intervention of the PNC and other authorities. There continued to be instances in which local municipal officials led or participated in lynching attempts. Generally, victims were killed by mobs for either property-related crimes or suspected membership in criminal gangs. Most of the attacks took place in rural areas in the mostly Mayan communities of the western highlands. Generally, these were the same communities where, during the internal conflict, local militias (PAC's) were accustomed to conducting populist summary hearings in the town square and then publicly executing alleged criminals or guerrillas. The police, sometimes with the assistance of the military or volunteer firemen, or in some cases, MINUGUA personnel, were often successful in rescuing victims of mob attacks.

In the first 3 months of the year, the ODHAG reported nine lynchings and numerous attempted lynchings, many of which occurred in Guatemala City during the week before Easter. During that time, University of San Carlos students customarily roam the streets wearing masks, soliciting money, and committing acts of vigilantism against alleged wrongdoers. The vast majority of lynchings never were investigated, and convictions were rare in the few cases that were brought to trial. However, as ongoing PNC deployment reached more remote communities, the authorities demonstrated increased willingness and ability to identify and arrest the perpetrators of lynchings. On September 4, a trial court sentenced five individuals to 50 years in prison for their role in 2 lynchings in Totonicapan in 1998. On Sep-

tember 21, the authorities arrested four individuals suspected of organizing a June lynching in El Limon, Chisec, Alta Verapaz.

On August 24, a crowd of several hundred residents of Zacualpa, Quiche, captured and killed five alleged members of a local criminal gang known as "The Specialist." The crowd prevented the PNC and volunteer firemen from rescuing the victims by using roadblocks and holding PNC officers captive until the lynchings were completed, although police were successful in saving other individuals from the angry crowd. Investigators identified several leaders of the mob and reportedly sought arrest warrants. In September residents of Zacualpa created local security committees to protect themselves from the criminal gang, claiming that the justice system is incapable of punishing crime.

With MINUGUA's assistance, in July the Government inaugurated an educational campaign to combat lynchings in the hardest-hit areas of Alta Verapaz and Quiche, which included a training program for educators, printed materials, and radio and television advertisements in three languages. In February in an effort to deter lynchings, Catholic Archbishop Victor Hugo Martinez of Los Altos announced that Catholic churches would suspend religious services for 6 months following any lynching within his jurisdiction—the departments of Quetzaltenango and Totonicapan.

b. *Disappearance.*—There was at least one credible report of disappearance attributed to police forces. A prosecutor attributed the February disappearance of Francisco Gonzalez Vasquez to two Zacapa police officers. The prosecutor sought and obtained an arrest warrant for PN inspector Marvin Gomez, but Gomez had not been apprehended at year's end.

In addition, the PDH's office reported 12 complaints of forced disappearance during the year (4 of which were attributed to government forces), compared with 18 in 1998, 30 in 1997 and 47 in 1996. MINUGUA reported one unconfirmed complaint of forced disappearance during the year, compared with one in 1998 and three in 1997.

There was also at least one credible report of a politically motivated disappearance. On April 30, prominent indigenous leader and FDNG party member Carlos Coc Rax disappeared while crossing Lake Izabal on a boat from the town of El Estor. At the time of his disappearance, Coc Rax had received numerous death threats related to his defense of several indigenous communities involved in land and lumber disputes with large landowners and logging and mining companies near Lake Izabal.

Disappearances in high-profile cases from recent years remained unresolved at year's end. Arnoldo Xi, an indigenous- and peasant-rights activist who reportedly was shot and abducted in March 1995, remained missing. The whereabouts of Lorenzo Quiej Pu, a human rights activist who disappeared in January 1994, also remained unknown. Also unsolved was the case of Juan Jose Cabrera (known as "Mincho"), the guerrilla commander captured in 1996 while taking part in a kidnaping, who has never reappeared. MINUGUA concluded that the EMP was responsible for his capture, but the media and critics of the Government accused the EMP and MINUGUA of covering up this finding in the interest of not disrupting the peace process. There also was no clarification of several late-1997 cases reported by MINUGUA in which persons believed to have been involved in kidnapings were captured by heavily armed and well-coordinated units that bore many of the characteristics of a clandestine security force. The disappearances of San Marcos PAC members Margarito Lopez and Obdulio Zapeta, army enlisted man Diego Chel Matom, and farmers Ramona Munoz and Maritza Gil, who allegedly were kidnaped in 1993 by guerrillas, also remained unresolved at year's end.

The fate of guerrilla leader Efrain Bamaca Velasquez, who disappeared following a March 1992 clash between army and URNG forces, remains unknown. The IACHR continued its deliberations regarding the Government's liability and damages in the case, based upon the Government's 1998 acceptance of partial liability due to the judicial system's inability to determine Bamaca's whereabouts.

In August 1998, Adriana Portillo Bartow filed criminal charges in the 1981 abduction and disappearance of her two children and four other members of her family. The lawsuit named former Interior Minister Donald Alvarez Ruiz, former National Police Director German Chupina Barahona, and Pedro Garcia Arredondo, the former chief of Commando Seis (a plainclothes police urban counterinsurgency force) as defendants. Garcia Arredondo was reelected as mayor of Nueva Santa Rosa in the November elections, and therefore has immunity from prosecution. There was no significant progress in the case and it remained pending at year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the integrity and security of the person and prohibits physical or psychological torture of prisoners; however, there were credible reports

of torture, abuse, and other mistreatment by members of the PNC. These reports typically involved the use of excessive force during arrests or other police operations. The Government and the PNC showed willingness to investigate, prosecute, or otherwise punish officers who committed abuses, and to transfer cases to the Public Ministry.

The PDH's office reported four complaints of torture during the year, compared with two in 1998 and one unconfirmed case in 1997. The ODHAG reported one case of torture during the year, compared with no cases in 1998, no cases in 1997, and four cases in 1996. The sole case reported by ODHAG involved apparent torture in the June 9 deaths of four prisoners (See Section 1.a.). MINUGUA's 4th report on the peace process, covering the period between August 1998 and November 1999, noted a sharp rise in complaints of abuses committed by the PNC. However, most of this increase involved violations of due process, and in part may be related to a greater public willingness to report such offenses. MINUGUA investigated 24 complaints of torture, of which 22 were confirmed at year's end. The majority of these torture cases involved abuse or mistreatment of suspects and detainees by PNC officers or SIC investigators. While there were some credible reports of coverups in these cases, the PNC generally punished the use of excessive or illegal force by officers.

Amnesty International reported several incidents of police abuse, including the case of a man who allegedly was shot and kicked to death in February by police officers in the capital (see Section 1.a.). In May plainclothes officers of the Criminal Investigation Section from Quetzaltenango reportedly arrested six men for fighting at a community festival in San Vincente Pacaya, Coatepeque. On the way to the police station, the men allegedly were taken out of the vehicles, beaten, robbed, and then beaten again at the station. The case remained under investigation by the prosecutor's office in Coatepeque. A judge in Chiquimula reported receiving threats and blackmail attempts from a PNC officer accused of running over two persons with his patrol car.

Casa Alianza reported that, although the number of incidents of abuse of street children was roughly equal to 1998 levels, far fewer incidents allegedly were committed by members of the security forces. Most acts of violence against street children were committed by individuals, by private security guards, or in gang- and drug-related violence among street children. Casa Alianza alleges only two cases of abuse of street children by PNC officers: one case of mistreatment and one of rape, which was still being investigated at year's end.

There were no reports that police used excessive force in evictions of landless peasants occupying farms in attempts to gain land during the year. Because of violent confrontations in the past, the Government continued its policy of securing an eviction order from a court, informing the occupiers of the coming eviction, and sending in a lightly armed police contingent to end the occupation by using dialog and verbal persuasion. The public continued to experience difficulty in demonstrating or securing legal title to land, and virtually no progress was made toward genuine land reform. The Ministry of Government carried out numerous evictions without incident during the year using this policy.

Corruption continued to be a problem, and there were credible allegations of involvement by individual police officers in criminal activity, including kidnaping (see Section 1.b.). The authorities arrested some police officers. The authorities continued to take stronger actions against officers found to have engaged in illegal activities, referring some violations to the criminal justice system rather than simply imposing administrative punishments. However, some observers claimed that, rather than discipline its officers, the PNC often just transferred them to a different part of the country. Ongoing impunity for police who commit abuses remains a problem.

All PNC members are required to meet minimum education requirements and pass an entrance examination. Former PN staff who wish to integrate into the PNC must complete successfully a 3-month retraining course. There also are screening procedures to detect suspected human rights violators and agents involved in criminal activities. New recruits must complete a 6-month training course before entering on duty. The training course, developed with the assistance of MINUGUA, foreign countries, and international organizations, includes extensive human rights components. However, some observers claimed that the retraining course was insufficiently rigorous and that relatively few members of the PN were screened out during retraining, allowing the incorporation of some poorly qualified PN members into the ranks of the new PNC.

Pursuant to the Peace Accords, former members of the military were eligible to apply for positions in the PNC but were required to apply like other civilians and complete the 6-month training course required of all civilian applicants. However, the Government incorporated some former members of the military and the former

Mobile Military Police into the ranks of the PNC upon the completion of only the shorter course intended for current members of the PN. The former PMA members were not subjected to a competitive selection process but were screened carefully before they were allowed to enter the program. As of September, there were 13,452 PNC personnel on duty, including 8,429 former PN members and 5,023 new recruits. An additional 2,486 former PN members awaited training classes to join the PNC. Although government plans called for 20,000 PNC members to be on duty around the country by year's end, resource constraints limited that number to about 16,000.

The PNC's Office of Professional Responsibility (ORP) handles internal investigations of misconduct by police officers. The ORP received 1,517 complaints during the year, of which nearly half were for minor infractions. Of the more serious complaints, 224 were for abuse of authority, 258 were for bad conduct, 93 for threats or extortion, 83 for illegal detention, and 40 for homicide. In cases where sufficient evidence suggested that criminal acts were committed, ORP investigators forwarded them to the Public Ministry for further investigation and prosecution. For example, of the 40 alleged homicide cases, 23 were sent to the Ministry. While this number represented an increase over 1998 levels, a significant portion of this increase likely was attributable to the fact that thousands of additional officers were deployed during the year. In addition, strong anecdotal evidence suggested that that the public was less afraid and more willing to bring complaints against the PNC than against its predecessor. Most observers still considered the PNC to be a significant improvement over the PN, although there were signs of increasing friction as communities began to face the practical challenges of integrating the new police force into the community and supporting its work.

In 1998 the PNC accepted some 60 police candidates from indigenous communities in the Ixil region—approximately 30 of whom graduated on their first attempt—to ensure that PNC personnel in those communities are proficient in the local language and are able to operate effectively in those communities.

No active members of the military serve in the police command structure, but in 1998 President Arzu ordered the army to support the police temporarily in response to a nationwide wave of violent crime. Arzu extended this order and it remained in effect at the end of the year. While the measure was popular politically, given the public's preoccupation with crime and security, it appeared to open the door to renewed military involvement in internal security and police functions, a role that is prohibited by the Peace Accords. Despite this ambiguity, military personnel were subordinated to police control during joint patrols or operations.

The case of Sister Dianna Ortiz, who was kidnaped near Antigua, tortured, and sexually abused by a group of armed men in November 1989, remained in the investigative phase. However, the prosecutor agreed to send interrogatories to her, so as to accommodate her reluctance to return to Guatemala. There was no real progress in her case at year's end.

Prison conditions remained harsh but not life threatening. The prison system continued to suffer from a serious lack of resources, particularly in the areas of prison security and medical facilities. The Government reported that prison capacity nationwide was 8,373 persons, and there were approximately 8,460 inmates in September. Some institutions were overcrowded; for example, in September the Preventive Detention Center for Men in Guatemala City was approximately 70 percent over its designed capacity. A project to expand prison capacity at the maximum security prison in Esquintla was completed during the year. Prisoners also complained of inadequate food. Corruption—especially drug-related—is widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest, and the frequency of jailbreaks continued to be a matter of serious public concern. The 573 female prisoners in the penal system are held in facilities separate from men, and minor children are held in other detention facilities. The Government permitted access to prisons by family members.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, there were frequent credible reports of arrests without judicial warrants, illegal detention, and failure to adhere to prescribed time limits in legal proceedings. The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing the case before a judge. Once a suspect has been arraigned, the prosecutor generally has 3 months to complete his investigation and file his case. The law also provides for bail and access to lawyers.

There are no comprehensive, reliable data on the number of arbitrary detentions, although most accounts agree that the security forces routinely ignored writs of ha-

beas corpus in cases of illegal detention. The PDH reported 20 complaints of illegal detention during the year, compared with 18 in 1998. From January through September, MINUGUA investigated some 89 complaints of illegal or arbitrary detention during the year, and confirmed 85 by year's end.

Reliable estimates suggest that approximately 62 percent of those incarcerated are awaiting trial. The law sets a limit of 3 months for pretrial detention; however, longer detentions still occurred routinely. Prisoners often are detained past their legal trial or release dates. Prisoners sometimes were not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order.

In the wake of Hurricane Mitch in 1998, President Arzu decreed a state of public emergency, ratified by the Congress, which resulted in the suspension of certain constitutional rights, enabling law enforcement officials to detain persons without a judicial warrant or without discovering them in the act of committing a crime. The state of emergency expired on January 31. There were no reports of abuse of authority due to the suspension.

The Constitution prohibits exile, and it is not practiced.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial system often fails to provide fair trials due to inefficiency, corruption, insufficient personnel or funds, and intimidation of judges, prosecutors, and witnesses. The courts' response to human rights violations, as well as to general criminal activity, has been inadequate, although during the year the Government achieved convictions in some important human rights cases from previous years. However, more often, prior convictions for human rights violations were reversed or annulled for technical deficiencies or procedural shortcomings. Observers believe that at least some of these rulings were actually the result of corruption or intimidation of judges. There were numerous credible allegations of corruption in the judiciary.

Members of the judiciary and prosecutors continued to receive threats aimed at influencing current decisions or as reprisals for past decisions. Death threats and intimidation of the judiciary were commonplace in most cases involving human rights violations, particularly where the defendants were current or former members of the military, military commissioners, or PAC's. For example, in May a former judge in Puerto Barrios was killed in apparent retaliation for death sentences he handed down while on the bench (see Section 1.a.). Judges and prosecutors in the Xaman massacre case allegedly received numerous threats before and during the trial (see Section 1.a.). The prosecutor and his staff in the Bishop Gerardi murder investigation reported wiretapping, surveillance, and frequent death threats (see Section 1.a.). In March and October, respectively, a judge and a prosecutor in the Gerardi case resigned and left the country due, at least in part, to threats and intimidation (see Section 1.a.). In September the mob that attempted to free former military commissioner Candido Noriega also threatened to kill the judge (see Section 1.a.). A small number of prosecutors handling high-profile cases have been assigned bodyguards; however, in general the Government has not allocated sufficient resources to the judiciary's physical security.

The judiciary is composed of the Constitutional Court, the Supreme Court, appellate courts, lower courts, and courts of special jurisdiction (e.g., labor courts). The Constitution provides that Congress elect all Supreme Court (CSJ) and Appellate Court (CA) magistrates every 5 years from lists prepared by panels composed of active magistrates, representatives of the bar association, and law school deans. In October new CSJ and CA magistrates were chosen, amid some accusations that political parties were attempting to fill the courts with their sympathizers prior to the November general elections. Despite such allegations, the selection process was more participatory and transparent than ever before. There are several community courts in indigenous rural areas (see Section 5).

The Criminal Procedures Code, which came into effect in mid-1994, provides for the presumption of innocence, the right to be present at trial, the right to counsel, plea bargaining, and the possibility of release on bail. Trials are public—allowing victims, family members, and human rights groups to observe the process—and verdicts are rendered by three-judge panels. The code also provides for language interpretation for those who require it; however, in practice this provision is not always honored due to budgetary and other constraints (see Section 5). The Public Ministry, which is independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as coplaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often lead to excessively long pretrial detention (see Section 1.d.). Courts showed little willingness to exercise discretion in dismissing frivolous or patently invalid motions. As a consequence, parties contin-

ued to use such motions as delaying tactics, frequently holding up trials for several months or even years.

Inefficiency and corruption in the courts, Public Ministry, and police continued to impede the proper functioning of the judicial system and undermine the right to due process. The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. According to government statistics, through August the Supreme Court imposed 1,215 sanctions against members of the judiciary for offenses ranging from simple impropriety to illegal conduct. Of those sanctions against judges, 1,159 were findings of impropriety, 66 were warnings, 9 judges were fired, and 1 was suspended. Magistrates received 13 findings of impropriety. The Public Ministry has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment and insufficient numbers of investigators. In addition, prosecutors remained susceptible to intimidation and corruption. It was difficult to attract qualified personnel to the courts because of the low salaries offered. Notwithstanding this difficulty, the judiciary fired over 500 employees in August, alleging that they had participated in an illegal work stoppage in 1996 (see Section 6.a.). In October the CSJ reinstated 125 of these employees. Some observers speculated that the firings were politically motivated. In October Congress passed a law on legal careers, which established a system to regulate the income, terms of office, promotion, training, and disciplinary measures, as well as other activities of judges and magistrates, to support their professionalism and independence. The new law took effect on December 2, and is intended to speed trials and reduce corruption by recognizing and protecting competent judges while creating mechanisms to remove incompetent or corrupt ones.

In cooperation with foreign donors, the Government continued its efforts to reform the judicial system. In September 1997, the Government formed an interagency mechanism to coordinate reform efforts among the judicial branch, the Public Ministry, the Ministry of Government, and the Public Defenders Service, which are the four principal governmental institutions involved in the administration of justice. Since 1994 the Government has created 215 judgeships throughout the country. One of the most successful reform efforts has been the creation of "justice centers," which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, military officers, and civil society in a team approach to dispute resolution and problem solving. The centers have installed modernized docket and case filing systems in the courts, thereby increasing efficiency and public service. Centers are located in Zacapa, Quetzaltenango, Escuintla, Nebaj, the Peten, and most recently, Huehuetenango. The Supreme Court extended the administrative model of the justice centers to include the criminal courts in the capital by creating a new Clerk of Court office, which has streamlined the processing of cases, increased transparency, and improved customer service.

Other judicial reforms included the attendance of over 400 prospective judges and assistant judges at special courses at the School of Judicial Studies, from which applicants were selected to fill vacancies in the judiciary.

Despite some progress, much remains to be done to reform the judiciary and establish effective rule of law, as mandated by the Peace Accords. Many of the structural and procedural weaknesses of the judiciary would have been addressed by the proposed constitutional reforms that were defeated in a national referendum in May (see Section 3). An August visit by U.N. Special Rapporteur on Justice Param Cumaraswamy highlighted many of the justice sector's acute problems and the continued need for sweeping reforms. Although his final report was not expected until January 2000, Cumaraswamy offered several conclusions at the end of his visit. Cumaraswamy observed that the judicial system has not recovered from the damage it sustained during the internal conflict, noting its lack of independence and complicity as a former tool of repression. In addition, he concluded that the judicial system is hampered by inefficiency, incompetence, corruption, influence peddling, and lack of resources. The Rapporteur also criticized the threats and intimidation experienced by judicial employees, the prevalence of lynchings and other forms of vigilante justice, and low prosecution rates as manifestations of ongoing impunity.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of home, correspondence, and private documents; however, allegations persist that the authorities sometimes disregard these provisions. Elements of the security forces reportedly continued to monitor private communications. Press reports continued to accuse the Presidential Military Staff of wiretapping telephones. The prosecutor and his staff in the Bishop Gerardi murder investigation reported wiretapping and surveillance (see Section 1.a.).

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, and the Government generally respected this right in practice. Unlike the previous year, there were no reports of self-censorship. There were some unconfirmed reports that members of the press were targets of intimidation.

In addition to regular and open criticism of government policies, the media publicizes communiques from human rights organizations, unions, and groups opposed to the Government or its policies. The press criticized the military and other powerful sectors. For example, the press reported a number of allegations by human rights groups that the EMP continues to monitor private telephone conversations (see Section 1.f.). The press also frequently published stories on reputed drug traffickers and on official corruption.

The Government prepared public information programs, which the radio and television stations were required to broadcast. The Government controlled two national channels, one by the Presidency and one by the Ministry of Education. Critics alleged that the channel controlled by the Presidency was a propaganda organ rather than a source for public information, particularly during the election campaign. Opposition parties had no such access to the media but could purchase broadcast time. During the election campaign, opposing parties frequently accused the Government of using its nightly information program to publicize the Government's accomplishments, in violation of a prior Supreme Electoral Tribunal (TSE) ruling that prohibits such activity.

There were no reports of threats or violence against journalists.

The trial of the two alleged killers in the June 1997 murder of journalist Jorge Luis Marroquin Sagastume was expected to begin in September. The victim's relatives continued to pursue charges filed against the crime's alleged intellectual author, former Jocotan Mayor Manuel Ohajaca, who apparently acted out of revenge or personal animosity.

The Constitution provides for academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government respects this right in practice. Peaceful demonstrations were common, and demonstrators sometimes occupied government institutions. In all these cases, the police acted with restraint, and the authorities negotiated a peaceful departure of the demonstrators.

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government did not interfere with political associations. However, organizations must obtain legal status, a formerly cumbersome and expensive procedure. The URNG and several NGO's have alleged that this law particularly disadvantaged organizations representing marginalized social sectors, including indigenous groups. In December 1997, the Congress enacted a statute that sought to provide a less cumbersome mechanism for registering civil associations. Regulations implementing this statute were adopted in 1998, and media reports suggest that the new law and regulations have streamlined the registration process considerably.

c. *Freedom of Religion.*—The Constitution provides for religious freedom, and the Government respects this right in practice. There is no state religion; however, the Constitution recognizes explicitly the separate legal personality of the Catholic Church. Members of a religion need not register simply in order to worship together. However, the Government requires religious congregations (other than the Catholic Church), as well as other nonreligious associations and NGO's, to register as legal entities in order to be able to transact business.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respects them in practice. In October 1998, President Arzu temporarily suspended constitutional provisions protecting freedom of movement until January, in response to hurricane Mitch (see Section 1.d.).

The Government grants refugee status and asylum in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees from other countries. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

Voluntary repatriation of refugees from Mexico concluded. The UNHCR estimated that approximately 2,000 refugees returned, bringing the total to over 40,000 since

initiation of the program in 1993. Guatemalans who still remain in Mexico do so by choice.

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

Citizens have the right to change their government by peaceful and democratic means, through secret ballot and universal suffrage for those 18 years of age and older. Members of the armed forces and police may not vote. Since the return to democracy and civilian rule in 1985, there have been nine free elections. International observers concluded that both the November general elections and the December runoff presidential election were free and fair. During and after the November round of elections, political parties lodged numerous complaints of fraud and misconduct against each other. The vast majority of these complaints were unaccompanied by evidence and appeared to be partisan attempts to disqualify opponents or annul election results. However, the most serious allegation was a complaint brought to the Supreme Electoral Tribunal (TSE) by the FRG that the PAN-led Guatemala City Administration interfered with city bus transportation on election day to prevent FRG supporters from reaching the polls. Based on this and other FRG allegations of PAN fraud, the FRG leadership requested a recount of the Guatemala City results. The TSE ruled against a recount, finding insufficient evidence of fraud or misconduct. Due largely to unexpectedly high voter turnout, the TSE was slow to report the November vote count. Public uncertainty over the delayed count contributed to violence and disturbances in a number of municipalities with highly contested local races.

Voters elect the 113-member, unicameral Congress every 4 years using a system of proportional representation based on population, with deputies elected both from districts and from a nationwide list. The Congress had 91 deputies from districts and 22 from the national list. The November elections involved 13 political parties, including 2 2-party coalitions. Four parties and both coalitions won seats in the legislature, led by the FRG with a 63 seat majority, followed by the PAN with 37 seats, and the New Nation Alliance coalition, which included the URNG party, with 9 seats. Voter participation in the November round was at a 13-year high. Congress can and does act independently of the executive, but fragmentation along party lines and a weak support and staff structure result in a legislature that is relatively weak.

The former URNG guerrillas met all legal requirements for qualification as a political party and competed in the November general elections.

On December 26, FRG presidential candidate Alfonso Portillo won a runoff election against PAN candidate Oscar Berger, with 68 percent of the popular vote, in an election that international observers characterized as free and fair.

Government efforts to implement the Peace Accords were selective. On May 16, in a national referendum, voters rejected the entire package of 50 constitutional reforms approved by Congress in 1998, dealing a significant blow to the peace process. Only 20 percent of the electorate voted. The defeated amendments included provisions to recognize, respect, and protect indigenous languages and traditional customs, professionalize the judicial service, give civilian courts jurisdiction over military personnel, and define the army as an apolitical organization. While ordinary laws could be enacted to accomplish many of the reforms, the constitutional reforms nonetheless held great symbolic value for the peace process.

Prior to the vote, on January 9, the Constitutional Court granted a temporary injunction to prevent the Supreme Electoral Tribunal from calling a national plebiscite on the amendments, following a request by the Center for the Defense of the Constitution (CEDECON), a private, nonpartisan association of lawyers. Following the Constitutional Court's decision, COPMAGUA—an indigenous NGO—and the URNG political party blocked roads in Guatemala City and several other locations to protest the decision. On February 9, the Constitutional Court overruled a decision by Congress to send the 50 amendments as a single package for the referendum, but ruled that Congress would be acting within the Constitution if it grouped the amendments into 6 thematic categories before sending them to voters. Congress then grouped the amendments into four categories before sending them to voters. Every major political party had expressed support for the amendments, although none actively campaigned on their behalf.

There are no legal impediments to women's participation in politics and government, but women are underrepresented in the political arena. Nevertheless, women hold some prominent political positions. Voters elected nine women to Congress in November; women hold two seats on the Supreme Court; and one on the Constitutional Court. There were two female ministers in the Arzu government.

The Constitution provides for equal rights for indigenous people. Some have attained high positions as judges and government officials, including 15 members of the new Congress; there were 6 indigenous members in the 80-member Congress before the elections. Indigenous leader Rigoberto Queme was reelected as mayor of Guatemala's second-largest city, Quetzaltenango, in a narrow victory in which there were credible allegations of vote-buying by Queme's political organization, the Xelju Civic Committee. Indigenous people still are underrepresented significantly in politics due to limited educational opportunity and pervasive discrimination (See Section 5). There were no indigenous members in the Cabinet of the Arzu Government. On August 17, the Congress opened outreach offices in Quetzaltenango (in a heavily indigenous area), Jutiapa, and Coban, in order to facilitate communication between the legislative branch and citizens in outlying areas.

There was an unconfirmed report from a human rights organization that groups of indigenous women from Quiche effectively were prevented from registering to vote in time for the May constitutional referendum. Reportedly, officials told them at various times that the registration campaign was not yet underway, that the proper forms were not available, or that notarized copies of additional documents were required. By all accounts voter registration was generally difficult, complicated, time consuming, and expensive, particularly for poor, mostly indigenous rural voters, who had to incur considerable expense just to travel to the towns or cities where registration took place. However, women and indigenous voter participation in the November general elections increased.

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

The Government permits local human rights groups to operate without restriction. Numerous domestic and international groups investigate and report freely on human rights issues. Senior government officials also met with numerous foreign government officials and international human rights monitors. While many international human rights organizations and their workers do not enjoy formal legal status, they continue to operate openly.

During the year, many NGO's credibly reported receiving threats or being intimidated by unidentified persons. Human rights activists and jurists working on cases involving human rights abuses, drug trafficking, and other sensitive matters frequently reported receiving anonymous threats. At least one observer claimed that forensic and human rights workers exhuming a clandestine cemetery at San Francisco Nenton, Huehuetenango, were victims of intimidation and harassment. In addition, at least two murders, one disappearance, and one abduction of human rights activists allegedly were committed for political reasons, possibly related to the victims' human rights work. These cases included the killing of FDNG party member and indigenous human rights activist Tomas Tol Salvador (see Section 1.a.), the death of sociologist Maria Ramirez Gonzalez (see Section 1.a.), the disappearance of Lake Izabal indigenous leader Carlos Coc Rax (see Section 1.b.), and the abduction of a security escort in the Candido Noriega case (see Section 1.a.).

The ODHAG personnel working on the Bishop Gerardi murder case reported frequent and persistent death threats, surveillance, and other acts of intimidation. On April 16, three armed men broke into the home of ODHAG director Ronalth Ochaeta, hit and threatened his domestic employee, but stole nothing of real value. The break-in was widely considered to be an act of intimidation because it occurred just days before the ODHAG was to commemorate the first anniversary of Bishop Gerardi's death. Furthermore, the assailants reportedly left behind a piece of cement cinder block—the same type of object used to kill Bishop Gerardi. Several months later, Ochaeta resigned and left the country.

Every 5 years, Congress elects the Human Rights Ombudsman from three candidates chosen by the Congressional Committee on Human Rights. The Ombudsman reports to Congress, and monitors the rights provided for by the Constitution. The PDH's rulings do not have the force of law. The Ombudsman, Julio Arango Escobar, operates with a large degree of independence from other branches of the Government, often ruling on controversial issues not normally considered human rights topics, such as bus fares and electricity rates. During the year, Arango continued to complain that the Congress neither funded his office adequately nor implemented his recommendations on human rights. The office's lack of funding limited the possibility of developing adequate investigative capabilities. Relations between the Ombudsman's office and MINUGUA were strained, in part by Arango's issuance of a statement accusing MINUGUA officials of complicity in the jailbreak of the former PAC members convicted for killing Juan Chanay Pablo (see Section 1.a.). MINUGUA responded by explaining that its involvement in the case was limited to assisting Arango's own representative in filing a petition requesting that the con-

victed PAC members be jailed closer to home, so as to facilitate family visits. Arango also publicly criticized the harmonious working relationship between MINUGUA and COPREDEH, claiming that MINUGUA's intent was to marginalize the PDH. Upon the expiration of MINUGUA's mandate at the end of 2000, the PDH is scheduled to take over MINUGUA's human rights verification function.

COPREDEH actively sought to forge a responsive and cooperative relationship with both domestic and international human rights monitors, often acting as a liaison between such groups and other government offices. COPREDEH sought to negotiate amicable settlements in many cases of past human rights violations pending before organs of the inter-American human rights system, rather than litigating such cases.

On February 25, the Historical Clarification Commission (CEH) fulfilled its Peace Accord mandate by issuing "Guatemala: Memory of Silence," its 12-volume report on the internal conflict based on witness and survivor testimony and historical records provided by the Government (including the military), international organizations, and human rights NGO's. Volume One outlined the CEH's mandate and procedures and explained the causes and origins of the internal conflict, in which an estimated 200,000 persons disappeared or were killed. Volumes Two and Three listed the acts of violence and human rights abuses. Volume Four detailed the consequences and effects of the violence, and Volume Five offered conclusions and recommendations. Volumes Six through Twelve contained the case data collected and used by the Commission in its findings.

Given the CEH's relatively weak mandate, most observers were surprised at the strength and breadth of the report's findings, conclusions, and recommendations. The report found that government forces (the army, military commissioners, paramilitary groups, and PAC's) were responsible for approximately 93 percent of all human rights abuses and acts of violence. The report also found the Government responsible for acts of genocide against the Mayan community, citing the coincidence of significant army deployments to those predominantly indigenous regions in which the vast majority of massacres were committed during the bloodiest period of the conflict, from June 1981 to December 1982. The report found that the guerrillas were responsible for about 3 percent of all abuses and acts of violence. Following publication of the report, human rights defenders reported being threatened, having their telephones tapped, and being followed; some left the country temporarily.

Many observers were disappointed by the Arzu administration's ambivalent and legalistic response to the findings and recommendations of the CEH. Human rights groups continued to criticize the Government's refusal to create a foundation to follow up on the CEH's recommendations or to carry out far-reaching reforms of the military.

MINUGUA maintained a staff of approximately 400 persons, with regional offices to monitor implementation of the human rights provisions of the Peace Accords and to strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its investigations but cited occasional isolated incidents in which government officials or institutions had obstructed its efforts.

In July the Government hosted a visit by U.N. Special Rapporteur for Children's Issues Ofelia Calcetas-Santos, whose visit focused on child abuse, adoption, and other children's issues (see Section 5).

In August the Government hosted a visit by U.N. Special Rapporteur on Justice Param Cumaraswamy, who met with government officials, diplomats, NGO's, and other civil society groups in a thorough review of the justice sector (see Section 1.e.).

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

The Constitution states that all persons are free and equal in dignity and rights, and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice, the Government is frequently unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system.

Women.—Violence against women, including domestic violence, remains common among all social classes. The 1996 Law on Intrafamily Violence provided that the Public Ministry, the national police, family courts, legal clinics, and the PDH can receive complaints of domestic violence. Domestic violence is defined as "whatever action or omission by direct or indirect manner causes damage, or physical, sexual, psychological, or patrimonial suffering" to a person within the family group. The law provides for the issuance of restraining orders against alleged aggressors and obligates the national police to intervene in situations of domestic violence. The law allows a rapist to be exonerated when the victim agrees to marry the man, but the

Public Ministry must also approve the marriage when the victim is below the age of 18.

Victims rarely report criminal sexual violence, although the number of complaints of such offenses continues to increase significantly. PNC statistics showed 323 rapes during the year, compared to 220 in 1998 and 167 in 1997. Many observers believe that this increase does not reflect an increase in the number of rapes committed, but reflects an increased willingness on the part of victims to come forward, greater public confidence in the PNC, and improved record keeping of crime statistics. Despite these advances, relatively few rape cases go to court, in large part because police have little training or investigative capacity for such crimes, and because many rape victims are still reluctant to report and prosecute such crimes. Unofficial statistics suggest that there were 80 convictions during the year for rape or related crimes, compared with 67 convictions in 1998.

Complaints of spousal abuse continued to rise due, at least in part, to increased nationwide educational programs, which have encouraged women to seek assistance. In 1998 the PDH reported approximately 2,600 complaints of domestic violence nationwide. Judges may issue an injunction against an abusive spouse or companion, and the police are charged with enforcing such injunctions. The Women's Rights Department of the PDH and various NGO's provide medical and legal assistance and information on family planning. The Women's Rights Department drafted proposed regulations to implement the provision of the Law on Intrafamily Violence establishing a National Commission for the Prevention of Domestic Violence, but the regulations had not yet been adopted at year's end. In September the Arzu Government created the office of Ombudsman for Indigenous Women and appointed Juana Catinac Xom de Coyoy as its first Director. The office was created to provide social services for victims of intrafamily or social violence, as well as mediation, conflict resolution, and legal services, with the first branch offices to be opened in those areas where indigenous women suffered the most during the internal conflict.

Sexual harassment in the workplace is common.

The Constitution asserts the principle of equality between the sexes. Nonetheless, in practice, women face job discrimination, are less likely to win management positions, and on average receive significantly lower pay than men. Some women are subjected to preemployment pregnancy tests. Women are employed primarily in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More working women than men are employed in the informal sector of the economy, where pay and benefits are generally lower. Women may own, manage, and inherit property on an equal basis with men. During the year, Congress repealed the rarely enforced Civil Code article that enabled a husband to deny his wife the right to work outside the home, when, in his judgment, that would compromise her duties as housekeeper and mother. Congress also repealed the article that placed the husband in charge of administering the family's property, replacing it with one that puts both spouses on equal footing with regard to joint or individually owned property.

The National Women's Forum, inaugurated in November 1997, continued to promote women's issues by participating in local and regional forums organized by political parties during the general election campaign. In addition, the Forum prepared a plan for development and women's issues, which is scheduled to be presented to the Government in January 2000. The Forum's suggestions for promoting the development of women were included in a cabinet-level document on that topic for the Arzu administration.

Children.—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors. However, despite these provisions, the Government in the past has not devoted sufficient resources to ensure adequate educational and health services for children. The Government budgeted approximately $296 million (2.25 billion quetzals) for education and approximately $163 million (1.24 billion quetzals) for health care, an increase over 1998 levels.

The Constitution provides for compulsory education for all children up to the sixth grade. However, less than half the population actually receives a primary education, and only 3 of 10 students that begin primary school complete it. Only one of eight girls who begin school graduate from sixth grade. According to the CALDH, between 50 and 57 percent of children between the ages of 7 and 17 can be considered completely "outside of the educational system." Public expenditure for education was equivalent to only 1.7 percent of GDP. Children in rural and indigenous areas are less likely to complete primary school.

Approximately 2.3 million children between the ages of 5 and 12 were enrolled in schools as of January; a 15 percent increase in enrollment from 1998, according to the Ministry of Education. The Ministry also reported that 2,841 communities

now have access to educational services for the first time. There have been special initiatives to promote the education of girls, and about 46,000 girls received incentive scholarships from the Ministry of Education during the year.

A recent United Nations Children's Fund report, titled "Progress of the Nations," concluded that the country's children are at significant risk for infant mortality, abnormally low body weight, low school attendance, and AIDS. According to the study, 56 percent of rural children and 35 percent of urban children under age 5 show signs of underdeveloped growth. The PDH reported that 73 percent of children under 5 years of age suffer from malnutrition, and that 38 percent of elementary school-age children and 79 percent of secondary school-age children do not attend school.

Most estimates indicate that reports of child abuse continue to increase. The Procuracy General reported 1,478 cases of child abuse during the year, compared to 1,172 cases in all of 1998.

The abuse of street children (see Section 1.c.) remained a serious problem in major cities. Most credible estimates, including a May report by the Presidential Secretariat on Social Work and NGO's, put the number of street children at approximately 6,000, with the majority of these youths concentrated in Guatemala City. Criminals—reported to include private security guards and corrupt police or military personnel—often recruit these children into thievery or prostitution rings. According to Casa Alianza, drugs, prostitution, and gangs posed the greatest danger to this vulnerable group during the year. In contrast to previous years, most violence against street children was committed by individuals, private security guards, and other street children, not by police or other government forces, although there were two reports of abuse of street children by PNC officers (see Section 1.c). The Government and a number of NGO's operate youth centers, but the funds devoted to them are not sufficient to alleviate the problem. The Government created a Permanent Commission for Children and Youth in 1996 to investigate cases of mistreatment. Implementation of the new Minors' Code, which would offer greater legal protection to children, was deferred until March 1, 2000, due to strong political opposition from certain sectors. Opponents, including religious leaders, argued that the code derogated parental rights and threatened the integrity of the family.

COPREDEH continued weekly meetings of the Permanent Commission for Children, composed of representatives from Casa Alianza and from the judicial and executive branches, with the aim of addressing the problems of street children. The Government continued its program to train instructors to educate civil society groups and the public about children's rights. The PDH reported that it investigated cases of sexual exploitation of children in Escuintla, Alta Verapaz, Huehuetenango, and San Marcos.

The Ministry of Labor has noted an increase in child prostitution in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes are brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution (see Section 6.f.).

In July the Government hosted a visit by U.N. Special Rapporteur for Children's Issues Ofelia Calcetas-Santos, whose mandate included investigating matters such as child pornography and prostitution. Although her final report is not scheduled to be published until April 2000, Calcetas called for a new adoption law to combat trafficking in children, increased efforts to reduce child abuse, and greater attention and resources to the physical, educational, and emotional needs of children.

People with Disabilities.—The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in education and employment practices, and few resources are devoted to combat this problem or to assist the disabled. However, in 1996 Congress passed a law mandating equal access to public facilities, prohibiting discrimination based on disability, and providing other legal protections. The PDH is drafting proposed regulations to implement the provisions of the Law on Protection of the Elderly and the Law on Attention to Disabled Persons.

The law defines a disabled person as one whose physical, mental, or emotional deficiencies limit performance of normal activities. It stipulates equal opportunity for disabled persons in health, education, work, recreation, sports, and cultural activities. It also provides that all disabled persons receive the benefits of labor laws, social security, and have the right to work. In addition, the law establishes equal education opportunities, the requirement that buildings meet access codes, and the right to equal pay. While implementation of the new law has been slow, a National Council for the Disabled, composed of representatives of concerned government ministries and agencies, met regularly to formulate regulations needed to implement the legislation.

Indigenous People.—The Constitution states that the country is composed of diverse ethnic groups and obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, forms of social organization, and manner of dress of indigenous people. The Government is obliged to consult with its indigenous population before enacting any legislation that could affect it. In September the Arzu Government created the office of Ombudsman for Indigenous Women and appointed Juana Catinac Xom de Coyoy as its first Director.

Indigenous people constitute over one-half the population but remain largely outside of the country's political, economic, social, and cultural mainstream. The 1994 census, the most recent, states that 42.8 percent of the population are indigenous; however, most observers believe that this figure is low. There is no single indicator of indigenous status, and there are at least 22 separate indigenous ethnic groups. In addition to the indigenous Mayan groups, there is an indigenous Xinca community of some 6,000 persons. A separate minority group is the Garifuna, who are descendents of Africans brought to the Caribbean coast as laborers.

Indigenous people were the most common victims of extrajudicial killings and other serious human rights abuses during the internal conflict. The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites. Indigenous people are organizing into interest groups to promote bilingual education, women's rights, and community development. The Government also is devoting increased resources to bilingual education. In April the Minister of Education stated that students at the Western National School of Commercial Sciences could wear traditional dress; the school had attempted to expel two students who refused to wear the school uniform.

Rural indigenous people have limited educational opportunities and thus have fewer employment opportunities. Many indigenous people are illiterate or do not speak Spanish. Linguistic barriers hinder interaction with the Government and limit access to public services, including the judiciary, since few current officials speak any of the 24 indigenous languages. In 1998 the Indigenous Languages Officialization Commission issued a report, in which it recommended that a variety of public services be provided in the four most widely spoken indigenous languages (Kiche, Qeqchi, Mam, and Kaqchikel), with a lesser degree of services provided in less widely spoken indigenous languages.

Indigenous people arrested for crimes are often at a disadvantage due to their limited comprehension of Spanish. The Criminal Procedures Code states that the courts must provide interpretation for anyone requiring such services during criminal proceedings. There are 67 interpreters at all levels of the legal system, from the police to the formal courts, to assure non-Spanish speakers the means to bring complaints, resolve conflicts, and provide testimony. Interpreters are concentrated in former conflict areas of the country; more interpreters were in training. In January 1998, several community courts were created in primarily indigenous, rural areas to decentralize justice and incorporate customary Mayan law for minor offenses. The University of San Carlos offers a postgraduate degree in indigenous customary law. Judges, prosecutors, public defenders, judicial translators, and others already have received the degree, which emphasizes criminal law and human rights.

In May the movement for greater indigenous rights suffered a major setback when the constitutional reform packages were defeated. These reforms would have expanded and solidified a number of rights for the indigenous community, in accordance with both the Constitution and the Peace Accords. Observers attributed much of the success of the informal antireform campaign to misplaced or exaggerated fears that the reforms would grant too much power to indigenous groups and create a separate and privileged justice system for them.

Several indigenous leaders disappeared or were killed during the year. On May 18, unknown assailants abducted and killed Tomas Tol Salvador, an activist for the Council of Ethnic Communities and an FDNG leader, in Quiche (see Section 1.a.). On April 30, prominent indigenous leader and FDNG party member Carlos Coc Rax disappeared while crossing Lake Izabal on a boat from the town of El Estor (see Section 1.b.). On July 27, unidentified assailants shot and killed Mayan priest Raul Coc Choc at his home in the department of Chimaltenango (see Section 1.a.).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the Labor Code provide workers with freedom of association and the right to form and join trade unions. The Government does not control unions. Major reforms to the Labor Code in 1992 mandated steps to improve worker rights by facilitating freedom of association, strengthening the rights of working women, increasing penalties for violations of labor laws,

and enhancing the role of the Labor Ministry and labor courts in enforcing the statutes. All workers have the right to form or join unions, including public sector employees, with the exception of members of the security forces.

The Labor Code envisions a well-articulated institutional structure for enforcement. However, in practice the poverty of the populace, the legacy of violent repression of labor activists during the internal conflict, the deep-seated hostility of the business and military establishment towards independent and self-governing labor organizations, and the weakness of the labor inspectors and labor court system constrain the exercise of worker rights and limit enforcement of labor standards. In its Fourth Report on the Peace Process, MINUGUA noted that "genuine trade union freedom does not exist" due to antiunion violence.

Only 2 percent of the 3.5 million person work force belong to labor organizations, according to the Labor Ministry. The approximately 1,300 registered unions and 400 company-sponsored "solidarity organizations" are independent of government and political party domination. Labor code amendments have simplified the process for unions to obtain legal status. The Minister of Labor further revised the administrative process in 1996, reducing the number of steps within the Ministry for consideration of union applications and establishing strict timetables; the time for the procedure was reduced to 20 days from 60. The Labor Ministry also has initiated a program to assist unions with their applications, and the Minister has warned officials that noncompliance with the timetable could lead to dismissal of those responsible for the delay. These new regulations have accelerated the approval procedure and largely eliminated the backlog of union applications. The Labor Ministry granted legal status to 25 unions during the year.

On October 13, a group of men, many of them armed, took control of the union hall of the SITRABI banana workers union in the town of Morales, Izabal. There are credible reports that leaders of the vigilante group repeatedly threatened to kill some of the union leaders. During the incident, which lasted over 8 hours into the morning of October 14, at least a dozen rank-and-file unionists reportedly were held for much of that time on the bus in which they had come to the union hall. There are several credible reports that armed men forcibly entered the home of one of the union leaders and made him go with them to the union hall. Various union leaders and rank-and-file members were shoved and struck. Union leaders were forced to sign letters of resignation from their positions in the union and from their jobs. The Ministry of Labor immediately declared these coerced resignations to be invalid. MINUGUA's report on the incident called it "one of the most serious violations of human rights since the signing of the Peace Accords." Following their investigation of the incident, Public Ministry prosecutors sought indictments against 12 individuals on charges of abduction, illegal detention, intimidation, and coercion.

Workers have the right to strike, but labor code procedures for having a strike recognized as legal are cumbersome. Labor organizers criticize the requirement that two-thirds of the work force must approve a vote to strike, the prohibition of strikes by agricultural workers at harvest time, and the right of the Government to prohibit strikes that it considers seriously harmful to the national economy. In 1996 Congress approved a law that further restricted the right to strike for workers employed in essential public services, including urban and interurban transport, mail, and telegraph. Unions strongly opposed the law, and some members of Congress called the measure unconstitutional and contrary to commitments to the International Labor Organization. However, the Constitutional Court declared it constitutional in 1997. This essential services strike legislation gives the State the authority to intervene forcefully should strikes threaten the orderly functioning of society. Employers may suspend workers or fire them for absence without leave if the authorities have not approved their strike legally. The strike regulation law calls for binding arbitration if an impasse has been reached after 30 days of negotiation.

Although the public sector historically has been the scene of frequent strikes, almost always called without legal authorization, there were no public sector strikes during the year. However, prison guards reportedly threatened to strike during the year, but chose not to do so after the authorities pledged to improve working conditions. In 1998 the Government declared illegal a 1996 strike by judicial workers. In September the judiciary fired about 500 of these workers, ostensibly for having participated in this illegal 1996 strike. Unions and human rights organizations questioned the methodology used by the magistrates in charge of the court system to select employees for dismissal, alleging that the dismissals were politically motivated. The Congress established a commission to review the cases of those who were dismissed. In October the CSJ reinstated about 125 persons (see Section 1.e.).

The law protects workers from retribution for forming and participating in trade union activities, but enforcement of these provisions is inconsistent. While an increasing number of employers accept unionization, many routinely seek to cir-

cumvent labor code provisions in order to resist union activities, which they view as disruptive and as a challenge to their full control of the workplace. An ineffective legal system and inadequate penalties for violations have hindered enforcement of the right to form unions and participate in trade union activities. Although the Labor Code provides that workers illegally fired for union activity should be reinstated within 24 hours, in practice employers often file a series of appeals, or simply defy judicial orders of reinstatement. Penalties for defying such orders were increased somewhat in the 1992 labor code reform and again in Decree 35–98, which went into effect in June 1998.

Trade union leaders and members generally did not suffer labor-related violence; however, there were a few notable exceptions during the year. There has been little progress in the investigation of the January 12 killing of Robinson Morales Canales, who had been the executive secretary of the Zacapa municipal workers union during a long-running labor conflict with the mayor of the town (see Section 1.a.). There have been no arrests in the case of Hugo Duarte Cardon, another member of the Zacapa municipal workers union, who was killed in July 1998. Most of the investigations into previous years' cases of violence against, including the murder of, various labor leaders appear to have been suspended.

An active "solidarity" movement claims approximately 170,000 members in about 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between the two or to belong to both. The Government views these associations as civic organizations that need not interfere with the functioning of trade unions. The amended Labor Code stipulates very clearly that trade unions have an exclusive right to bargain collectively on work conditions on behalf of workers. However, unions charge that management promotes solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. There were credible reports that some of these associations did not always adhere to democratic principles in their formation and management, and that workers are unable to participate fully and freely in decisionmaking. Similar credible charges were made against some trade unions.

At the request of trade union leaders, the Human Rights Ombudsman's office for economic and social issues receives complaints related to trade union activities. Union leaders and workers filed over 100 complaints with the PDH during the year, and the Ombudsman has made public statements about labor conditions in various sectors of the economy. The PDH can investigate union complaints and issue a statement, but the office has no enforcement powers beyond attempting to ameliorate the situation through publicity and moral persuasion.

Unions may and do form federations and confederations and affiliate with international organizations.

b. *The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively; however, the practice of collective bargaining is limited by the weakness of the union movement, the requirement that 25 percent of the workers in a factory or business must be union members in order for collective bargaining to take place, the lack of experience with collective bargaining, and management's aversion to negotiating formally with worker organizations. While both management and the unions honored some well-written collective contracts, in other instances both parties openly ignored and violated contracts. Most workers, even those organized by trade unions, do not have collective contracts to cover their wages and working conditions but do have individual contracts as required by law. Most workers receive the minimum wages established by tripartite commissions, which operate under the guidance of the Ministry of Labor.

Employers legally cannot dismiss workers for helping to form a trade union; workers file complaints in this regard with the labor inspectors for resolution. The Labor Code provides for the right of employers to fire union workers for cause, permits workers to appeal their dismissal to the labor courts, and requires the reinstatement within 24 hours of any union worker fired without cause. The revised code prohibits employers from firing workers for union organizing and protects them for 60 days following the official publication of approval of the union. It also prohibits employers from firing any member of the executive committee of a union and protects them for an additional 12 months after they are no longer on the executive committee. An employer may fire a member of the union's executive committee for cause only after a trial and issuance of a court resolution.

Despite governmental, bilateral, and multilateral efforts to improve them, the labor courts remain ineffective. However, efforts to restructure and modernize the labor court system continue. There are 20 labor courts, including 7 in the capital and 13 elsewhere around the country. An additional nine courts deal with labor issues as part of their jurisdiction. The weakness of the judicial system as a whole, the severe shortage of competent judges and staff, and a heavy backlog of undecided

cases all contribute to the labor courts' lack of credibility and enforcement ability. The small number of competent and motivated labor inspectors and the lack of training and resources devoted to detecting and investigating labor code violations compound the weakness of the labor courts. However, government efforts to improve the labor inspection system also continue. The Ministry of Labor increased its rate of inspections and fired some incompetent or corrupt inspectors. Ministry figures show that over 2,000 inspections or investigations of complaints were conducted by August. The Ministry continued a review of inspections at farms and plantations in rural areas and cited those employers who were paying less than the minimum wage.

The Ministry of Labor has reorganized its labor inspection system to permit some complaints to be heard at the Ministry of Labor rather than requiring that inspectors travel to each work site. The Ministry increased the number of court cases filed for failure to comply with the Labor Code and continued an educational campaign on worker rights (especially the rights of minors and women), including providing some documents in indigenous languages. In an effort to improve enforcement of the Labor Code outside the capital, the Ministry of Labor continued to decentralize its operations. Eight of the Ministry's 24 branch offices outside the capital were accorded regional authority, and their resources increased accordingly.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's). The laws governing the EPZ's are not discriminatory on the subject of organizing trade unions or collective bargaining. Union leaders often blame employer pressures and their unofficially restricted access to the EPZ's for their inability to organize workers in these zones. While labor standards in the EPZ's are no different from those found outside the zones, actual working conditions are often better.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution bars forced or compulsory labor, and the practice does not exist. The law does not specifically prohibit forced or bonded labor by children, but they are covered by the general statute. Forced or bonded labor by children generally did not occur; however, there were reports that children were trafficked for the purpose of prostitution (see Sections 5 and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. However, children below this age regularly are employed in the informal and agricultural sectors, usually in small family enterprises. The law prohibits minors from night work and extra hours (the legal workday for minors under the age of 14 is 6 hours; for minors 14 to 17 years of age, it is 7 hours), from working in establishments where alcoholic beverages are served, or from working in unhealthy or dangerous conditions. However, between 3,000 and 5,000 children commonly are employed in the illegal cottage-based fireworks industry. The Labor Ministry believes that approximately 10 percent of the children in this industry work illegally in factories, while younger children, under the age of 14, typically work at home on piecework taken in by their families. Laws governing the employment of minors are not enforced effectively, due to the shortage of qualified labor inspectors and the weakness of the labor court system. The Association for Girls and Boys in Central America (PRONICE) estimates that approximately 2 million children work. The majority of child laborers work in agriculture (family farms, coffee, and sugar cane harvesting), while others work in domestic service, construction, various family businesses, stone quarrying, fireworks manufacturing, or other jobs. Children below the age of 14 years are not allowed to work without written permission from the Ministry of Labor. There are fewer than 5,000 such permits in effect, the majority of them for work in the in-bond processing for export, or maquila, sector. The Ministry of Labor is engaged actively in reducing the number of these permits and issued less than 1,500 for the year. However, many children under the age of 14 work without legal permission and are open to exploitation. They generally receive no social benefits, social insurance, vacations, or severance pay, and earn below-minimum salaries.

The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. In 1992 the Government formed the Child Worker Protection Unit within the Ministry of Labor. Implementation of the 1997 Children's and Minor's Code has been delayed because of political controversy over its provisions. Economic necessity forces most families to have their children seek some type of employment to supplement family income, especially in rural and indigenous communities. Children who work generally do so in family enterprises. Education is compulsory for all children up to the sixth grade. The law does not prohibit specifically forced or bonded labor by children, but it generally did not occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Although the law sets minimum wages, the legally mandated minimum wage for most unskilled and semiskilled workers is not always paid. A tripartite committee representing labor and management in specific economic sectors and overseen by the Ministry of Labor, is named each year to make recommendations for increases in the minimum wage. In the event that agreement is not possible, the Government may decree such increases. President Arzu implemented the most recent minimum wage increase by decree, after the commission was unable to reach a consensus, and it took effect on February 1. The basic rate is $2.53 (19.71 quetzals) for industrial workers for an 8-hour workday, including a required hourly bonus, and is $2.29 (17.86 quetzals) per day plus mandatory productivity bonuses for agricultural workers. The minimum wage is not sufficient to provide a decent standard of living for a worker and family. According to the United Nations Development Program, at least 80 percent of the population lives below the poverty line, including approximately 60 percent of those employed.

The legal workday is 8 hours, and the workweek is 44 hours, but a tradition of longer hours remains in place due to economic conditions. The amended Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charge that workers sometimes are forced to work overtime, often without premium pay, in order to meet work requirements. Labor inspectors report uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system, inhibit adequate enforcement of the law.

Occupational health and safety standards are inadequate. As with other aspects of the labor law, enforcement of standards that do exist also is inadequate. When serious or fatal industrial accidents occur, the authorities generally take no legal steps against those responsible. The Labor Ministry provides training courses for labor inspectors in health and safety standards but does not accord them a high priority due to scarce resources. The Government does not enforce effectively legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers, although most large employers provide such facilities. Workers have the legal right to remove themselves from dangerous workplace situations, and the law provides them with protection for their continued employment. However, few workers are willing to jeopardize their jobs by complaining about unsafe working conditions.

f. *Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; however, various laws could be used to prosecute traffickers. On January 23, a new immigration law came into effect, which makes alien smuggling a crime punishable by imprisonment. Prostitution is not illegal; there are certain health code requirements for persons engaging in prostitution. Pimping and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and children, primarily for the purpose of prostitution, is a growing problem.

The country is a significant transit country for alien smuggling, both from neighboring Latin American countries and from China, Taiwan, and south Asia, aliens often are smuggled to the United States. Traffickers use force, coercion, fraud, and deception. In one instance, Chinese male victims apparently agreed to debt bondage to pay off their transportation costs, while female victims, some of whom were under age 18, apparently were being taken to the United States to work as prostitutes. The victims were told that their families in China would suffer if they broke the debt bondage agreement.

Two government agencies regularly investigate cases of trafficking—the Defense of Children's Rights unit in the PDH, and the Minors' Section of the Public Ministry. There are no programs specifically designed to provide shelter or rehabilitation to victims of trafficking.

The Ministry of Labor has noted an increase in child prostitution in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes are brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution (see Section 5).

GUYANA

The Co-operative Republic of Guyana is a small nation making a slow transition to democracy. It has a multiparty political system based on proportional representation. Citizens directly elect an executive president and indirectly elect a 65-member unicameral parliament. The President appoints a prime minister and a cabinet. In

December 1997, citizens voted in free, fair, and nonviolent national elections to return the People's Progressive Party (PPP) and its Civic (C) partner to office and elected Janet Jagan, widow of the late President Cheddi Jagan, as president. Social unrest and occasional violence marred the postelection period, with the People's National Congress (PNC), the main opposition party, alleging that the elections were fraudulent. International observers considered that these charges were unfounded. Nonetheless, as part of a Caribbean Community brokered truce between the two parties, the PPP/C alliance agreed to shorten its constitutionally mandated 5-year term to 3 years. In August President Jagan resigned due to health reasons. She was succeeded by Finance Minister Bharrat Jagdeo. The judiciary, although constitutionally independent, is inefficient and often appears subject to government influence.

The Guyana Defence Force (GDF) and the Guyana Police Force (GPF) are under civilian control. The GPF has the authority to make arrests and maintains law and order throughout the country. The GDF is a professional military responsible for national defense, internal security, and emergency response. Although the President deployed the GDF to assist the GPF during periods of civil unrest in 1998, this did not take place in 1999. Members of the police continued to commit human rights abuses.

Guyana is a very poor country. The economy, which for years was centrally planned and controlled, is based on a mix of private and state enterprises. Rice, sugar, bauxite, and gold are the major exports. Annual economic growth had averaged more than 6 percent from 1993 through 1997. However, in 1998 the growth rate declined 1.8 percent, hurt by poor weather and by an unstable business climate brought about by political unrest. Growth in 1999 was 2.3 percent. The agricultural sector brings in a large portion of the nation's annual foreign exchange earnings, and the slowdown has hurt the Government's ability to service its high external debt. Per capita gross domestic product is estimated at $808, and over half the population lives in poverty. There are severe shortages of skilled labor and the economy is constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications.

There continued to be serious problems in the Government's human rights record, although it improved slightly in a few areas. The police continued to commit extrajudicial killings; however, they committed fewer such killings than in the previous year, and police abuse of suspects also declined. The authorities took some steps to investigate these abuses more effectively and brought charges against some individual policemen accused of killings. However, in general the police continued to commit abuses with impunity. Prison conditions are poor, and lengthy pretrial detention is a problem. The inefficient judicial system results in long delays in trials. Police infringed on citizens' privacy rights. Members of both major political parties engaged in propaganda attacks that exacerbated racial tensions and social insecurity. Other human rights problems included violence against women and children, societal discrimination against women and indigenous Amerindians, and incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The police committed extrajudicial killings, although fewer than in previous years. The Guyana Human Rights Association (GHRA) reported that police killed 9 civilians during the year, compared with 11 in 1998 and 27 in 1997. In seven cases, the police shot the victims while attempting to arrest them or while a crime was being committed.

On October 22, a police officer shot Fazal Narine in the chest in front of his wife and children; he later died. The police had detained Narine at the Enmore police outpost after his wife had complained about his abusive behavior. Although the police claimed that Narine had died in a scuffle his relatives stated that he was drunk and unarmed. At year's end, the Director of Public Prosecutions was investigating Narine's death. The Working People's Alliance called for an investigation of the Narine case due to concern that abused women might be reluctant to report their problems to police in light of Narine's death in custody.

On November 14, 8 to 10 police reportedly opened fire in the home of Colin McGregor, killing him. The opposition PNC cited this killing as an example of police brutality and called for the Government to establish a commission to investigate what the PNC termed "widespread" extrajudicial killings since 1993 by members of the police force.

A judicial inquiry into the controversial fatal shooting by police in 1998 of Victor "Junior" Bourne began in late 1998, with several witnesses giving testimony. Pathologist Dr. Leslie Mootoo testified, consistent with official reports, that the deceased fired a gun before his death. However, 17-year-old Shemrick Raulston Nedd, who lived in the same house at the time of the incident, contended that while peering through a hole in the wall he saw senior superintendent Stephan Merai and superintendent Leon Fraser shoot Bourne while he lay asleep. On January 6, all documents required to prosecute Merai and Fraser disappeared from the responsible magistrate's office.

No further progress was made toward resolving the 1997 case of Adam Hescott, an escaped prisoner whom police shot and killed. The GPF's standing orders officially permit the use of firearms only when other means have been exhausted. However, many justice authorities and human rights activists say that because of rising crime and pressure from urban businesses, which are often the targets of criminals, the Government has taken a lax attitude toward investigation of alleged police abuses. In general, police abuses are committed with impunity. The Police Complaints Authority (PCA) is required to transmit all complaints to the Police Commissioner. The PCA was established in 1989 and is composed of five members who investigate complaints against police officers. Most members are themselves members of the criminal justice system; thus, the PCA is not truly independent, contrary to the statute that created the PCA. The PCA received 45 complaints during the year, completed investigation of 31 of them, and sent them to the Police Commissioner for action. However, the PCA has not submitted an annual report since 1995. Even when police officers do face charges, most of the cases are heard by lower magistrate courts, where other specially trained police officers serve as the prosecutors. As a result, human rights activists question officers' commitment to prosecuting their own colleagues.

In response to the growing number of complaints against the police, the police established the Office of Professional Responsibility (OPR) in 1997. The OPR received 99 complaints that resulted in criminal and departmental charges brought against 40 police officers related to 78 of the complaints At year's end, the OPR continued to investigate 35 reports of alleged misconduct.

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

In March police arrested and detained Franz Britton. Although the police claimed to have released Britton, his relatives said that they had not seen him since his detention.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, police continued to abuse suspects, although to a lesser degree than in the previous year. For example, a Trades Union Congress executive called for an investigation of the beating of Esther Grant on March 22. Police were videotaped beating her in front of her children. From 1995 to 1997, the GHRA received an average of 20 complaints per year from victims who had been beaten by police while in custody. In 1998 the GHRA reported a significant drop in direct complaints against police. This trend continued in 1999. However, inmates, attorneys, and judicial authorities provided credible evidence that police and correctional officers frequently ignored the actions of other inmates who beat, robbed, or otherwise mistreated "problematic" prisoners.

There were 23 persons injured as a result of nonlethal police shootings through September.

Violence accompanied several large public protests and strikes during the year. In March there was a report that police beat a member of the press and a group of strikers. Also in March, supporters of PNC leader Desmond Hoyte set fire to a movie theater to protest an alleged attempt to assassinate Hoyte. In April public service strikers, to protest the fact that some health care workers had not joined their strike, invaded the hospital in Georgetown, beat medical personnel, and prevented seriously ill patients from entering the hospital. According to the GHRA, one person reportedly died during this attack when unable to receive medical treatment. On May 18, the police injured 17 persons when they fired pellets into a crowd of 200 striking workers (see Section 2.a.). Police fired shots, tear gas, and pellets at strikers and demonstrators on several occasions during the 7-week-long strike. The press reported that strikers and demonstrators threw grenades into a business and local newspaper headquarters during demonstrations, as well as vandalizing several other businesses. Police also reported several bomb threats to public buildings (see Sections 2.b. and 6.a.). In July the President established a commission of inquiry to examine police misconduct during the strike. The commission had not completed its work by year's end.

No progress was made on the torture case of Mark Brown, who accused police of torturing him by applying acid to his body in 1998.

Prison conditions are poor, especially in police holding cells. Georgetown's Camp Street Prison, the country's largest, is extremely overcrowded. For most of the year, Camp Street held between 900 and 1,100 prisoners in space initially designed to hold 350. Conditions in the country's four smaller prisons generally are adequate. The only women's prison is at New Amsterdam, in a facility that holds men and women in separate dormitory-type buildings. In 1997 when the Director of Prisons reported that a prisoner had died in part due to overcrowding at the Camp Street Prison, the Government responded by assigning more full-time nurse practitioners and pharmacists to the prison system and by requiring that doctors visit prisons more regularly. Prison directors and inmates reported that over the course of the year, medical coverage improved. The authorities reported no deaths related to prison conditions during the year. However, the GHRA still questioned the Government's commitment and continued to push it to improve health care in the prison system.

In addition to overcrowding and a lack of medical personnel, poor staff morale is a serious problem within the prison system. Prison staffers are poorly paid and their salaries and benefits are insufficient to compensate for the on-the-job risks. Prison officials lobbied the Government for increased funding to improve prison conditions. Prison officials also encouraged efforts by local and international nongovernmental organizations (NGO's) to improve physical and sanitary conditions.

Although sanitary and medical conditions in police station temporary holding facilities vary, in almost all cases these conditions are worse than those in the prisons. Some such jails are bare, overcrowded, and damp. Few have beds, washbasins, furniture, or utensils. Meals are normally unavailable; friends and relatives must bring detainees food and water. Cells rarely have sanitary facilities, and inmates sometimes are escorted by staff members outside the cells to use holes in the floor for toilets. Inmates generally sleep on a thin pallet on the concrete floor. Conditions in the East La Penitence police jail, where female prisoners are held until sentencing, are below the standard of the other jails and prisons in the country. The Brickdam lock-up in Georgetown has poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically holds up to 30 detainees and is often the site of violence between inmates. Although precinct jails are intended to serve only as pretrial holding areas, some suspects have been detained there as long as 4 years, waiting for the overburdened judicial system to take action on their cases.

In one case reported by the GHRA and the United Nations Children's Fund (UNICEF) two boys, ages 8 and 11, were detained in one of these dangerous jails for several months. A GHRA investigation determined that older inmates had burned the 8-year-old with lighted cigarettes and otherwise mistreated him. In December the media discovered that a 9-year-old boy was being held in Brickdam prison and alleged that other prisoners had abused him sexually. However, the police stated that the boy denied to his mother that he had been molested and that there was no evidence to support the media's claims. In December following these reports, the Home Affairs Minister announced that all juvenile offenders would be housed in a separate facility and that Brickdam prison would eventually be closed. The Minister also announced that the Government would build a new house of detention for the women held at East La Penitence prison.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities. The GHRA participates as a member of the prisons' visiting committee, which investigates prisoner complaints, inspects diets, reviews primary medical care services, and provides recommendations to prison authorities.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged. Bail is generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial but must remand persons convicted on narcotics crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remains a problem. The GHRA has asserted that prisoners often are detained for 3 or 4 years while awaiting trial; however, the authorities denied that delays were this long.

The Constitution prohibit forced exile, and it is not used.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, law enforcement officials and prominent lawyers questioned the

independence of the judiciary and accused the Government of intervening in certain criminal and civil cases. There are no institutional checks on the President or the ruling party when they seek to influence judges. However, the Government generally respects the independence of the judiciary in human rights cases.

The court system is composed of a High Court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts.

Magistrates are members of the civil service and are trained lawyers. The magistrate courts deal with both criminal and civil matters. The Ministry of Legal Affairs headed by the Attorney General is the principal legal advisor to the State. The Director of Public Prosecution is statutorily independent and can file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right is respected in practice.

Delays in judicial proceedings are caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, and the slowness of police in preparing cases for trial. The inefficiency of the judicial system is so great as to undermine due process. Lengthy pretrial detention remains a problem (see Section 1.d.). Defendants are granted public trials, and appeal may be made to higher courts. Appeals of some murder cases may go on for several years. Trial postponements are granted routinely to both the defense and the prosecution. However, programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts are having an effect.

Although the law recognizes the right to legal counsel, in practice, with the exception of capital crimes, it has been limited to those who can afford to pay. There is no public defender system. The Georgetown Legal Aid Clinic, with public and private support, provides advice to persons who cannot afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases in such matters (e.g., assault as part of a divorce case). Defendants in murder cases who need a lawyer are assigned an attorney by the court. The Guyana Association of Women Lawyers provides free legal services for civil cases only.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for these rights; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were numerous reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking is a problem.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Citizens openly criticize the Government and its policies.

The independent Stabroek News continued to publish daily, and a wide range of religious groups, political parties, and journalists publish a lively variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covers a broad spectrum of political and nongovernmental groups. However, throughout the year the Chronicle typically displayed a clear antiopposition bias.

While printed media flourished, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owns and operates the country's three radio stations. There are no private radio stations, and private interests continued to allege that the Government either denied or failed to respond to more than 20 requests for radio frequency authorizations. The Government maintained that it is unable to grant frequencies to private stations because there is no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there were 17 independent television stations in addition to the government station.

The Ministry of Information, which previously censored the Internet and restricted public access to a variety of sites, lifted these restrictions in January.

In May during civil unrest associated with the civil service strike, a television cameraman alleged that the police beat him and members of a group of strikers who were blocking a wharf.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right. The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if he believes that

it may provoke a breach of the peace. In cases of refusal, applicants can appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which is generally granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

For several days in March, street protests and isolated incidents of violence erupted in Georgetown, following a rally at which PNC leader Hoyte announced that his party would resume a campaign of antigovernment civil unrest. PNC supporters smashed shop windows, looted, and beat persons who were primarily Indo-Guyanese (see Section 5). The Government did not respond forcefully to these incidents.

During a 7-week civil service strike that began in April, the police generally exercised restraint, except on several occasions when they fired tear gas and pellets at strikers and demonstrators. For example, on May 17 police injured 17 strikers when they fired pellets into a crowd see Sections 1.c. and 6.a.).

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

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

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country, and the Government generally respects this right in practice. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. In practice, however, most people travel throughout these areas without regard to the formality of a permit. Citizens are free to travel abroad, to emigrate, and to return.

The Government cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government does not have a fixed policy on refugees or asylum but is studying draft model legislation prepared by the UNHCR. The issue of provision of first asylum did not arise.

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

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

Citizens enjoy this right and exercised it in free, fair, and nonviolent elections held in December 1997, which were nonetheless protested by the opposition. There is a multiparty political system based on proportional representation. Voters directly elect the President to a 5-year term of office, but indirectly elect the unicameral Parliament. Any citizen 18 years or older can register to vote. As a result of opposition complaints of fraud (that international observers considered unfounded) following the December 1997 presidential elections, the ruling party entered an agreement brokered by officials from other Caribbean Community nations to hold new elections after 3 years instead of 5 years as required by the Constitution. Accordingly, the next presidential and legislative elections are expected to be held in January 2001.

The presidential candidate who wins a plurality of the popular vote also obtains a percentage of seats in Parliament equal to the percentage of the popular vote received. The political parties then decide who is to hold the seats. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. Citizens are free to join or support political parties of their choice.

Since Parliament always is controlled by the party in power, the legislature typically provides only a limited check on the executive's power. Party leaders are free to hire and fire parliamentary representatives at will. If a Member of Parliament acts in accordance with constituents' wishes, but against the wishes of the party's leadership, the member risks being dismissed.

Guyana is a racially divided society in which the political party structure polarizes the main ethnic groups. Winner-take-all elections exacerbate these tensions. The two major parties (the PPP and the PNC) are formed largely by Indo-Guyanese and Afro-Guyanese, respectively. In October 1998, a court began hearing testimony in a civil suit filed by the PNC in support of its allegation that the December 1997 election was rigged; however, by year's end, no verdict was reached.

There are no legal impediments to the participation of women or minorities in the political process, but women are underrepresented in government and politics. The 20-person Cabinet includes 2 women, and the country's second-highest judge is a woman. The 72-member Parliament includes 12 women and 10 Amerindians, representing both major parties. In the December 1997 elections, voters elected a female president.

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

The Guyana Human Rights Association, the most active local human rights group, functioned without government interference. The GHRA is an NGO formed in 1979 with the participation of trade unions, professional organizations, various ethnic groups, and churches. It issues periodic press releases and publishes an annual report on human rights in Guyana. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports. The authorities did not interfere with the activities of human rights groups.

In April the Government withdrew from the United Nations Optional Protocol to the International Covenant on Civil and Political Rights, which had permitted death row prisoners to appeal their cases to the U.N. Human Rights Committee. The withdrawal was in response to the Committee's ruling in May 1998 in favor of two convicted murderers who were to be hanged in 1997.

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

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin. However, the Government does not always enforce these provisions effectively.

Women.—Violence against women, including domestic violence, is widespread. Rape, particularly of girls and young women, is common but still infrequently reported or prosecuted. Health professionals and NGO's report a high incidence of incest. Lawyers say that while more victims are reporting these crimes to the authorities, there is still a social stigma applied to the victim for doing so. Despite efforts by NGO's and the Department of Public Prosecutions to sensitize police officers to domestic violence, the police are often hesitant to interfere in cases of domestic disputes.

In 1996 Parliament passed the Domestic Violence Act. In addition to defining domestic violence and establishing it as a crime, the legislation gives women the right to seek prompt protection. Magistrates can issue interim protection orders when a victim of abuse, a police officer, or a social worker fills out an application for protection. A magistrate then evaluates the case and decides whether or not to replace interim orders with permanent orders. The Domestic Violence Act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibit abusers from being anywhere that the applicant lives, works, visits, or attends school. Occupation orders allow the victim and any children to remain at a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders require an abuser to leave a rented dwelling and continue to pay some or all of the rent.

Although local NGO's that address the issue of domestic violence are relatively new, they work effectively together under tight budget constraints. While NGO's consider the Domestic Violence Act a positive step, they claim that it has had little effect on the overall situation of domestic violence in society. NGO's report that domestic violence crosses racial and socioeconomic lines. According to Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, societal reeducation is required in order to sensitize persons to domestic violence. As of July, H&S had counseled 1,768 people since it began offering counseling services in November 1995. H&S reported that 68 percent of its cases involved spousal abuse and 7 percent involved child abuse. Another 10 percent of cases reported to H&S were rape cases, and the vast majority of these—78 percent—were reported by victims age 16 and under.

In 1997 Parliament approved the Antidiscrimination Act, which builds upon the provisions of the 1990 Equal Rights Act. The two laws provide a strengthened framework under which women and minorities may seek redress for discriminatory acts or practices. However, no case has ever been tried under the Equal Rights Act, and critics of the Antidiscrimination Act claim that the new laws are unlikely to be effective since the act places enforcement responsibilities on the overburdened Chief Labor Officer. There is no legal protection against sexual harassment in the workplace. Legislation prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds does not occur in practice. The Women's Affairs Bureau of the Ministry of Labor, Human Services, and Social Security monitors the legal rights of women. The Women's Leadership Institute was established by law in December 1997 and opened in February 1999. The center seeks, through education and training, to facilitate greater women's participation in government and the private sector. The center plans to train an average of 350 women annually on issues such

as women's rights, status of women, violence against women, and leadership development.

Legislation passed by Parliament in 1990 protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by consent remains illegal. Legislation also gives authority to the courts to overturn a man's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

Children.—At least half of the population lives in poverty, and children are affected more severely than any other group. One-third of the population is under 18 years of age and, although the Government provides free education through secondary school, the severe deterioration of the public education and health care systems has limited children's future prospects. The public health system is inadequate, and private health care is unaffordable for many children. Children are often not given the opportunity to attend school because their families need them to contribute to the household by working or providing child care.

Concern continues to rise over the effects of domestic violence on children. Although the GHRA reported no deaths from child abuse in 1999, law enforcement officials stated that the vast majority of criminal child abuse cases went unreported. Media reports of rape and incest further indicated that violence against children is a significant problem. According to the U.N. Children's Fund (UNICEF) office, a disturbing aspect is the concept of the "girl child," in which teenage girls trade sexual favors for money, a practice condoned by their parents yet obscured by cultural norms. In a related practice, parents demand monetary compensation following the rape of a teenage daughter.

The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child. However, the administration of justice for children is characterized by a lack of social services or trained experts to deal with children fleeing sexual, physical, or emotional abuse. Many children suffer from neglect or abandonment in a society where 3 percent of the population emigrates each year, often leaving children behind.

People with Disabilities.—The lack of appropriate infrastructure to provide access to both public and private facilities makes it very difficult to employ the disabled outside their homes. There is no law mandating provision of access for people with disabilities. In December 1997, Parliament passed a law establishing the Council for Persons with Disabilities, although the Council has yet to begin its activities. There are several special schools and training centers for the disabled, but they lack trained staff and are in disrepair.

Indigenous People.—The Amerindian population, which consists of nine tribal groups, constitutes an estimated 8 percent of the population. Most live in reservations and villages in remote parts of the interior. Their standard of living is much lower than that of most citizens and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources is limited.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. The act gives the Government the power to determine who is an Amerindian and what is an Amerindian community, to appoint Amerindian leaders, and to annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian can accept formal employment. These provisions are not enforced. Both Amerindian individuals and groups remain free to criticize the Government. In 1998 the Ministry of Amerindian Affairs admitted that the Amerindian Act is antiquated and expressed a commitment to update it, although it has taken no action to do so.

The Government has long maintained that it is committed to demarcating lands that traditionally have been the home of Amerindians. However, the Government holds title to almost all the nation's land and is free to act as it wishes without consultation. The Government identified a total of 75 villages and reported that it successfully demarcated the lands of 11 Amerindian communities in 1998. The Ministry of Amerindian Affairs claimed that, in close consultation with Amerindian leaders, it would demarcate a total of 40 additional villages by the end of 1999; however, while a handful of village leaders has accepted these new titles, most leaders rejected the demarcations. Local Amerindian NGO's regarded government consultations as mere public relations exercises and demarcation as a means of confining Amerindian communities so that the rest of what Amerindians considered to be their land could be offered as concessions to miners and loggers. (Most of the titles to demarcated land were granted decades ago under the Amerindian Act and did not allow for the growth of Amerindian communities.) The Amerindian NGO's claimed that Amerindian leaders were not consulted properly and were pressured

into uninformed decisions. The Government maintained that it would consider granting additional land rights to those communities that agreed to have their lands demarcated in 1999. However, as of year's end, the Government had taken no action to do so.

National/Racial/Ethnic Minorities.—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Historical patterns of social organization have resulted in social and political organizations coalescing around ethnic groups. This pattern of racial and ethnic grouping has become politicized over the years, polarizing society along ethnic lines. Discrimination and exclusion continue to occur. Members of both the largely Indo-Guyanese PPP and the largely Afro-Guyanese PNC engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and defense and police forces are overwhelmingly staffed by Afro-Guyanese. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally have met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service. However, in the aftermath of the 1997 election, the Government stepped up its efforts to recruit Indo-Guyanese for the security forces. The Chief of Staff of the Guyana Defence Force is Indo-Guyanese, and there are other Indo-Guyanese officers in both the GDF and the police force. The Government sponsored various forums for discussion of racial problems and to promote inclusion. It supported the work of NGO's that deal with these concerns.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, was passed in late 1997 and came into effect in 1999.

Approximately 34 percent of the work force is unionized. Most union members work in the public sector and in state-owned enterprises. Organized labor freely associates in one major national federation, the Guyana Trades Union Congress (TUC), which is composed of 22 unions. There is a tradition of close ties between the trade union movement and political parties.

Historically, the two major political parties have wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. This occasionally led to overt politicization of labor issues. For example, the Guyana Public Service Union organized a strike of customs employees in November 1998, with explicit political support from the opposition PNC.

Workers have a generally recognized right to strike. Strikes can be declared illegal if the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeletal staff in place.

A particularly divisive civil service strike over low wages began in April and lasted 7 weeks. There was a report that police beat strikers in May (see Section 2.a.), and police fired tear gas and pellets at protesters (see Section 2.b.). The strike ended on June 20 with an agreement to send the salary increase issue to binding arbitration. On August 31, a civil service arbitration panel awarded civil servants an across-the-board 31 percent increase for 1999 and an additional 26 percent increase in 2000. The Government said it would abide by the arbitration panel's decision. However, by the end of the year, the Government had yet to pay the salary increase due to lack of funds.

There is no legislation prohibiting retaliation against strikers or antiunion discrimination by employers. However, this principle always is included in the terms of resumption after a strike. The new Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers. Arbitration rulings, when agreed to by the contending parties, are legally enforceable.

Unions and their federations freely maintain relations with recognized Caribbean and international trade union and professional groups. All three of the major international trade union federations have affiliates in Guyana.

b. *The Right to Organize and Bargain Collectively.*—Public and private sector employees possess and utilize the right to organize and to bargain collectively. The Ministry of Labor certifies all collective bargaining agreements and has never refused to do so. Until enactment of the new recognition law, however, this right was not codified, and employers legally were not required to recognize unions or to bargain with them.

Individual unions directly negotiate collective bargaining status, pursuant to the 1993 repeal of a regulation that required that all collective bargaining be negotiated through the TUC. Unions are dissatisfied with a provision granting the Ministry of Finance veto power over wage contracts negotiated by other ministries.

The Chief Labor Officer and the staff of the Ministry of Labor provide consultation, enforcement, and conciliation services.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there is no indication that it occurs. The Government prohibits forced or bonded labor by children and enforces this prohibition effectively.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children. Legally, no person under age 14 may be employed in any industrial undertaking and no person under age 16 may be employed at night, except under regulated circumstances. The Government prohibits forced or bonded labor by children, and enforces this prohibition effectively. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed. However, it is common to see very young children engaged in street trading in the capital. While cognizant of the situation, the Ministry of Labor does not employ sufficient inspectors to enforce existing laws effectively. According to UNICEF, child labor in the informal sector is a problem, as is the practice of teenage girls trading sexual favors for money (see Section 5).

e. *Acceptable Conditions of Work.*—The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers. However, there is no legislated private sector minimum wage. The minimum public sector wage is $63 (g$9,700) per month. As a result of a civil service arbitration panel ruling in August, the Government agreed to increase civil service salaries by 31 percent, but as of December 31, it had yet to do so due to lack of funds. Although enforcement mechanisms exist, it is difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, are often paid less than what is legally required. The legal minimum wage for the public sector is insufficient to provide a decent standard of living for a worker and family.

The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general, work in excess of an 8-hour day or a 44-hour week requires payment of an overtime rate. However, if the initial contract stipulates a 48-hour workweek, then the overtime rate applies only for hours worked in excess of 48 hours. The law does not provide for at least a 24-hour rest period.

The Factories Act also sets forth workplace safety and health standards. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers cannot remove themselves from dangerous work situations without jeopardizing continued employment.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, but persons providing fraudulent documents for the purpose of facilitating illegal immigration can be charged with obtaining money under false pretenses, which carries a small fine and a 6-month prison sentence. There were occasional reports of trafficking in persons of Chinese and South Asian origin, who would illegally immigrate to the United States, under conditions amounting to debt bondage.

HAITI

Haiti was in a constitutionally irregular situation throughout the year. Prime Minister Jacques Edouard Alexis, appointed in December 1998, completed only the first stage of the required two-part ratification process. The terms of office of the entire 85-seat House of Deputies and all but 9 of the 27 members of the Senate expired on January 11. Before Alexis could submit his Cabinet and plan of government to Parliament for approval as required by the 1987 Constitution, President Rene Preval announced that he would not recognize Parliament's decision to extend its incumbents' mandates until new elections could be held. This effectively dissolved the Parliament on January 11, leaving the country without a functioning legislative branch of government or any duly elected officials apart from President Preval and eight remaining senators. In March, after negotiations with a five-party opposition coalition, Prime Minister Alexis formed a cabinet. However, due to the

absence of a parliament, the new ministers took office without being confirmed. At year's end, there were plans to hold a first round of parliamentary elections in March 2000, a second round in April, and presidential elections in December. The judiciary is theoretically independent; however, in practice it remained largely weak and corrupt.

In September 1994, a U.N.-sanctioned multinational force restored the country's democratically elected president. The Armed Forces of Haiti (FAd'H) were subsequently disbanded. At that time, the Government established the Haitian National Police (HNP), which continues to gain experience and to benefit from international training and advisors, although it has severe attrition problems. Moreover, it remains an immature force that is still grappling with problems of corruption and human rights abusers within its ranks. Allegations of corruption, incompetence, and narcotics trafficking target members at all levels of the force. The HNP has a variety of specialized units, including a crisis response unit, a crowd control unit (CIMO) serving Port-au-Prince and the Western department, crowd control units (UDMO's) serving each of the remaining eight departments, a presidential and palace security unit, an 81-officer Coast Guard unit, and a Special Investigative Unit (SIU). The SIU was formed to investigate high-profile political killings but is ill-equipped, inexperienced, and has made limited progress on its cases. Some members of local government councils (CASEC's) exercise arrest authority without legal sanction. Members of the HNP and other security forces committed some serious human rights abuses.

The mandate of the U.N. Police Mission in Haiti (MIPONUH), which advised and trained the HNP, is currently set to expire on March 15, 2000. The United Nations plans to replace that mission with a civilian follow-on technical assistance program.

Haiti is an extremely poor country, with a per capita annual income of around $400. This figure probably does not fully include significant transfers from the over 1 million Haitians living abroad, as well as income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling telecommunications and utilities. The Government had proposed a broad plan for privatization of state-owned enterprises. However, aside from the sale of two previously closed enterprises, the process has come to a halt. A small elite controls much of the country's wealth. Accurate employment statistics are unavailable. About two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small part of the urban labor force works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are a source of limited export revenue and employment. Other important exports are mangoes and coffee. The Government relies heavily on international assistance.

The Government's human rights record was generally poor, and its overall effort to respect the human rights of its citizens was marred by serious abuses and shortcomings in oversight. The HNP's tendency to resort to excessive force resulted in a sharp increase in extrajudicial killings. Police were linked to several disappearances. Police continued to beat, at times torture, and otherwise mistreat detainees. While some HNP members were fired and some were incarcerated for human rights abuses, methodical investigations and prosecutions are rare, and impunity remains a problem. Poor prison conditions, arbitrary arrest and detention, and prolonged pretrial detention also remained problems. However, instances of brutality in prisons decreased during the year. The judiciary remained plagued by understaffing, inadequate resources, and corrupt and untrained judges. Judicial dockets remain clogged, and fair and expeditious trials are the exception rather than the rule. The judiciary is not independent in practice, and in at least 22 cases the executive branch detained persons in defiance of release orders issued by judges. Security forces carried out illegal warrantless searches. Most media practice some self-censorship; however, the press frequently is critical of the Government. Due to the nation's political crisis, citizens were unable to vote for representatives to Parliament. Violence against women, societal discrimination against women, and government neglect and abuse of children remain problems. The widespread practice of rural families sending young children to the larger cities to work as unpaid domestics (restaveks) also is still a problem. Child labor persists. Vigilante activity, including killings, remained a common alternative to formal judicial processes.

The Government's effort to redress the legacy of human rights abuse from the 1991–94 period was slightly more successful than in previous years. The 4-year investigation into the Raboteau massacre was completed in September, an indictment was issued, and by the end of the year, the case was moving towards trial. In July the Ministry of Justice disbursed about $1,700 (27,000 gourdes) in reparation money to 914 victims of the 1993 Cite de Soleil fire, which reportedly was set by the para-

military Front for the Advancement and Progress of Haiti (FRAPH). Otherwise, no significant progress was made in addressing other human rights violations or political killings dating from the Duvalier, de facto, or post-intervention periods.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Members of the HNP committed extrajudicial killings. Most of the HNP killings were due to the use of excessive force, police confrontation with armed suspects, or armed confrontations involving off-duty officers. Credible reports of such killings by HNP members compiled by the UN/OAS International Civilian Mission in Haiti (MICIVIH) increased sharply in 1999. At year's end, 66 such reports had been received compared with 31 in 1998. MICIVIH also received credible reports that HNP officers participated with civilians in vigilante-style killings.

The most egregious single instance of extrajudicial killing was the summary execution by HNP officers in the presence of the Port-au-Prince police chief of 11 men on May 28 in the Port-au-Prince neighborhood of Carrefour-Feuilles. The killings occurred when residents called the police to respond to bandit activity. After the killings, the authorities arrested six police officers. Former Port-au-Prince police chief Coles Rameau fled to the Dominican Republic following the executions; however, he was apprehended at the Santo Domingo airport and returned to Port-au-Prince where he remained in custody at year's end. A special three-magistrate committee was formed to investigate the case; the investigation was still underway at year's end.

On January 8, an off-duty HNP member shot and killed a man following a traffic dispute in Cap Haitien. The officer was arrested but released by an examining magistrate on February 10 on the grounds that there were "many other considerations." On March 7, an off-duty policeman in Thomonde shot and killed a youth he suspected of taking his wallet. He was arrested but charged only with "theft of a weapon." In June a Port-de-Paix policeman crushed with a rock the head of a suspect he had just arrested. A prosecutor determined that the policeman acted in self-defense, despite independent inquiries that found that he had used excessive force. On April 19, HNP officers shot and killed Hypolite Elysee who was alleged to have been the leader of a gang that killed a CIMO agent and four other youths in the Fontamara area of Port-au-Prince 10 days earlier. HNP officials stated that Elysee opened fire first and that an HNP officer fired back, killing him; the authorities did not investigate this case. On April 20, two HNP officers killed Michelson Jean Philippe Guillame in Port-au-Prince. Guillame was a Fanmi Lavalas (former President Jean Bertrand Aristide's political party) coordinator, and his murder sparked a large pro-Lavalas demonstration and rumors that the killing was politically motivated. The HNP opened an investigation into the killing; however, the case remained unsolved at year's end. In June the authorities detained two Port-au-Prince police officers in connection with the fatal shooting of a man in Les Cayes on May 30. Also in May, police shot and killed a suspected gang member. During a June shootout between the HNP and an armed suspect in Ferrier, stray bullets killed a passer-by. Although the HNP concluded that the latter case was an accident, it paid for the victim's funeral expenses.

In early June, recent skeletal human remains were found at Titanyen (near Croix des Missions), an area that often had served as a dumping ground for bodies of victims of political killings during the Duvalier and military eras. The HNP's forensic unit removed the remains with the assistance of foreign experts. Preliminary findings link some of the remains with an April incident in which HNP officers allegedly arrested eight teenage associates of the gang leader, Hypolite Elysee, who HNP agents killed in April. Despite the efforts of their families to find them at police stations, prisons, and the morgue the youths were not located (see Section 1.b.). The HNP opened an investigation into the case in June; at year's end the investigation remained open.

At least one extrajudicial killing occurred when a suspect was in police custody. On April 13, HNP officials detained Felix Lamy in the Camp Perrin police station and severely beat him before transferring him to Les Cayes prison where he died. The authorities subsequently placed the HNP agent responsible for the beating in disciplinary custody.

The prison system experienced food shortages, and there were at least four deaths due to malnutrition (see Section 1.c.).

The 4-year investigation into the 1994 Raboteau massacre was completed in August, resulting in the dismissal of charges against 8 suspects and the indictment of 22 others, including former military leader Raul Cedras, who was indicted in

absentia. Most of those indicted appealed; at year's end a ruling of the appeal was pending.

There were two killings that were widely regarded as politically motivated, although the HNP never solved them. On March 1, an unknown person shot OPL Senator Yvon Toussaint at close range. Toussaint's murder occurred at a high point of tension between the executive branch and members of the OPL over dissolution of the Parliament. Toussaint reportedly was followed and threatened in the days before the attack. Following the Toussaint killing, several other OPL parliamentarians were attacked and reported receiving death threats (see Section 1.c.). The HNP identified a suspect in the killing who was believed to have left the country. At year's end, the case remained unsolved.

The second killing occurred on the evening of October 8, when Jean Lamy, an advisor to the HNP and longtime political ally of former President Aristide, was shot and killed. This murder occurred the day after State Secretary for Public Security Robert Manuel resigned reportedly after a long campaign by groups associated with Fanmi Lavalas to secure his removal. Lamy's funeral was the venue for a demonstration by self-professed Aristide supporters. The killing remained unsolved at year's end.

Extrajudicial killings often take the form of vigilante actions. Most such incidents occurred without official complicity; however, MICIVIH reported credible evidence that certain so-called vigilance brigades were engaging in vigilante activities with the approval and even cooperation of the HNP and CASEC's. For example, vigilance brigades that consisted of police officers and civilians were responsible for 16 killings and 4 disappearances (see Section 1.b.) in May and June in the Bois Neuf area of Cite Soleil. MICIVIH also received reports that the HNP condoned the activities of the "Brigade Fort St. Claire," one of Port-au-Prince's most infamous vigilante groups. On April 11, this group seized a man in the emergency waiting room of a Port-au-Prince hospital and lynched him.

Especially in rural areas where there is little or no police presence, the populace routinely resorts to lynching in the absence of reliable means of legal redress. Angry mobs often killed suspected thieves, bandits, murderers, rapists, and sorcerers, usually by assault with machetes, stoning, beating, or burning. MICIVIH recorded 76 fatalities in 48 separate lynchings during the year. However, the actual number of lynchings probably is far higher given the pervasiveness of the practice in remote rural areas. In several cases, HNP intervention prevented lynchings. In incidents in Mole St. Nicolas and Trou du Nord, HNP members attempted but failed to prevent lynchings. In one incident in Camp Coq, a mob seized an accused criminal during a hearing before the justice of the peace.

b. *Disappearance.*—In April HNP officers allegedly arrested eight teenagers who disappeared following their arrests. The HNP's forensic unit linked some of the skeletal human remains found at Titanyen to the teenagers (see Section 1.a.).

MICIVIH reported that four persons from the Bois Neuf area of Cite Soleil disappeared on May 17. Several persons reported seeing members of a vigilante brigade chasing these individuals before their disappearance. Family members of the four attempted to find their bodies; however, they did not succeed in finding them by year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continue to violate these provisions. Police officers used excessive—and sometimes deadly—force in making arrests or controlling demonstrations and rarely were punished for such acts. Police frequently beat suspects. There were sporadic instances of torture and other forms of abuse.

In interviews with prisoners, MICIVIH registered fewer allegations of police brutality in 1999 than in 1998. MICIVIH recorded 342 such allegations, compared with 423 in 1998. Nevertheless, police mistreatment of suspects, at both the time of arrest and during detention, occurs in all parts of the country. Beating with fists, sticks, and belts is by far the most common form of abuse. However, MICIVIH documented other forms of mistreatment, including burning with cigarettes, choking, hooding, and kalot marassa (severe boxing of the ears, which can result in eardrum damage). Those who reported such abuse often had visible injuries consistent with the alleged mistreatment. There also were isolated allegations of torture by electric shock, although MICIVIH was unable to verify these. Mistreatment also sometimes takes the form of withholding medical treatment from injured jail inmates. During the year, MICIVIH registered particular concern about police brutality in Cap Haitien, Petit-Goave, Petionville, Cite Soleil, and the Cafeteria precinct of Port-au-Prince. Police rarely are prosecuted for the abuse of detainees.

There were credible allegations of the use of excessive force on the part of the CIMO and UDMO crowd control forces. On February 2, CIMO members reportedly used excessive force in breaking up a demonstration of Cite Soleil residents at the National Palace. In May HNP officers were filmed beating four journalists who were covering a rally against crime and violence attended by several thousand persons (see Sections 2.a. and 2.b.). A CIMO agent reportedly assaulted a reporter and confiscated his camera during a June 24 disturbance at the "Lafamni Selavie" orphanage (see Section 2.a.). In Cap Haitien on February 8, UDMO personnel reportedly used excessive force in breaking up a student demonstration.

The Government's record of disciplining police officers implicated in these offenses is mixed. As of the end of September, at least 58 HNP officers were in prison on a variety of charges. The authorities charged 11 of these officers with human rights violations. However, more frequently the HNP simply discharged officers caught committing flagrant abuses. During the year, MICIVIH registered concern over several cases in which the authorities treated police officers accused of human rights violations with undue leniency. In Cape Haitien, the Ministry of Justice first ordered the transfer of an investigating magistrate and then fired him, for attempting to bring a police officer to trial on apparently well-founded charges of assault. A government prosecutor found that the Port-de-Paix policeman who smashed a suspect's head with a rock (see Section 1.a.) acted in self-defense, despite the conclusion of MICIVIH and an internal police inquiry that it was obviously a case of excessive force. The policeman returned to active duty.

There continued to be sporadic instances of brutality on the part of local officials exercising unauthorized law enforcement functions. Especially in rural areas, MICIVIH has documented brutality by members and agents of local government councils, who tend to assume an illegal law enforcement role in the absence of a regular police presence. In the past, unofficial security forces controlled by mayors also committed human rights abuses; however, there were no reports that this occurred during the year.

In September four Haitians living in France filed lawsuits against former President Jean-Claude Duvalier, charging him with crimes against humanity while they were imprisoned and tortured during his 1976–86 rule.

Following the murder of OPL Senator Toussaint, several OPL senators and deputies were attacked and some reported receiving death threats. On March 15, OPL Senator Yrvelt Chery reported that shots were fired outside his gate. In April OPL deputy Vionette Wilner Raphael reported that his house was sprayed with bullets and that his official car was set on fire. Both Chery and Raphael alleged that they were targeted for being part of the opposition OPL. On April 22, three OPL parliamentarians, including Wilner, asked for and received temporary refuge at the Chilean Embassy claiming that their lives were in danger; they subsequently left the country. On September 5, unknown individuals fired at OPL spokesman Saveur Pierre-Etienne while he was driving towards Port-au-Prince (see Section 3).

On April 26, unidentified persons fired shots at or near the house of former OPL deputy Lorraine Casimir; she allegedly had been receiving telephone threats since before January 11. On May 5, unknown individuals vandalized Casimir's home. HNP officers reported that these attacks occurred because of a personal dispute; however, OPL leaders claimed that they were actually part of a systematic campaign to intimidate OPL parliamentarians.

On March 8, Pierre Esperance, Director of the National Coalition for Haitian Rights (NCHR) and treasurer of Platform of Haitian Human Rights Organizations (POHDH) was shot and wounded in Port-au-Prince. For weeks before this attack, both the NCHR and the POHDH received a number of threatening phone calls and leaflets, and the POHDH issued a press release on March 1 alleging that the threats were condoned officially. The HNP's investigation of this shooting remained unresolved at year's end (see Section 4).

On September 4, an explosive device detonated at the Chamber of Commerce and Industry. The blast did not injure anybody and only damaged the building slightly. Some members of the media characterized the bombing as part of an attempt to intimidate members of the private sector to stop rallying against lawlessness and poor governance. Members of the Chamber alleged that the attack was connected directly to pro-Lavalas threats against its president, Oliver Nadal.

Several sites related to the forthcoming elections were vandalized, and unidentified persons set fire to electoral offices in various locations. In the Grand'Anse, police failed to respond to acts of intimidation against election offices and against candidates from parties other than the locally-strong KOREGA party (see Section 3).

Prison conditions remained very poor. The new Penitentiary Administration Management (DAP), with the support of the International Committee of the Red Cross (ICRC), the UNDP, and MICIVIH, struggled to improve conditions in the country's

prisons. Prisoners and detainees, held in overcrowded and inadequate facilities, continued to suffer from inadequate basic hygiene, poor quality health care, and 24-hour confinement to cells in some facilities. Several prisons experienced water shortages. At year's end, the country's 17 prisons held 3,797 prisoners, an increase of about 300 over 1998. In March the Government improved facilities at the main penitentiary in Port-au-Prince by adding space for an additional 600 inmates; however, overcrowding remained a problem.

The prison system experienced food shortages, and there were at least four deaths due to malnutrition. Many prisons were only able to supply one (as opposed to the required two) meals a day to inmates. Most severely affected were inmates whose diet was not supplemented by food brought by family members. A team of physicians who examined 217 inmates of Port-au-Prince's National Penitentiary found that 153 were suffering some degree of malnutrition and that 40 detainees were severely malnourished and not receiving proper medical care. The ICRC also found malnutrition in Gonaives prison, where there were three malnutrition-related deaths in early June. In Fort Liberte and Les Cayes, inmates organized demonstrations to protest the food shortage. The ICRC began a nutrition program in Gonaives, and a food center was set up at the National Penitentiary to address this problem. As an additional measure, DAP hired supervisors in four prisons with the sole responsibility of managing the food stocks. Despite these efforts, the ICRC found at year's end that 18 percent of inmates at the National Penitentiary suffered from malnutrition.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from the men. However, overcrowding often prevents strict separation of juveniles from adults, convicts from those in pretrial detention, or violent from nonviolent prisoners.

MICIVIH statistics indicated a decline in reports of mistreatment of inmates by DAP guards. However, abuse in the form of beating, slapping, and other degrading treatment continued. DAP took disciplinary action against a handful of guards implicated in these abuses. In January the director of the National Penitentiary, as a measure to prevent abuse, ordered that the guards no longer routinely be issued batons.

In June the Government approved regulations for acceptable prison conditions and disciplinary guidelines for inmates after a 2-year delay. Following government approval of these regulations, conditions improved slightly.

In the past, persons detained in politically sensitive cases often were kept in police station holding cells, rather than in regular prison facilities. These and other holding-cell detainees depended largely on their families for food and medicine. In some cases, police officers used their personal funds to buy food for such persons. There were no reports that this occurred during the year.

The authorities freely permitted the ICRC, the Haitian Red Cross, MICIVIH, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners with medical care, food, and legal aid. The Director General of the HNP and the State Secretary for Public Security cooperated with MICIVIH.

d. *Arbitrary Arrest, Detention, or Exile.*—The HNP continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a judicial warrant has been issued. Judicial warrants cannot be executed between 6:00 p.m. and 6:00 a.m. The authorities must bring the detainee before a judge within 48-hours of arrest. In practice, the authorities frequently ignored these provisions. There were instances of arrests by security forces and local officials lacking the authority to do so. In particular, arrests by mayors and members of CASEC's occurred in underpoliced rural areas. Furthermore, MICIVIH has documented cases in which both children and adults have been imprisoned without a hearing simply because their parents requested this of a judge.

The requirement that a detainee be brought before a judge within 48 hours of his arrest was disregarded routinely in certain police jurisdictions, according to MICIVIH. Although the 48-hour rule is violated in all parts of the country, it is ignored most flagrantly in Jeremie, Cap Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. In Petionville, MICIVIH documented 50 cases in the month of September alone in which this rule had been violated. Moreover, arrests sometimes are made on charges (for example, sorcery or debt) that have no basis in law. The authorities also detained some persons on unspecified charges or "pending investigation."

The authorities continued to detain persons in defiance of valid orders for their release issued by judges. MICIVIH expressed "extreme concern" at these cases and described the handling of them as "completely arbitrary and illegal." This practice

disproportionately affected prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes. However, suspected narcotics traffickers and other criminals also were included. At year's end, there were 22 prisoners held in defiance of valid release orders, including Thomas Asabath, Leoncefils Ceance, Steve Conserve, Bertrand Constant, Akis Deronette, Calero Bibas Fabien, Meradieu Faustin, Jean-Louis Henry, Robert LeCorps, Jean-Robert Lherisson, Rilande Louis, Leonard Lucas, Pierre Luckner, Georges Metayer, Alexandre Paul, Claude Raymond, Jean-Michel Richardson, and Jean Enel Samedi. During the months of October and November, 20 prisoners, including 2 who were being held in defiance of valid release orders, staged a hunger strike at the National Penitentiary to protest their plight. All of the strikers had been detained for at least 440 days and no trial date had been set in at least half of the cases. Minister of Justice Leblanc acknowledged that this practice was a problem and formed a commission to report to him on the matter. The commission does not have the authority to release the detainees; however, Minister Leblanc stated that he would abide by any recommendations to release them. The October reassignment of a state prosecutor who had acknowledged following political directives led to the release of some of the hunger strikers on humanitarian grounds.

As in previous years, the dysfunctional judicial system resulted in pervasive prolonged pretrial detention, with an estimated 80 percent of the country's prisoners awaiting trial. The problem is most extreme in Port-au-Prince. A February compilation of statistics on these cases by MICIVIH showed that of 3,090 prisoners, 1,172 have been held for more than 1 year. Of these, 775 had been held between 1 and 2 years, 287 had been held between 2 and 3 years, and 110 had been held for more than 3 years. Sometimes the charges in these lengthy detentions are minor. MICIVIH found one case in which a man had been imprisoned in the National Penitentiary since 1996 awaiting trial for theft of a portable tape recorder. Another inmate has been in prison since 1996 for suspected theft of a pair of pants.

Justice Minister Leblanc has announced that he accords resolution of the problem of pre-trial detentions high priority, has reorganized the Port-au-Prince prosecutor's office, and has attempted to implement a more rigorous schedule for hearings for correctional and criminal affairs. However, resolution of the problem awaits thorough judicial reform at all levels of the penal chain: Police, justices of the peace, prosecutors, investigating magistrates, trial judges, and prisons (see Section 1.e.).

Police in some instances attacked and detained journalists (see Sections 1.c. and 2.a.).

The Constitution prohibits involuntary exile of citizens, and there were no reports of its use.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it is not independent in practice. Years of rampant corruption and governmental neglect have left the judicial system poorly organized and nearly moribund. The Constitution sets varying periods of tenure for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercises appointment and administrative oversight of the judiciary, prosecutors, and court staff. The Ministry of Justice can remove justices of the peace and occasionally dismisses judges above this level as well.

At the lowest level of the justice system, the justices of the peace issue warrants, mediate cases, adjudicate minor infractions, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first-instance courts. Appeals court judges hear cases referred from the first-instance courts, and the Supreme Court deals with questions of procedure and constitutionality.

The judicial apparatus follows a civil law system based on the Napoleonic Code dating from 1832, with few subsequent amendments. The Constitution provides for the right to a fair public trial; however, this right was widely abridged in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate persons charged with a crime unless the suspect has legal counsel or a representative of his of her choice present or waives this right. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide legal aid, many interrogations without counsel occur. All defendants are entitled to representation by counsel during trials; however, in practice many defendants are unrepresented at trial. Defendants enjoy a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence on their own behalf, and the Government respects these rights in practice.

A shortage of adequately trained judges and prosecutors, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date. The problem of case backlogs is related to the general shortage of qualified judges, prosecutors, and justices of the peace. Judges and other judicial officials lack the basic resources (such as office space, legal reference texts, and supplies) necessary to perform their duties. Professional competence sometimes is lacking as well; illiterate judges are not unheard of. If an accused person ultimately is tried and found innocent, there is no redress against the Government for time served in detention.

The Code of Criminal Procedure does not clearly assign responsibility to investigate crimes and divides the authority to pursue cases among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often receive dossiers that are empty or are missing police reports. Autopsies only rarely are conducted, and reports are even more rare. The code provides for two criminal court sessions (assizes) per year in each of the 15 first-instance jurisdictions, each session generally lasting 2 weeks, to try all major crimes requiring a jury trial. During the year, the Port-au-Prince jurisdiction—by far the largest in terms of caseload—failed to adhere to this stipulation due to difficulties in assembling a jury. The first criminal assizes since July 1998 occurred in Port-au-Prince in December.

The Prime Minister and Justice Minister have acknowledged openly the justice system's many failings and have developed a plan for judicial reform. Justice Minister Leblanc has demonstrated a relatively energetic and imaginative approach to his portfolio, although due to the vastness of the problems at hand and a lack of resources, the year was devoted largely to setting priorities and laying the groundwork for reform. Some of Leblanc's priorities included improving communication between the jurisdictions to the ministry, enforcing judicial decisions, and making justice more accessible by providing judges with cars to enable them to travel into their districts. Leblanc also created seven working groups to study a range of problems relating to the administration of justice. Their findings are to be used to develop implementing legislation for the judicial reform bill passed by Parliament in 1998.

In September the new Magistrates' School (whose first class graduated in 1998) held admission examinations for its next class. A total of 140 candidates took the examination, from which a class of 40 was selected; they started a 1-year training program in November. The Magistrates' School also held training seminars for 120 justices of the peace with the goal of improving their professional skills.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements conducted illegal warrantless searches. The police reportedly arrested family members of wanted persons when the suspects themselves could not be found.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights. Print and electronic media from opposite ends of the political spectrum often criticize the Government. However, most media practice a modest degree of self-censorship, wary of offending sponsors or the politically influential.

There are two daily French-language newspapers in the country, Le Nouvelliste and Le Matin, with a combined circulation of less than 15,000. Print media in Creole is limited due to regional variations and the lack of a consistent orthography; however, many newspapers include a page of news in Creole. Both daily newspapers frequently are critical of government policies.

With a literacy rate of only about 20 percent, broadcast media, especially Creole-language radio, have an unusual importance. Over 200 independent radio stations exist, including about 40 in the capital alone. Most stations carry a mix of music, news, and talk show programs, which many citizens regard as one of their only opportunities to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite television is available; however, its impact is limited as most persons do not have access to television due to financial constraints. Broadcast media tend to criticize the Government less than the written press but freely express a wide range of political viewpoints.

On May 28, during a rally against crime and insecurity organized by the Chamber of Commerce, police and CIMO crowd control forces were filmed beating four journalists and seizing their cameras and film (see Sections 1.c. and 2.b.). In protest about 150 journalists demonstrated in front of the HNP commissariat on the Champs de Mars on June 7. The police authorities formally apologized; however, no charges were brought against them.

On June 24, a CIMO agent reportedly assaulted a journalist from the newspaper Haiti en Marche and confiscated his camera and press card(see Section 1.c.). The journalist was covering an incident in which 40 youths invaded their former Aristide Foundation-run orphanage; the youths threw stones at the orphanage management and police personnel claiming that they were promised jobs and places of residence that never materialized.

On April 27, the HNP arrested Leslie Fareau Bonny, director of Radio Timoun for possessing anti-HNP leaflets. HNP officials charged him with inciting to riot and defamation. On April 28, Bonny was released from prison.

Radio Vision 2000, which is known for its opposition to the Government, has engaged in a long-running dispute with Conatel, the Government's communications regulatory authority. In October unknown persons fired shots through the front windows of the station. One week later, the director of Conatel ordered Radio Vision 2000 to disconnect its satellite, which he declared illegal; however, station officials asserted that this was harassment by Conatel. The station was able to continue operations when a magistrate refused to approve the agency's actions.

Foreign journalists generally circulated without hindrance from the authorities.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities generally respect this right in practice. A variety of organizations were able to exercise this right without hindrance. Large and generally peaceful demonstrations occurred frequently throughout the year to protest the dissolution of Parliament, to decry increasing political violence, and to express dissatisfaction with a variety of economic issues.

At the May 28 rally organized by the Chamber of Commerce, HNP officers were filmed beating four journalists and confiscating their photography equipment (see Sections 1.c. and 2.a.). At the same demonstration, HNP officials failed to intervene as counterdemonstrators, many of who reportedly were linked to populist groups associated with the Fanmi Lavalas party, violently disrupted the event.

On October 24, demonstrators shouted pro-Aristide slogans and threw chairs and bottles of urine to disrupt a rally organized by the Provisional Electoral Council (CEP) to launch its preelection civic education campaign. The agitators succeeded in breaking up the rally. The HNP was not present at the event and, although a police station was nearby, they did not arrive to restore order after the violence began. The HNP subsequently asserted that the police leadership had not been given proper notice of the rally. President Preval, spokesmen of political parties, including Fanmi Lavalas, as well as MICIVIH, criticized the demonstrators' actions. Police handling of two subsequent rallies showed improvement.

In several cases, HNP officers used tear gas in order to control demonstrations. At a student demonstration in March, police officers used tear gas to disperse the crowd. In June protesters at the funeral of the 11 men executed by the HNP threw stones at HNP officers; police personnel shot into the air and used tear gas to quell the demonstration.

In February private security guards wounded several persons at a demonstration protesting recent cutbacks in electricity service.

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

c. *Freedom of Religion.*—The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government respects this right.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government respects the right of freedom of movement within the country, to travel, to emigrate, and to return.

An unknown number of undocumented migrants put to sea seeking better economic opportunities in other countries. The Government operated, with international support, a national migration office to assist citizens involuntarily repatriated from other countries, notably the Dominican Republic and the Bahamas. In November mass repatriations of about 15,000 Haitian nationals by the Dominican Republic military created a crisis in Haitian-Dominican relations. About 25 percent of those repatriated returned to their hometowns, while the remainder either returned to the Dominican Republic or were waiting to do so at year's end. There were reliable reports of separation of families and mistreatment of Haitians by Dominican soldiers during this episode.

The Government has no policy regarding foreign nationals seeking refuge or asylum from third countries. The question of provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

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

The Constitution provides for regular elections for local and parliamentary offices and for the presidency, and President Rene Preval, who was elected in late 1995 in an election regarded by the international community as free and fair, continued in office. However, due to the nation's political crisis, citizens were unable to vote for representatives to Parliament.

Constitutional order has been eroded by the prolonged political crisis that was touched off by the flawed local and parliamentary elections of April 1997 and Prime Minister Rosny Smarth's subsequent resignation. A stalemate between the President and Parliament, which was dominated by members of the opposition OPL, over the approval of a successor continued through 1997 and most of 1998, preventing the organization of parliamentary and local elections due in November 1998. Preval's third nominee to the post of Prime Minister, Jacques Edouard Alexis, passed the first part of a two-stage ratification process in December 1998. Before he could complete the second part, which would have sought parliamentary approval of his Cabinet and plan of government, the terms of office of the entire 85-seat House of Deputies and all but 9 of the 27 members of the Senate expired on January 11.

All of the deputies in the last legislature were elected between June and December 1995. The mandates of nine senators who were elected in early 1991 expired in January 1997, and they should have been replaced in elections in 1996. However, those elections were delayed until April 1997, when only two senators received a clear majority and seven seats were supposed to be determined in a second round. The results of the 1997 elections were so widely contested that the second round was not held, and none of the nine senators took office. The other 18 senators were elected under the Electoral Law of 1995, in which a political deal was struck, determining that the terms of 9 senators would expire in January 1999 and 9 would expire in January 2001. After January 11, the parliamentarians unilaterally voted to extend their mandates until new elections could be organized; however, President Preval announced publicly that he would not recognize this decision, which left the country without a functioning legislature. Members of Parliament requested that the Supreme Court hear their case for extending their terms of office; however, in February the Supreme Court ruled that it would not hear the dispute because it was not first considered by a lower court. Since January 11, President Preval and the remaining senators were the only serving government officials on the national level who were elected freely and held office in conformity with the provisions of the Constitution.

The mandates of the country's mayors also expired on January 11; however, President Preval decided to appoint all but two of them to continue serving until elections could be held. Opposition leaders and foreign observers criticized this decision, alleging that it placed the mayors in debt to President Preval, and effectively put the country's rural areas under his control. On January 22, about one-third of the mayors rejected Preval's offer to serve as presidential appointees, stating that their mandate should come from the electorate, and not the President.

Officials elected in 1997 as members of the territorial assemblies continued to serve following the disbanding of Parliament. Opposition leaders criticized the alleged preferential treatment given to those in territorial assemblies whose membership they claimed was largely allied with President Preval and Fanmi Lavalas.

In the weeks following the disbanding of Parliament, the political climate was increasingly tense. There were several occasionally violent strikes and demonstrations, and a series of reported threats and violent attacks against some opposition politicians. Authorities attributed at least some of the attacks to common crime unrelated to the political crisis. Members of opposition political parties—particularly the OPL—reported receiving telephoned threats, hearing shots fired outside their residences, suffering vandalism of their property and other acts of intimidation (see Section 1.c.). On March 1, OPL Senator Yvon Toussaint was killed (see Section 1.a.), and in April three OPL parliamentarians and members of their families took refuge in the Chilean Ambassador's residence, citing death threats. They subsequently left the country. In September unknown assailants shot at OPL spokesman Saveur Pierre-Etienne. Unknown assailants shot and wounded Marie-Claude Calvin, President Preval's sister, and others shot at Prime Minister Alexis's car; however, authorities reported that these incidents were not politically motivated (see Section 1.c.). Dissatisfaction by some groups with the CEP's electoral plans also led to violence; several sites related to the forthcoming elections were torched or vandalized in the southern department of Grand'Anse in December. Unidentified persons set fire to the house of the president of the Departmental Electoral Board in Jeremie, while others also set fire to the communal electoral offices (BEC's) in nearby towns

of Anse-d'Hainault and Troubonbon and vandalized the BEC in Corail (see Section 3).

The leadership of the HNP also came under the pressure of threats and intimidation, raising concerns of a possible campaign to politicize the 4-year-old force at a time when police personnel were charged with ensuring a climate of security prior to elections. Populist groups reportedly associated with Fanmi Lavalas mounted a public campaign calling for the resignation of Robert Manuel as Secretary of State for Public Security. On October 7, Manuel resigned from his position. On October 8, unidentified assailants killed Jean Lamy, an advisor to the HNP (see Section 1.a.). One week later, unidentified assailants shot at the Director of the HNP's Judicial Police outside his home. On October 16, self-proclaimed supporters of former President Aristide disrupted Lamy's funeral service and forced the HNP's Director General, Pierre Denize to flee the building.

On March 6, President Preval negotiated an agreement with the Democratic Consultation Group, a coalition of five small opposition parties, aimed at ending the crisis by naming a Provisional Election Council to organize the overdue parliamentary and local elections. Members of the OPL, the country's largest opposition party, withdrew from the Democratic Consultation Group during negotiations with Preval, citing an unconstitutional cabinet and delays in the investigation of Senator Toussaint's murder. The OPL leaders also announced that they would not propose candidates for the CEP or for the new Government; however, they did not reject the possibility of participating in the forthcoming elections. The CEP consists of nine members chosen by President Preval on the basis of proposals made by the Democratic Consultation Group and members of civil society.

The CEP was charged with addressing the contested 1997 elections. In June CEP members declared publicly that the two controversial seats from the April 1997 elections would be on the ballot. In July the Lissade Commission report on the 1997 elections, which had never been released despite demands by opposition leaders, became public. The report listed numerous irregularities with the elections, including ballot box stuffing, falsification of affidavits, lack of affidavits, multiple voting by one party, use of false voter cards, voter and candidate intimidation, presence of armed persons at voting sites, moving polling sites, incomplete candidate lists, and impeding voter registration. The report also revealed that out of the 95 cases of documented transgressions the culprit was readily identifiable in 21 cases. Of these, Fanmi Lavalas was the culprit in 16 cases, OPL in 3, and Korega in 2. Following the release of this report, the CEP incorporated several provisions in the draft Electoral Law that were aimed at eliminating election fraud, such as distributing photo identification cards, adding poll watchers and providing them with better training, and instituting a policy of reporting results on election night.

President Preval implemented the new Electoral Law by decree in July, and the CEP began laying the groundwork for parliamentary and local elections. The elections initially were set for November; however, they were delayed several times. The first round of parliamentary and local elections was subsequently scheduled for March 19, 2000, with a runoff to be held in late April. At year's end, about 29,000 candidates from a range of political parties were registered as candidates in the local, regional, and national elections. Separate presidential elections were scheduled for December 2000.

In March President Preval also appointed a new Cabinet, in consultation with the Democratic Consultation Group. In the absence of a parliament, new ministers took office without being confirmed.

There are no legal impediments to women's participation in politics or government; however, they are underrepresented, and the low status of women limits their participation. The Election Law provides that the deposit required of female candidates for political office is half that required of male candidates, if a recognized party sponsors them. In the recent past, Haiti has had a female president, prime minister, foreign minister, and finance minister. Of the 80 sitting members of the Chamber of Deputies (3 seats were vacant) when it was disbanded, 3 were women. The Senate had no female members. At year's end, there were a total of 34 women registered for the Senate and Chamber of Deputies elections scheduled for 2000.

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

Domestic and international human rights groups generally operate without government restrictions; however, incidents of threats and intimidation from unknown sources increased during the year. Justice Minister Leblanc has sought dialog with some of these groups and solicited their recommendations on human rights issues such as restitution for victims of abuses committed under the 1991–94 de facto mili-

tary regime. About a dozen groups monitor human rights abuses, with some working on civic education and legal aid as well.

On March 8, Pierre Esperance, country director of the National Coalition for Haitian Rights was shot and seriously wounded as he was driving his car near his Port-au-Prince office. The incident occurred after an escalation of telephone and verbal threats, and the appearance of threatening leaflets. The identities of the attackers or the motive for the shooting were not established. The HNP's investigation remained open but reportedly was inactive (see Section 1.c.).

The security climate worsened for several other domestic human rights groups including the Platform of Haitian Human Rights Organizations, the Karl Leveque Cultural Institute, Human Rights Fund II, and the National Coalition of Haitian Rights. These groups reported receiving repeated threats, most of them anonymous.

In May the Human Rights Fund II suspended a victims' assistance program after threats from members of the popular organization, Movement of the Victims of September 30 (MOVI–30).

In June the International Republican Institute (IRI) closed the offices of its democracy building program in Port-au-Prince. Since May 1998, the IRI had been the target of threats and violence, allegedly by self-professed supporters of former President Aristide. For example, two of the IRI's employees reportedly were threatened at gunpoint, its workshops were destroyed, and associates of Fanmi Lavalas had called for the Institute's expulsion from the country.

The Office of the Protector of Citizens, an autonomous, ombudsman-like office provided for by the 1987 Constitution, made slow progress towards establishing itself as an effective entity. It remained constrained by budgetary and personnel deficiencies and reported difficulty in establishing cooperation with other ministries. In March in cooperation with the Human Rights Fund, it organized a seminar on police-community relations with the participation of HNP Director General Pierre Denize.

The lack of a functioning Parliament (see Section 3) had an impact on human rights monitoring, since parliamentary committees no longer investigated allegations of police abuses, as they had in 1998 during disturbances in Mirebelais and Milot.

The UN/OAS International Civilian Mission continued to play a vital and successful role in monitoring the human rights situation and in promoting adherence to human rights norms by the authorities. MICIVIH investigated all reports of human rights violations, issued periodic reports and press releases, conducted civic education, and trained local human rights groups. MICIVIH also worked with the Government to develop its institutional capacity to prevent and provide redress for human rights abuses. In June MICIVIH was forced to close five regional offices and dismiss half its monitors due to severe financial difficulties. The U.N. component of MICIVIH was scheduled to expire on December 31; however, it was extended until March 15, 2000. In November the U.N. General Assembly approved creation of a follow-on mission to MIPONUH and MICIVIH. The mandate of the new entity, the International Civilian Mission for Support in Haiti (MICAH), is to begin in March 2000 and continue to operate until February 6, 2001.

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

The 1987 Constitution does not specifically prohibit discrimination on the grounds of race, sex, religion, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status; however, there is no effective governmental mechanism to administer or enforce these provisions.

Women.—According to women's rights groups, rape and other abuse of women is common, both within and outside marriage. A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse due to fear, shame, or lack of confidence in judicial remedies. A survey by the United Nations Children's Fund of violence against women found that 37 percent of women reported being victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. The law provides penalties for these crimes; however, the authorities do not enforce these adequately. The law excuses a husband if he murders his wife or her lover upon catching them in the act of adultery in the home; however, a wife who kills her husband upon discovering him in the act of adultery is not excused. The National Commission of Truth and Justice, formed after the 1991–94 period of military rule, recommended several improvements to existing laws concerning rape and abuse of women; however, Parliament has not enacted

any of these proposed changes. There are no government-sponsored programs for victims of violence.

In May 1998, 20 women's organizations met with parliamentarians and proposed changes to laws that they considered discriminatory. The changes proposed include the decriminalization of adultery, the classification of rape as a crime against the person rather than as a crime against honor, and the extension of the Labor Code to cover domestic work. They also proposed a law on violence against women and changes to the Family Code. None of the proposed changes were implemented by year's end. Sexual harassment of female workers in the assembly sector is a problem (see Section 6.b.).

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but it has few resources at its disposal and was able to accomplish little in this regard.

The Constitution states that all citizens are equal before the law; however, women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. Peasant women, often the breadwinners for their families, remain largely in the traditional occupations of farming, marketing, and domestic labor. Very poor urban women, who head their families and provide their economic support, also often find their employment opportunities limited to traditional roles in domestic labor and marketing. Female employees in private industry or service jobs, including government jobs, seldom are promoted to supervisory positions. Laws governing child support recognize the widespread practice of multiple-father families but rarely are enforced. However, well-educated women have occupied prominent positions in both the private and public sector in recent years. Women's rights groups are small, localized, and receive little publicity.

Children.—The Government's programs do not promote or defend children's rights. Government health care and education programs for children are inadequate or nonexistent. Primary education is supposed to be free and compulsory, but there are far too few public schools to accommodate the country's children, especially in rural areas. Public schools are not obligated to admit illegitimate children. According to a Ministry of Labor and Social Affairs spokesperson, schools' refusals to admit illegitimate children currently is less of a problem than it was in the past. Poorer families sometimes ration education money to pay school fees for male children only.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor; families of these children frequently received financial compensation (see Section 6.f.). A 1991 U.N. study cited this practice as an example of slavery in the 20th century. One international organization estimated that 250,000 to 300,000 children, 85 percent of them girls, may be victims of this practice, called "restavek" (which means "lives with" in Creole). The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them with little nourishment, and frequently beat and abuse them. The law requires that restaveks 15 years of age and older be paid "not less than one half the amount payable to a hired servant" to perform similar work, in addition to room and board. To avoid this obligation, employers send many if not most restaveks away from the home before the children reach the age of 15.

Most local human rights groups do not report on the plight of restavek children as an abuse or seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation. Port-au-Prince's large population of street children includes many restaveks who have been sent out of employers' homes or are runaways.

People with Disabilities.—The Constitution provides that disabled persons shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate provision of access to buildings for the disabled. Although they do not face overt mistreatment, given the severe poverty in which most Haitians live, those with disabilities face a particularly harsh existence. Disabled beggars are commonly seen on the streets of Port-au-Prince and other towns.

National/Racial/Ethnic Minorities.—Some 99 percent of Haitians are descendants, in whole or in part, of African slaves who won their war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. Longstanding social and political animosities often are tied to cultural identification, skin color, and overlapping issues of class in this starkly inegalitarian society. Some of these animosities date back to before Haiti's revolutionary period.

The Government recognizes two official languages: Creole, which is spoken by virtually all Haitians; and French, which is spoken by about 20 percent of the population, including the economic elite. The inability to communicate in French has long limited the political and economic opportunities available to the majority of the population. The Government prepares most documents only in French, and most judges conduct most legal proceedings exclusively in French. Complicating this is the lack of an agreed-upon standard for written Creole. However, in 1995 the lower house of Parliament designated Creole as the language for parliamentary debate.

Section 6. Worker Rights:

a. *The Right of Association.*—The Constitution and the Labor Code provide for the right of association and provide workers, including those in the public sector, with the right to form and join unions without prior government authorization. The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Social Affairs Ministry within 60 days of its formation.

Unions are independent of the Government and political parties. Six principal labor federations represent about 5 percent of the total labor force, including about 2 to 3 percent of labor in the industrial sector.

Teachers went on strike for several months early in the year because they had been promised a 32 percent pay increase that never materialized. This strike led public high school students to throw rocks at private schools, demanding that they close in solidarity. Students also clashed with HNP officers during demonstrations (see Section 2.b.). The public school teachers eventually returned to work; however, they called a 3-day strike in June to protest the Government's continuing failure to increase salaries and disburse back pay. The teachers struck again from September to November. They eventually filed suit against the Government due to the fact that they had not received back pay or the promised salary increase by year's end.

On January 22, the OPL, allied political parties, civil society groups, and some labor unions held a nationwide general strike to protest the dissolution of Parliament.

In August workers forced the closure of the port in Gonaives for over 2 weeks by striking over a new method of tax collection.

Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, the civil service, and the assembly sector. The high unemployment rate and antiunion sentiment among some factory workers limited the success of union organizing efforts.

Collective bargaining continued to be nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better-than-average wages and benefits. Female workers in the assembly sector report that some employers sexually harass female workers with impunity. Women also assert that, while the vast majority of assembly sector workers are female, virtually all the supervisors are men.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor and applies equally to minors; however, while such labor is not known to occur among adults, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households under conditions that amount to slavery (see Sections 5 and 6.f.).

d. *Status of Child Labor Practices and Minimum Age of Employment.*—The minimum employment age in all sectors is 15 years, with the exception of domestic service, where the minimum age is 12. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. There is also legal provision for employment of children between the ages of 12 and 16 as "apprentices." Fierce adult competition for jobs ensures that child labor is not a factor in the industrial sector. Children under the age of 15 commonly worked at informal sector jobs to supplement family income, despite the legal prohibition and the fact that primary education is supposed to be free and compulsory (see Section 5). Children also commonly work on

small family farms alongside their parents, even though the high unemployment rate among adults keeps children from being employed on commercial farms in significant numbers. The Labor Code prohibits forced or compulsory labor, which applies equally to minors; however, some children are forced to work as domestic servants (see Sections 5 and 6.c.). In these as in many other areas, government agencies lack the resources to enforce the relevant laws and regulations effectively.

e. *Acceptable Conditions of Work.*—The legal minimum daily wage, established in June 1995, is about $2.18 (36 gourdes). Annually, a minimum wage worker would earn about $680, an income considerably above the national average but not sufficient to provide a decent standard of living for a worker and family. The majority of citizens work in subsistence agriculture, a sector where minimum wage legislation does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours, and the workweek at 48 hours, with 24 hours of rest on Sunday. However, the officers of the HNP work 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. The assembly sector published a voluntary code of conduct in April, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons, and internal trafficking of children is a problem. Rural families send young children to affluent city dwellers to serve as unpaid domestic labor; the families of such "restaveks" frequently receive monetary compensation (see Section 5). An estimated 250,000 to 300,000 children, 85 percent of them girls, may be victims of this practice.

There were no other reports of trafficking in, to, or from the country.

HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected for 4-year terms. President Carlos Flores Facusse took office in January 1998. The two major political parties, the Liberals and the Nationalists, have alternated in power peacefully after free elections. The judiciary is independent, but often ineffective and subject to outside influence.

The Honduran Armed Forces (HOAF) comprise the army, the air force, and the navy. The National Police (formerly a paramilitary force known as the FUSEP) were transferred to civilian control in 1997. The police, including a new "preventive" unit, handle public security, counternarcotics, and border patrol duties. The Government created a new Ministry of Security in 1998 to oversee police operations and counter a national crime wave. On January 25, the National Congress ratified a constitutional amendment establishing direct civilian control over the armed forces—through a civilian Minister of Defense—for the first time since 1957. The amendment also replaced the position of the armed forces commander in chief with that of Chief of the Joint Staff. In July the President removed the new Chief of the Joint Staff and Vice Chief of Staff after they sought to amend a draft organic law governing the armed forces; his action further cemented civilian control over the military. Members of the police continued to commit human rights abuses.

The market-based economy is based primarily on agriculture and increasingly upon the important maquiladora (in-bond processing for export) industry that accounts for about 110,000 jobs, mostly filled by young women. The armed forces indirectly play a declining role in the national economy through their pension fund, which controls some enterprises usually associated with the private sector, including a bank and several insurance companies. About 37 percent of workers labor in agriculture, with most of the rest in industry and manufacturing, commerce, and services. The principal export crops are coffee and bananas; these, along with "value added" income from the maquiladora industry, are the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. In October 1998, Hurricane Mitch caused widespread flooding and landslides, which killed several thousand persons, left hundreds of thousands homeless, caused over $3 billion in damage, and deprived tens of thousands of their livelihoods. International humanitarian assistance saved many lives

and met basic needs, but substantial additional foreign aid is needed to help rebuild infrastructure and productive economic capacity. The economic growth rate declined in 1999, and the budget deficit and unemployment both rose significantly. Annual per capita income is approximately $800; about two-thirds of the country's households live in poverty.

The Government generally respected the human rights of its citizens in many areas; however, serious problems remained. Members of the security forces allegedly committed extrajudicial killings, particularly of presumed criminals, leading human rights groups to charge that the security forces and business community colluded to form organized death squads. Security force personnel committed acts of torture and beat and otherwise abused detainees and others, including street children. Police reportedly fired their weapons without authorization during an October riot near the presidential offices; both police and rioters were injured in the melee. Prison conditions remain harsh, lengthy pretrial detention is common, and detainees do not always receive due process. Considerable impunity for members of the economic and official elite, exacerbated by a weak, underfunded, and sometimes corrupt judicial system, contributes to human rights problems. Although civilian courts increasingly considered allegations of human rights violations or common crimes against armed forces personnel and some cases went to trial, there were relatively few convictions. While no senior government official, politician, or bureaucrat, or member of the business elite was convicted of crimes, the Government removed numerous military officials; police officers, investigators and agents; and judges from office on corruption and other charges. The judicial system continued to deny swift and impartial justice to prisoners awaiting trial. On occasion, the authorities conducted illegal searches. Other human rights problems included violence and societal discrimination against women, child prostitution, abuse of street children, and discrimination against indigenous people. The Government does not enforce effectively all labor laws. Some workers are forced to work overtime. Child labor is a problem, particularly in rural areas and in the informal economy, but not in the export processing sector.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by government agents.

Human rights organizations alleged that individual members and former members of the security forces, acting as "security squadrons" in collusion with business leaders, committed extrajudicial killings of street criminals. One organization claimed in October that the Office of the President itself was implicated in such activities, but subsequently withdrew that assertion after its leader met with President Flores. The Government publicly denied accusations relating to the security forces as institutions, but investigated allegations against members of neighborhood vigilante groups. Human rights groups also asserted that members of the security forces on such death squads were involved in killings of street children (see Section 5).

In at least two instances, persons found dead reportedly were last seen in police custody. There was no progress in the investigation of those deaths at year's end.

In October the police arrested a prison guard who shot and killed a minor who refused to surrender after escaping from the central penitentiary in Tegucigalpa in May. At year's end, the case had not yet gone to trial.

On March 23, four men armed with AK–47 assault rifles killed Juan Ramon Alvarado, the mayor of Cabanas, Copan Department, in an apparent political killing. Alvarado, the target of two previous failed murder attempts, reportedly had alienated fellow local politicians. The authorities first detained a member of the town council but then released him due to lack of evidence; they subsequently detained two other persons. However, at year's end, no further progress in solving the killing was reported.

In July police detained a suspect in the October 1998 killing of Pedro Garcia Villanueva, a regional director of attorneys for the Public (Justice) Ministry, in Santa Barbara. Garcia had been investigating several notorious human rights cases, including the 1992 murder of former national electric company director Marco Tulio Castellon Baide. At year's end, several suspects detained in 1998 still awaited trial.

In May 1998, four persons reportedly killed Carlos Antonio Luna Lopez, a town councilman in Catacamas. The police arrested one person, who had been identified by a witness as one of the assailants.

Human rights groups asserted that many deaths of gang members, including persons under 18 years old, were extrajudicial executions. Such groups alleged that be-

tween 100 and 150 youths associated with criminal gangs were killed, execution-style, during the year. In such cases, renegade elements of the security forces, or civilian (including vigilante) groups working with such elements, allegedly used unwarranted lethal force against supposed habitual criminals. Several groups pushed for investigations into specific incidents, while others claimed to have provided evidence of collusion between police and business leaders to public prosecutors. The Government did not take effective action to investigate, try, convict, or punish anyone for such offenses.

Violent crime continued to fuel the growth of private—often unlicensed—guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. The continued proliferation of private security forces made it more difficult to differentiate among homicides that may have been perpetrated by government security personnel, private vigilantes, or common criminals. Homicides, armed robberies, and other violent assaults were common.

Concerns that the security forces would not investigate credible allegations of extrajudicial killings by members of the former FUSEP led to the creation in 1994 of a civilian-controlled Directorate of Criminal Investigations (DIC) under the Public Ministry (which also includes a prosecutorial branch). The Police Organic Law, which took effect in November 1998, placed the DIC under the new Ministry of Security and renamed it the General Directorate of Criminal Investigations (DGIC). The Attorney General and human rights groups have noted a decrease in reported human rights abuses over the past 2 years.

In January 1998, a judge ruled that although Lieutenant Colonel Juan Blas Salazar Mesa was guilty of participating in the kidnaping, torture, and murders of students in 1982, he qualified for amnesty under laws passed several years earlier. In December 1998, the Supreme Court upheld the lower court's ruling on amnesty for Salazar. In January the Public Ministry filed an appeal with the Supreme Court relating to the application of amnesties to former military officials, including Salazar. The court reportedly agreed in October to review the appeal, which was still pending at year's end.

In July the Attorney General urged the Supreme Court to decide quickly whether amnesty laws created to protect leftist dissidents can be used to shield 12 fugitive policemen and soldiers accused of human rights violations. In one case, 10 police and soldiers allegedly arrested and tortured 6 university students; in another, 16 soldiers are accused of killing 2 men. The Supreme Court continued to consider this issue at year's end.

There were some developments in several cases involving the investigation or prosecution of other alleged extrajudicial killings committed in previous years. In June 1998, the armed forces named a commission of senior military officers to investigate accusations of human rights violations or other criminal activities by armed forces personnel. At the end of the year, this commission had made no public findings.

On June 8, the Supreme Court sentenced former army Colonel Angel Castillo Maradiaga to 10 years' imprisonment for the 1991 rape and killing of student Riccy Mabel Martinez, a case that helped begin to bring an end to the longstanding impunity of members of the armed forces from arrest for common crimes. The authorities arrested Castillo and an accomplice, Sergeant Santos Eusebio Ilovares Funez, immediately following the crime; a court convicted them in July 1993. In April 1994, the first appeals court decreed that the convictions were null for procedural faults and a lack of evidence against Castillo. The original court reviewed the case and ratified its original decision, which was then upheld by the appeals court. However, in October 1996, the first appeals court dismissed the sentences and ordered the second criminal court to issue new sentences. In February 1997, the second criminal court found Castillo innocent, but sentenced Funez to prison. In June 1998, the Supreme Court confirmed these decisions, but the victim's lawyers filed a final appeal, upon which the June 1999 decision was based. Funez remains in prison.

A judge absolved former armed forces commander Brigadier General Mario Hung Pacheco of complicity in the 1988 death of student leader Roger Gonzalez, although he reserved judgment on the involvement of two other military officials.

In October a court found former Battalion 3–16 member Marco Tulio Regalado Hernandez guilty of the 1983 death of labor leader Herminio Deras and imprisoned him. However, two other battalion members implicated in the death remained at large at year's end.

Although in October a judge found army Chief of Staff Oscar Hernandez Chavez not guilty of the 1982 death of student Hans Madisson, prosecutors filed an appeal. Former army Captain Billy Joya Amendola, who returned to the country in December 1998 after evading arrest for 3 years, also was found not guilty in October in

the Madisson case. Other charges against Joya for torture and disappearance were pending at year's end.

In July retired armed forces General Daniel Bali Castillo returned, after 3 years as a fugitive in Guatemala, to appear before a court for his alleged role in the cases of Adan Aviles Funez and Nicaraguan citizen Amado Espinoza Paz. The bodies of the two, who disappeared in Choluteca in 1982, were exhumed near there in 1995. The court immediately freed him, pending presentation of further evidence by prosecutors. Two other officials, army Colonel Suarez and retired police colonel Marco Antonio Matute, had been freed earlier in connection with the case (but still face charges), and several others remain at large. Police Colonel Alexander Raymundo Hernandez, another suspect in this case, has been missing since 1995; the police discontinued his salary in 1997 and discharged him from the force in March 1998.

Government agencies and human rights groups investigated claims of possible deaths, disappearances, and torture at the El Aguacate military base in Olancho department when it was used by Nicaraguan insurgents ("contras") during the 1980's. Investigators found evidence of blood on the interior walls of some ruins on the base but were unable to link that evidence to specific incidents or persons. The Defense Minister and the HOAF Chief of Staff have opened the base to independent investigators, including international visitors.

In July human rights prosecutors began investigating reported graves at La Montanita, near Tegucigalpa, and at El Aguacate, in Olancho department. Those investigations continued at year's end.

Vigilante justice led to killings of street children (see Section 5) and criminals. In October one vigilante group in Cortes department reportedly beat and killed a young man with no known criminal connections.

Killings of peasant leaders were reported in various locations, but appeared linked to personal or criminal, rather than political, motives.

There has been no progress in the investigations into the deaths of two indigenous leaders (see Section 5).

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

The Attorney General continued investigations into the disappearances of 184 persons in the 1980's. Various witnesses, survivors, and a few former members of the military have charged that members of the now-disbanded Battalion 3–16 kidnaped, tortured, and murdered many of those who disappeared. The National Commissioner for Human Rights, Leo Valladares, also continued his investigation into the human rights abuses allegedly committed by members of Battalion 3–16 and the former police intelligence unit.

Foreign forensic anthropologists arrived early in the year to collaborate with magistrates searching for remains of persons who disappeared on the property belonging to a retired armed forces general in Amarateca, Francisco Morazan department, but no findings were reported by year's end. There were reports of possible clandestine burials of persons who disappeared at the former contra military base at El Aguacate, Olancho department, but no evidence to confirm such reports was discovered (see Section 1.a.).

Courts reached decisions in several murder cases involving disappearances (see Section 1.a.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained a problem.

In August a judge in La Ceiba ordered the arrest of a police official and two agents for torturing two persons. In June an appeals court overturned a lower court decision from January that had freed two DGIC officials accused of torturing two men. In June the Attorney General acknowledged that security force personnel continue to commit acts of torture, due in part to poor training and lack of knowledge regarding human rights obligations. In November a judge in the Bay Islands department ordered two police officials jailed for torturing a citizen. The Public Ministry Human Rights Prosecutor stated in July that she received at least 10 complaints that month alone of human rights abuses against detained suspects and prisoners.

The police reportedly fired their weapons without authorization during an October riot near the presidential offices; both police and rioters were injured in the melee (see Section 2.b.).

The police also engaged in violence, including beatings, against street children (see Section 5).

The Office of Professional Responsibility (OPR) within the National Police investigates allegations of torture and abuse and can recommend sanctions against police agents found guilty of such mistreatment. However, neither the police commander nor the OPR is empowered to punish wrongdoers; only the immediate superior of

the accused agent has the authority to do so. The Public Ministry and human rights groups criticized the OPR for being unresponsive to their requests for impartial investigations of police officers accused of abuses. In 1996 the Public Ministry created the office of Human Rights Inspector within the DGIC to monitor the behavior of its agents; the inspector reports to the head of the human rights section of the Public Ministry and to the Attorney General. Both the DGIC and the preventive police dismissed or suspended dozens of agents and officials for abuse of authority.

Widespread frustration at the inability of the security forces to prevent and control crime, and the well-founded perception that corrupt security personnel were complicit in the high crime rate, led to continued considerable public support for vigilante justice. There were reported efforts by local landowners to form large-scale vigilante groups in Olancho and Choluteca departments. In March President Flores ordered the HOAF to reinforce the National Police and conduct joint patrols throughout the country, in an effort to reduce crime during the Easter holiday season.

A Special Prosecutor for the Environment investigating reports of illegal logging was wounded seriously during an attempt on his life in June.

Elements of the armed forces withheld their cooperation from official efforts to track down military officers wanted in connection with alleged human rights abuses dating back to the 1980's. In August 1998, a HOAF spokesman quoted the armed forces commander as having admitted that the military was protecting officers accused of human rights violations; the HOAF subsequently claimed that the news media had reported the commander's remarks erroneously. The Supreme Court considered whether government amnesties for crimes committed in the 1980's covered the military, as political deliberations in the Congress had suggested. The Court determined in December 1998 that, while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits.

A constitutional amendment that replaced the armed forces commander in chief position with a civilian Minister of Defense took effect in January, ending several decades of military autonomy. In August the new Chief of Staff of the armed forces pledged cooperation should the judiciary order the arrest of army Chief of Staff Oscar Hernandez Chavez for crimes allegedly committed during the 1980's.

Prison conditions remained harsh. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subject to various other abuses, including rape. The 24 penal centers held over 10,000 prisoners; more than 90 percent of these were awaiting trial for an average of 22 months, with some waiting over 5 years (see Section 1.d.). Prison disturbances, caused primarily by harsh conditions, occurred throughout the year, resulting in a number of deaths and injuries, the destruction of prison facilities, and mass escapes. The Government sent the army into various prisons to assist guards in maintaining order during the year. In February the authorities fired 17 employees of the National Penitentiary, including the head of security and 4 police officers, for alleged complicity in introducing narcotics into the facility.

Prison escapes, through bribery or otherwise, remained a frequent occurrence, with guards occasionally firing on, and killing, escapees. In February two Colombian narcotics traffickers escaped from the Trujillo jail; reports indicate that they walked out in the company of the prison supervisor and were driven away from the prison by a retired army officer. The colonial-era central penitentiary in downtown Tegucigalpa was repaired and returned to service following Hurricane Mitch in 1998, but conditions remained poor. In June the prison in San Pedro Sula suffered a devastating fire; prisoners voluntarily helped repair the facility. An imprisoned drug figure in San Pedro Sula was found to have bribed guards into providing special accommodations and privileges. The authorities transferred a number of prisoners deemed particularly dangerous or likely to try to escape through bribery to a maximum security holding area within the new National Penitentiary at Tamara, near Tegucigalpa. The Ministry of Security assumed responsibility for the prison system from the Ministry of Government and Justice in January, but the shift in coverage had virtually no impact on the resources available to improve conditions.

More often than not, and for lack of alternative facilities, wardens housed the mentally ill and those with tuberculosis and other infectious diseases among the general prison population. Prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgets about $0.40 (6 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits, and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food. Street children in detention often were housed in adult prisons, where they were abused routinely. Women were

incarcerated in separate facilities under conditions similar to those of male prisoners, except that female prisoners do not have conjugal visit privileges.

In June the Public Ministry signed an agreement with the Center for Prevention, Treatment, and Rehabilitation of Victims of Torture and their Relatives to establish programs to protect the human rights of prisoners; to train police and prison personnel to avoid committing acts of torture; and to arrange for periodic inspections of prisons.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally do not observe these legal requirements. The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. By law the preventive police cannot investigate crimes; that force only detains suspects. Police must bring a detainee before a judge within 24 hours; the judge then must issue an initial temporary holding order within 24 hours, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation.

While bail is legally available, it is granted primarily for ostensibly medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (see Section 1.e.). Lengthy pretrial detention is a serious problem; more than 90 percent of prisoners are awaiting trial, some for over 5 years. The average length of detention was about 22 months (see Section 1.c.).

In 1996 the Government enacted a law regarding unsentenced prisoners that mandates the release from prison of any detainee whose case has not come to trial, and whose time under detention exceeds the maximum prison sentence for the crime of which he is accused. Nonetheless, many prisoners remain in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. A significant number of defendants served the maximum possible sentence for the crime of which they were accused before their trials were concluded, or even begun. One prisoner reportedly was detained for 2 years before receiving a sentence of 1 month's imprisonment. At the end of 1998, more than 90 percent of all prisoners had been neither tried nor sentenced.

Under the 1984 Code of Criminal Procedures, judges, the police, public officials, or any citizen may initiate criminal proceedings. Perhaps as many as 80 percent of the cases reported to the police are never referred to the criminal justice system, but instead are settled administratively by the police or by municipal courts.

Neither the Constitution nor the legal code explicitly prohibit exile, but it is not used as a means of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to outside influence. While the Government respects constitutional provisions in principle, implementation has been weak and uneven in practice. A number of factors limit the effectiveness of the system. Both the judiciary and the Public Ministry suffer from inadequate funding; low wages and lack of internal controls make law enforcement officials susceptible to bribery; the civil law inquisitorial system is both inefficient and nontransparent; and powerful special interests still exercise influence and often prevail in many courts. Also, many leading politicians enjoy constitutional immunity from prosecution because of their membership in either the National Congress or the Central American Parliament. That immunity extends to acts committed before taking office.

The court system is composed of a 9-member Supreme Court, 10 appeals courts, 67 courts of first instance of general jurisdiction, and 325 justice of the peace courts of limited jurisdiction. Congress elects the nine Supreme Court justices and names the president of the Court; the Supreme Court, in turn, names all lower court judges. The 4-year term for justices of the Supreme Court coincides with those of the Congress and the President.

The Constitution provides for the right to a fair trial. However, the written, inquisitorial trial system is labor-intensive, slow, and opaque; it does not protect the rights of defendants adequately. In December Congress passed a law to modernize the Criminal Procedures Code; the new law (scheduled to take effect in February 2002) substitutes an adversarial system for the inquisitorial system and obligates speedier disposition of cases. The law is designed to change the code into one based upon the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits incarceration without first receiving a clear sentence from a judge or tribunal. Judges legally are in charge of investigations, as well as of trials and sentencing. Both prosecutors working for

the Public Ministry and private individuals may bring criminal charges against citizens. A judge may jail an accused person for 6 days before a determination is made of probable cause to accept charges. If a judge sustains the criminal accusation, the accused remains in jail, or may be released on bail while awaiting trial (see Section 1.d.).

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State, if necessary, and to appeal. Although the Constitution recognizes the presumption of innocence, the Criminal Code in practice often is administered by poorly trained judges operating on a presumption that the accused is guilty; consequently, the rights of defendants often are not observed. All stages of the trial process are conducted in writing and, at the judge's discretion, may be declared secret and, thus, even less "public" than normal.

Defendants and their attorneys are not always genuine participants in the process, despite rights accorded under law. Defendants may confront witnesses against them and present evidence on their own behalf, but only through the judge. By law defendants and their attorneys are entitled to review government-held evidence relevant to their cases, but this right is not always respected in practice.

A public defender program provides assistance to those unable to afford an adequate defense. There are 137 public defenders providing free legal services nationally to 37 percent of the prison population; however, public defenders are hard pressed to meet the heavy demands of a nonautomated, inadequately funded, and labor-intensive criminal justice system. The Supreme Court issued an instruction in 1998 that holds judges personally accountable for reducing the number of backlogged cases and separates judges into pretrial investigative judges and trial and sentencing judges. The Court also created a program to monitor and enforce compliance with these measures. The Court's instruction was intended to ensure more effective protection for the rights of the accused to a timely and effective defense, but it has had little effect to date.

Modest progress was made in previous years towards implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and break the subcultures of corruption, clientism, patronage, and influence-peddling within the judiciary. Nonetheless, many courts remained staffed by politically selected judges and by unqualified clerks and were inefficient and subject to influence from special interests. For example, one judge issued criminal warrants for the arrest of two employees of a major multinational company over a civil dispute, allegedly at the behest of the complainant. The judicial employees' association publicly criticized the Supreme Court's failure to follow civil service regulations in disciplining employees. No action was taken against the individuals on the list of 31 judges under investigation for alleged corruption in September 1998.

Over the past 5 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also ranking officials of the two previous governments, for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted. Two Callejas administration officials remained in jail on corruption charges and were awaiting trial at year's end. In June a court convicted former President Carlos Roberto Reina of involvement in a corruption scandal and fined him a relatively small sum, which he declined to pay because he holds immunity as a member of the Central American Parliament. In July a judge issued a warrant for the arrest of a retired HOAF colonel accused of embezzling from a business owned by the military benefits institute.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution specifies that a person's home is inviolable, that persons in the employ of the State may enter only with the owner's consent or with the prior authorization of a competent legal authority, and that entry may take place only between 6 a.m. and 6 p.m., or at any time in the event of an emergency or to prevent the commission of a crime; however, as in previous years, there were credible charges that police and armed forces personnel failed at times to obtain the needed authorization before entering a private home. Coordination among the police, the courts, and the Public Ministry remained weak. The Government respects the privacy of correspondence.

In July Security Minister Chiuz Sierra stated during a radio interview that the DGIC had tapped her telephones and undertaken an investigation of her activities. The DGIC director denied the charges.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities largely respected these rights in practice. Jour-

nalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners. Although there was little serious investigative journalism, the news media were, at times, critical of certain government entities, including the HOAF and municipal officials. The news media themselves suffered from corruption and politicization. Credible reports existed of regular and substantial payments to journalists by powerful business interests, as well as public and political figures, either to carry or suppress certain stories. There were also reports of executive branch pressure on publishers and media outlets to avoid direct criticism of the administration or its programs. In January one newspaper complained of the withdrawal of government advertising, reportedly due to its criticism of a presidential helicopter purchase.

The executive branch made frequent use of the "Cadena Nacional," a nationwide network through which it broadcasts on all television and radio stations, preempting regular programs. Initially used by the administration to report on Hurricane Mitch-related measures, the Cadena Nacional increasingly appears to be an exercise in public relations. President Flores owns La Tribuna, one of the major daily newspapers.

A journalist employed by Channel 63 reported a possible attempt against his life in July by two men who sought to lure him out of his house under false pretenses. A freelance journalist reported death threats in October that he attributed to his efforts to end the exploitation of forests. A former judge filed a defamation lawsuit against a journalist who reported that she had unjustly freed several narcotics trafficking suspects; the lawsuit was pending at year's end.

The Government respects academic freedom and has not attempted to curtail political expression on university campuses.

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

In April police used tear gas during a demonstration at the National Congress to deal with unruly indigenous protesters. Militant union leaders took over a May Day parade by labor confederations, called for the deaths of 13 named labor leaders, assaulted 1 rival figure, pelted others with eggs, tomatoes, and pieces of ice, and denied them the right to address the crowd. In June police armed with batons clashed with rock-throwing protesters in southern Tegucigalpa who sought to prevent the relocation of hurricane victim shelters into their neighborhood. The confrontation resulted in minor injuries to both police and demonstrators.

A significant clash occurred on October 12, when indigenous demonstrators, who were blocked by police from marching past the presidential offices, rioted nearby. The demonstrators had been escorted peacefully along their route by the police until that point. Their leaders reportedly had just secured the Government's agreement to allow the march to proceed in the desired direction when the clash broke out. Demonstrators threw rocks and used slingshots against the police while some police opened fire without authorization, allegedly aiming either in the air or at the street. Approximately two dozen persons were injured, including nine police agents. Both police and demonstrators suffered injuries caused by fragmenting police rounds, and one demonstrator lost an eye. The President ordered investigations by government agencies, and a judge opened his own investigation, which continued at year's end. The police requested that the judge investigate the role of several dozen alleged instigators of the riot and, on October 14, filed charges of assault, attempted assault, and other crimes against leaders and members of various NGO's. The administration agreed to pay damages to injured demonstrators.

In October the National Congress passed a resolution calling on the executive branch to force the cancellation of a convention of psychics, whom it characterized as "witches and sorcerers." The Congress expunged the reference to cancellation in an amendment to the resolution passed the following day.

The Constitution provides for freedom of association, and the Government generally respects it in practice.

c. *Freedom of Religion.*—The Constitution provides for all forms of religious expression, and the Government generally respects this right in practice.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens enter and exit the country without arbitrary impediment, and the Government does not restrict travel within the country's borders.

The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the terms of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

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

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

Citizens last exercised the right to change their government through democratic and peaceful elections in November 1997. International observers found the elections to be free and fair.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, direct, and obligatory balloting every 4 years. In 1997 voters for the first time were able to cast separate ballots for the President, deputies in the National Congress, and municipal leaders, making individual elected officials more representative and accountable. Voting was made easier for citizens by a change that allowed them to vote closer to their homes.

Suffrage is universal, but neither the clergy nor members of the military or civilian security forces are permitted to vote. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police. A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments.

There are no legal impediments to the participation of women or minorities in government and politics; however, they are underrepresented. Women in the Government include one of the three vice presidents, four cabinet ministers, and a Supreme Court justice, as well as a number of cabinet vice ministers and agency heads, including the president of the Central Bank and Controller General. Of the 128 deputies in the Congress, 8 are women. In the 1997 elections, for the first time a woman ran as the presidential candidate of a major political party.

There are few indigenous people in leadership positions in government or politics; there are no members of Congress who state that they are indigenous, but there is one indigenous alternate deputy.

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

A wide variety of human rights groups operates without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperate with these groups and are responsive to their views.

Anonymous telephone callers continued to threaten human rights workers. Human Rights Commissioner Valladares and his family received numerous telephone threats. Ramon Custodio, president of the Human Rights Defense Committee, and Bertha Olivia de Nativi, general coordinator of the Committee of Relatives of the Detained and Disappeared, also received many telephone threats. In June Olivia's sister reported that unknown persons kidnaped her for several hours as a warning.

In 1996 the Congress ratified a presidential decree expanding the functions of the National Commissioner for Human Rights and unanimously reelected Leo Valladares to a 6-year term. Under this decree, and in fulfillment of his expanded functions, the National Commissioner has free access to all civilian and military institutions and centers of detention and is supposed to perform his functions with complete immunity and autonomy. However, in April the National Congress suddenly passed, with no public hearings or debate, a law that would have limited the Commissioner's powers and reduced his term of office to 4 years. The action followed a report released by the Commissioner that alleged 17 instances of malfeasance by public officials and institutions in the handling of international aid following Hurricane Mitch. Domestic and international protests persuaded the Congress to revoke the legislation 1 week later.

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

The Constitution bans discrimination based on race or sex. Although it also bans discrimination on the basis of class, in practice, the political, military, and social elites generally enjoyed impunity before the legal system. Members of these groups rarely were arrested or jailed; legislators enjoy legal immunity.

Women.—Violence against women remained widespread. The Penal Code was amended in 1997 to classify domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. Most such violence took place within the family. The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. All rapes are considered public crimes, so a rapist can be prosecuted even if he marries his victim. Under pressure from women's advocacy and reform groups, the Congress in 1997 enacted the Law Against Domestic Violence to strengthen the rights of women and increase the penalties for crimes of domestic violence. This law allows the Government to protect

battered women through emergency measures, such as detaining an aggressor or separating him temporarily from the victim's home. In 1998 some 3,000 women took action under the Law Against Domestic Violence, but their cases remained pending because the Government has not yet created the special courts authorized by that law. The Government attempted to remedy this situation by working with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence.

There are few shelters specifically maintained for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women opened in 1996, offering legal, medical, and psychological assistance, but not physical shelter.

Sexual harassment in the workplace also continued to be a problem.

Women, who make up 51 percent of the work force, were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. In theory, women have equal access to educational opportunities. Nevertheless, family pressures often impede the ambitions of women intent on obtaining a higher education. The law requires employers to pay women equal wages for equivalent work, but employers often classify women's jobs as less demanding than those of men to justify paying them lower salaries.

Some organizations have begun to offer assistance to women, principally targeting those who live in rural areas and in marginal neighborhoods of cities. For example, the Honduran Federation of Women's Associations provided home construction and improvement loans, offered free legal assistance, and lobbied the Government on women's causes. The Center for the Investigation and Promotion of Human Rights continued to operate a program to make women aware of their rights under the law. Programs that provide small loans to microentrepreneurs target women clients.

Women have advanced significantly in some professions during the past several years. The HOAF and National Police academies accepted female recruits for the first time in 1998; women at the Air Force academy continued to receive aeronautical training and the first class graduated at the end of the year. In September 1998, Reyna Dinora Aceituno was elected secretary general of the Confederation of Honduran Workers (CTH), the country's second largest labor confederation. Aceituno is the first woman to head a national labor confederation. In March 1998, the Government granted cabinet-level status to its Office of Women's Affairs, although the executive president of that office is not a member of the cabinet.

Children.—Although the Government allocated 32 percent of its 2000 budget to public education and health care, this was insufficient to address the needs of the nation's youth. The Government provides free, universal, and compulsory education through the age of 10; however, the Government estimated that up to 175,000 children each year fail to receive schooling of any kind, either due to insufficient financial resources, or because parents rely on their children to assist in supporting the family by working. Girls attend primary school in the same proportion as boys. Media reports indicated that up to 40 percent of children under 5 years old suffer from chronic malnutrition.

The Government was unable to prevent the abuse of street children (see Section 1.c.) and child laborers (see Section 6.d.). In 1998 the Government raised its estimate of street children to 8,000, only half of whom have shelter on any given day. The number of street children increased substantially due to Hurricane Mitch. Many street children have been molested sexually, and about 40 percent regularly engaged in prostitution. Approximately 30 percent of the street children in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive in 1998. Over 75 percent of the street children found their way to the streets because of severe family problems; 30 percent simply were abandoned. Both the police and members of the general population engaged in violence against street children. When the authorities arrested minors charged with the commission of capital and other serious crimes, they were housed with adult detainees who often abused them.

In 1996 the Government opened juvenile centers in Tamara, El Carmen, and El Hatillo (located in or near Tegucigalpa and San Pedro Sula). Nonetheless, a general lack of juvenile detention facilities contributed to the detention of minors in adult prisons, and to vigilante violence against, and police abuse of, street children. Human rights groups implicated out-of-uniform security force personnel, vigilantes, and business leaders in some juvenile deaths.

In 1997 Covenant House of Honduras, an organization dedicated to children's rights, brought charges before the Public Ministry against unnamed members of the armed forces and the police for the alleged torture of 63 juveniles or minors, 35 of whom reportedly were murdered, since 1990. The Government took no action in this

instance. There was no progress in the case of police agents who were detained and placed under investigation for detaining and beating youths in October 1997.

New legislation covering children and adolescents took effect in 1996, covering the rights, liberties, and protection of children, including in the area of child labor (see Section 6.d.). It established prison sentences of up to 3 years for persons convicted of child abuse. In September 1998, the Government launched the National Commission for the Gradual and Progressive Eradication of Child Labor, comprising government ministries, official family welfare agencies, and local NGO's.

People with Disabilities.—There are no formal barriers to participation by an estimated 300,000 disabled persons in employment, education, or health care, but neither is there specific statutory or constitutional protection for them. There is no legislation that requires access by disabled persons to government buildings or commercial establishments.

Indigenous People.—The small communities of indigenous people have little or no ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous land rights are communal. While the law permits persons to claim individual freeholding titles, this is difficult to accomplish in practice. Tribal lands often are defined poorly in documents dating back to the mid-19th century and, in most cases, lack any legal title based on modern cadastral measurements. The Honduran Forestry Development Corporation (COHDEFOR) makes all decisions regarding exploitation of timber resources on indigenous lands, often over strenuous tribal objections.

The lack of clear title by indigenous groups to public lands that they occupy often leads to conflicts between such groups and COHDEFOR and other government entities. However, such disputes are equally common between COHDEFOR and nonindigenous groups, and COHDEFOR is working with numerous indigenous groups on management plans for public and tribal lands that they occupy. In view of the absence of clear land titles and their unequal access to legal recourse, indigenous groups also are vulnerable to frequent usurpation of their property rights by nonindigenous farmers and cattle ranchers. Expanded coverage of the national cadastral registry, property titling, and government land registries is reducing this vulnerability.

The courts commonly denied legal recourse to indigenous groups and often showed bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently caused indigenous groups to attempt to regain land through invasions of private property, which usually provoked the authorities into retaliating forcefully.

The Government generally is responsive to indigenous land claims, but numerous cases remained unresolved because of conflicting claims by nonindigenous persons. During 1998 the Government issued over 100 land titles, encompassing over 250,000 acres, to various indigenous groups. An additional 170 land claims by indigenous people were under adjudication at the end of 1998. The Government issued over 20,000 individual land titles in 1997, benefiting many indigenous families. Indigenous groups nonetheless charged that the Government had failed to fulfill its commitments in this area.

In 1997 Candido Amador Recinos, a leader of the Chorti indigenous group active in efforts to acquire claimed tribal lands, was murdered in Corralitos, Copan department; there has been no progress in the investigation, although the Public Ministry and police reportedly formed a special unit to investigate his death and that in 1991 of a Tolupan indigenous leader, Vicente Matute. Indigenous groups petitioned actively during the year for the Government to carry out more effective investigations in both cases.

Also in 1997, after a month of nationwide protests by indigenous organizations that included a hunger strike, the Government signed a 22-point agreement with representatives of various groups that made available 9 initial land grants of about 22,000 acres each to different tribes, granted some contested land titles outright to indigenous petitioners, and set aside $15,385 (200,000 lempiras) in government funds for indigenous housing. The Congress also created a commission to study indigenous land claims, which often conflict with the claims of small farmers, but the commission was largely inactive.

Indigenous groups, backed by international supporters, objected strongly to a proposed constitutional amendment that would permit foreigners to own and develop land for tourism within 25 miles of the country's coasts and land frontiers. The amendment was approved on its first reading in late 1998 but had not been ratified (approved at the required second reading during the next session) by year's end. The Government sought to spur domestic economic growth and provide job opportunities for indigenous people by attracting new foreign investment and tourism to such areas, but the indigenous groups asserted that the proposed amendment would viti-

ate indigenous claims to ancestral lands, accelerate alienation of indigenous property, and deprive indigenous people living in the affected areas of access to coastal areas. The congressional leadership pledged not to ratify the constitutional amendment following a demonstration on October 12 that led to a violent clash near the presidential offices (see Section 2.b.).

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the legal right to form and join labor unions; unions are independent of the Government and political parties. Most peasant organizations are affiliated directly with the labor movement. Unions frequently hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 14 percent of the work force are unionized, and the economic and political influence of organized labor has diminished in recent years.

The labor movement is composed of the three national labor federations: The General Council of Workers, the Confederation of Honduran Workers, and the Unitary Confederation of Honduran Workers.

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities honor in practice. However, the Civil Service Code denies the right to strike to all government workers, other than employees of state-owned enterprises. Public sector employees in the fields of health and education conducted illegal work stoppages during the year. In June members of the National Police staged a "strike of inertia" due to the failure of the Ministry of Security to pay their salaries.

A number of private firms have instituted "solidarity" associations, essentially aimed at providing credit and other services to workers and managers who are members of the associations. Representatives of organized labor groups criticize these associations, asserting that they do not permit strikes, have inadequate grievance procedures, and neutralize genuine, representative trade unions.

The three national labor confederations maintain close ties with various international trade union organizations.

b. *The Right to Organize and Bargain Collectively.*—The law protects the rights to organize and to bargain collectively; collective bargaining agreements are the norm for companies in which workers are organized. However, although the Labor Code prohibits retribution by employers for trade union activity, it is a common occurrence. Some employers have threatened to close down unionized companies and have harassed workers seeking to unionize, in some cases dismissing them outright. The labor courts are considering hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. However, once a union is recognized, employers actually dismiss relatively few workers for union activity. Nonetheless, such cases serve to discourage workers elsewhere from attempting to organize.

Workers in both unionized and nonunionized companies are protected by the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry took action in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a strike or other union activity.

The Labor Code explicitly prohibits blacklisting. Nevertheless, there was credible evidence that informal blacklisting occurred in the privately owned industrial parks, known as maquiladoras. When unions are formed, organizers must submit a list of initial members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry must inform the company of the impending union organization. The Ministry has not always been able to provide effective protection to labor organizers. There were credible reports, particularly in the export processing zone (EPZ) sector, that some inspectors had gone so far as to sell the names of employees involved in forming a union to companies that then dismissed union organizers before the Ministry could recognize the unions.

The same labor regulations apply in EPZ's as in the rest of private industry. Unions are active in the government-owned Puerto Cortes free trade zone (7 of 11 maquiladoras there are unionized), but factory owners have resisted efforts to organize the privately owned industrial parks. The Honduran Association of Maquiladores (AHM) over the past 4 years has sponsored seminars and other meetings between its members and major labor groups. As a result, tensions have declined, and 46 of the 203 maquila plants have unionized, with 32 of those plants having collective bargaining agreements.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Although local unions were not consulted during the drafting process and have no formal role in its implementation, the code nonetheless represented a public commitment by apparel manufacturers to abide by local laws and regulations governing their industries. It provided a starting point for a dialog among the AHM, organized labor, and the Government, which have formed a tripartite commission that meets on a monthly basis to discuss and facilitate solutions for labor problems. The attitude of the Government towards organized labor in the EPZ's is the same as in other industries.

In a number of maquiladora plants, workers have shown little enthusiasm for unionizing, since they consider their treatment, salary, and working conditions to be as good as, or better than, those in unionized plants. In the absence of unions and collective bargaining, several EPZ plants have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Other EPZ plants use the minimum wage to set starting salaries, and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria.

In 1997 a South Korean-owned maquiladora plant agreed to permit an independent monitoring group composed of religious, human rights, and women's organizations to inspect its facility and observe the working conditions of its employees. The national labor confederations objected to the agreement because it excluded them, while other maquiladoras observed that the monitors lacked relevant expertise in the industry. Plant officials gave the independent monitors office space on the premises in 1997, but withdrew it in June 1998. However, they continued to allow periodic visits by the monitors, who have provided assistance to the local union during contract negotiations.

Labor leaders blame the Government for allowing private companies to act contrary to the Labor Code and expect the problem to continue until the Ministry of Labor is reorganized to make it more efficient. They criticize the Ministry for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders contend that the obsolete and cumbersome Labor Code discourages foreign investment and requires significant redrafting. A 1995 Memorandum of Understanding between the Ministry of Labor and the office of the United States Trade Representative calling for greater enforcement of the Labor Code resulted in some progress. However, labor unions charged that the Ministry has made insufficient progress towards enforcing the code, especially in training its labor inspectors and in conducting inspections of the maquiladora industry. The Government has acknowledged that it does not yet adhere completely to international labor standards and in 1997 agreed, along with other Central American nations, to fund a regional program to modernize the inspection and labor management functions of the Ministry of Labor.

A South Korean-owned maquiladora, Kimi de Honduras, reached a collective bargaining agreement with its workers in March, but in August workers took over the plant and held managers captive for several hours in a wage dispute. The Ministry of Labor mediated effectively, persuading the company to drop legal charges and to reopen the factory. The AHM is now assisting the company to improve its productivity, which could facilitate future wage increases. In September the Yu Yang maquiladora in the same industrial park reportedly fired labor organizers, thereby stimulating worker unrest. Other labor disputes occasionally occurred at maquiladoras in the San Pedro Sula area, principally over delayed payment of wages or failure to honor promises regarding pay scales, seniority, or working conditions.

c. *Prohibition of Forced or Compulsory Labor*.—The Constitution and the law prohibit forced or compulsory labor, and this applies equally to children; however, while there were no official reports of such practices in the area of child labor, there were credible allegations of compulsory overtime at EPZ plants, particularly for women, who make up an estimated 80 percent of the work force in the maquiladora sector.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except that a child who is 15 years of age is permitted to work with parental and Ministry of Labor permission. The Children's Code prohibits a child of 14 years of age or less from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the child has finished or is finishing the required compulsory schooling. The Ministry of Labor grants a limited number of work permits to 15-year-old children each year.

The Ministry of Labor cannot enforce effectively child labor laws outside the maquiladora sector, and violations of the Labor Code occur frequently in rural areas and in small companies. According to the Ministry, human rights groups, and children's rights organizations, an estimated 350,000 children work illegally. The most significant child labor problem is in the construction industry. Many children also work on small family farms, as street vendors, or in small workshops to supplement the family income. Hurricane Mitch exacerbated existing child labor problems in every sector of the economy.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain legitimate work permits by fraud or purchase forged permits.) The maquiladoras in recent years have raised their minimum employment age, and some hire only at age 18 or above, reducing the number of legal job opportunities available to persons under 18 years of age.

In September 1998, the Government created a National Commission for the Gradual and Progressive Eradication of Child Labor (see Section 5).

Forced or compulsory labor is prohibited, including that performed by children, and there were no reports of its use (see Section 6.c.).

e. *Acceptable Conditions of Work.*—In the aftermath of Hurricane Mitch, labor leaders agreed to forgo the usual January pay increase in return for a pledge by business leaders to control price increases for basic goods and services. When labor and business reached an impasse on wage negotiations in June, the Catholic Church arbitrated a 25 percent increase in the minimum wage, which the Government implemented in July. Both sides also agreed that, as of January 1, 2000, an 8 percent increase would take effect for all workers and that the base for both increases would be the minimum wage effective before the salary increase in July. There is to be no further raise in the minimum wage through 2000, as long as inflation (according to Central Bank statistics) does not exceed 12 percent during the first 6 months of the year.

Daily pay rates vary by geographic zone and the sector of the economy affected; urban workers earn slightly more than workers in the countryside. The lowest minimum wage occurs in the nonexport agricultural sector, where it ranges from $2.27 to $2.89 (33 to 42 lempiras) per day, depending on whether the employer has more than 15 employees. The highest minimum wage is $3.79 (55 lempiras) per day, in the export sector. All workers are entitled to an additional month's salary in June and December of each year. The Constitution and the Labor Code stipulate that all labor must be paid fairly, but the Ministry of Labor lacks the personnel and other resources for effective enforcement. The minimum wage is insufficient to provide a decent standard of living (above the poverty line) for a worker and family.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Labor Ministry.

The Ministry of Labor is responsible for enforcing national health and safety laws, but does not do so consistently or effectively. Some complaints alleged that foreign factory managers failed to comply with the occupational health and safety aspects of Labor Code regulations in factories located in the EPZ's and private industrial parks. There is no provision allowing a worker to leave a dangerous work situation without jeopardy to continued employment.

f. *Trafficking in Persons.*—The legal code includes provisions prohibiting trafficking in persons; however, it is a problem. Weak police and court systems hinder law enforcement efforts.

There were at least six different cases of aliens smuggled to the United States that involved force, sequestration (holding persons incommunicado against their will), and debt bondage. The most common instance involved sequestration of persons until a smuggling fee was paid. If the fee is not paid, the smugglers normally seek retribution by turning such persons in for deportation proceedings. Many times fees are paid by relatives who fear that smugglers may employ violence against the smuggled persons. There were two reports of women who were coerced into submitting sexually to smugglers in return for their freedom. The most common practice involving debt bondage is the smuggling of indentured persons, through Honduras from China or South America, whose smuggling fee is paid by an employer in the United States in return for free or low-paid labor. The Government does not provide economic aid or other assistance to victims or potential victims of such crimes.

JAMAICA

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

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) is charged with supporting the JCF in maintaining law and order, although it has no powers of arrest. While civilian authorities generally maintain effective control of the security forces, some members of the security forces committed human rights abuses.

The economy is based on primary products (bauxite and alumina, sugar, bananas), services (tourism, finance), and light manufacturing (garment assembly). The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. In 1998 annual per capita income was $2,440, but this figure is misleading as there is a large and widening gap between the wealthy and the impoverished.

The Government generally respects the human rights of its citizens; however, serious problems remained in several areas. Members of the security forces committed extrajudicial killings and beatings and carried out arbitrary arrests and detentions. Although the Government moved effectively to punish some of those involved, continued impunity for police who commit abuses remains a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, poor sanitary conditions, and inadequate diet are problems. The judicial system was overburdened, and lengthy delays in trials were common. Violence and economic discrimination against women remained problems. Child labor is a problem. Mob violence against those suspected of breaking the law also remained a problem.

RESPECT FOR HUMAN RIGHTS

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

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

The security forces frequently employed lethal force in apprehending criminal suspects, usually in the guise of shoot-outs. This resulted in the killing by police of 151 persons during the year. While allegations of "police murder" were frequent, the validity of some of the allegations was suspect. This problem is the result of unresolved, longstanding antipathy between the security forces and certain communities, especially among the urban poor. The JCF conducted both administrative and criminal investigations into incidents involving fatal shootings by the police. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

From April 19 to 21, there were 3 days of island-wide protests following a substantial increase in the tax on various petroleum products. The protests were mainly peaceful; some involved blocking roads, and some persons took advantage of the situation to loot businesses and to stone passing vehicles. In general the security forces acted with restraint and professionalism in the course of arresting 152 persons, mainly for looting; however, during the disturbances the police killed 7 persons and wounded 5 others. Although the majority of those killed and wounded were alleged looters, one of those shot and killed was an off-duty JDF soldier, who reportedly was trying to protect a child from gunfire and was shot by police despite allegedly identifying himself as a soldier. At year's end, this case was awaiting action by the public prosecutor's office, which had not yet brought charges against anyone for killing the soldier.

At year's end, the police still had not yet made public the results of their investigation into the August death of a 26-year-old Kingston man, allegedly suffering from clinical depression, whom nine soldiers and four policemen beat severely when he tried to walk through a police barricade during a curfew. Police arrested the man, who they allege pushed a policeman and tried to take his rifle. He later died from peritonitis caused by the beating. The case led local human rights groups to demand that the law be changed to allow relatives and their representatives to observe the post mortems of persons killed by the security forces. Initially, the Govern-

ment tried to bar an independent pathologist from observing the deceased man's autopsy. As a result of an independent autopsy paid for by a local human rights nongovernmental organization (NGO), a coroner's inquest was convened. On December 22, an 11-person coroner's jury returned a 10-to-1 verdict that the death was manslaughter. The record was forwarded to the Public Prosecutor's office for possible prosecution of the security force members who conducted the beating.

Another case that received national publicity involved the police firing on a taxi carrying passengers in Kitson Town in June. The police killed the driver—a district constable—and injured one of the passengers. It is not clear why police fired on the car, but local human rights activists say that the police acted under the mistaken belief that the taxi contained someone they wanted. The incident triggered a violent protest by the Kitson Town community and resulted in the arrest of 26 persons and the burning of 2 police cars. The results of the police investigation were sent to the Public Prosecutor's office for action.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were 9 vigilante killings during the year, compared with 16 in 1998, and 16 in 1997. Official investigations into such killings generally do not uncover any information, since the persons and the community involved usually band together to intimidate potential witnesses.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures.

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

In April 1997, the Police Commissioner criticized the excessive use of force by police in Hopewell, Hanover, who shot six persons who were demonstrating against the substandard roads and water supply. Although the authorities initially charged three policemen with unlawful wounding, in December 1998, the court dismissed the case for lack of prosecution. The Director of Public Prosecutions could have appealed the dismissal, but in May he decided not to do so.

A Human Rights Watch (HRW) report published in July detailed frequent and credible allegations of police abuse in lock-ups, including severe beatings, mock executions, and rape. The Government did not deny the report's allegations (and one government Minister admitted that the situation did not differ much from that described in a 1994 HRW report). Human Rights Watch noted that the Government responded quickly to remove some children from lockups; however, HRW also noted that the Government must undertake a systematic effort to curb police abuse effectively and bring sanctions against officers who commit abuses. The Government has not demonstrated this type of institutional commitment to reform.

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

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care are typical. The July HRW report also criticized the conditions in which juveniles are held. The report detailed many cases in which juveniles were detained improperly, not given access to legal representation, and held in adult lock-ups where they were victimized by adult prisoners. The conditions in these lock-ups are harsh, with severe overcrowding, intermittent meals, poor lighting, ventilation, and sanitation.

In general the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The police continued to arrest and detain citizens arbitrarily. In 1994 Parliament repealed the Suppression of Crimes Act of 1974, which permitted warrantless searches and the arrest of persons "reasonably suspected" of having committed a crime. However, the Jamaica Constabulary Force Act now contains several of these provisions, and there were continued reports that the police abused these provisions. In March 1997, the Jamaican Bar Association (JBA) protested that the police were unlawfully detaining and fingerprinting groups of citizens in poor, inner city areas. At the time, the Police Commissioner disavowed the practice and ordered it discontinued; however, both the JBA and the Independent Jamaica Council for Human Rights state that the practice continues. This was confirmed in July, when police rounded up 52 men from the Grant's Pen area of Kingston. The men reportedly were fingerprinted, photographed, and then released without being charged.

A July case involving the detention and forced transport of 32 persons (many of whom were reportedly mentally ill), who were living on the streets in a Montego Bay business district, triggered a national debate about police action and the dignity of citizens. These persons were rounded up during the night; some allegedly were bound and sprayed with pepper spray. They then were transported in an open truck belonging to the St. James Parish Council (the local government in Montego Bay) and released in a rural area of a neighboring parish. In July the authorities suspended five policemen from duty pending an investigation, which failed to uncover sufficient evidence for the Public Prosecutor to charge anyone with a crime. Upon further investigation, in October the authorities charged three persons (including a police inspector and two public sector employees) with false imprisonment and assault. However, few believe that only three persons were involved; it is believed widely that the police were involved and acted at the behest of Montego Bay merchants and with the acquiescence of the local government, and that large sums of "hush money" were paid as part of a coverup; both groups denied any knowledge or involvement. The local media severely criticized the apparent coverup, with one talk show going so far as to offer a $6,250 (J$250,000) reward for information leading to the identification of the parties responsible.

The law requires police to present a detainee in court within 48 hours of detention, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

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

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

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

Three courts handle criminal matters at the trial level. Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court. The Constitution allows the Court of Appeal and the Parliament to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

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

While the defendant's right to counsel is well established, the courts appoint counsel for the indigent only for serious offenses (e.g., murder, rape, robbery, and gun offenses). However, the law does not consider many offenses, including wounding with intent to cause great bodily harm, as "serious," and the courts try many defendants without benefit of counsel.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary intrusion by the State into the private life of an individual. The revised Jamaica Constabulary Force Act continues to give security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act (see Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice.

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

The Government does not restrict academic freedom.

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

Widespread public protests over gasoline price increases in April led to the closure of businesses, as demonstrators resorted to violence. The police killed and wounded a number of persons (see Section 1.a.).

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

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

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

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

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum, and provided it to approximately 40 persons in 1994. Similar but smaller numbers of first asylum cases, mainly Cubans and Haitians, were accepted in 1995 and 1996, but none have been accepted since. The Government established a committee and formal procedures to review claims to refugee status. This committee has denied all claims to refugee status by Cubans and Haitians who have arrived in Jamaica since 1994.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, voters living in so-called garrison communities, which are located in inner-city areas dominated by one of the two major political parties, face substantial impediments to the free exercise of their right to vote. During the 1997 general election campaign, both international and local observer groups concluded that, although the process was significantly less violent than recent election campaigns, problems persisted in the garrison communities. These problems included intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. Some areas are so dominated by one party that the polls simply closed early and vote counts were taken that resulted in 100 percent (or nearly 100 percent) of the votes being awarded to the dominant party. These problems persisted in the December 1997 election, despite the best efforts of the security forces, which were credited with controlling violence, such as the beating of voters, and reducing election malpractice, such as the theft of ballot boxes from polling places.

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

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

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

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

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government largely enforces these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3).

Women.—Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in

estimates of its extent. The Domestic Violence Act of 1995 came into effect in 1996. It provides remedies for domestic violence, including restraining orders and other noncustodial sentencing.

There were anecdotal reports that the police sexually harassed women. One case of this type involved a young woman who was protesting peacefully the April gas tax increase and allegedly was arrested for no apparent reason. The incident, which was videotaped and widely broadcast, angered women throughout the country and contributed to the large turnout for the Women's March for Justice, an event that received international media coverage.

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

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

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

There is no societal pattern of abuse of children. The Juvenile Act of 1951 deals with several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lock-ups with adults. The Government has not made resources available to construct additional facilities for juveniles (see Section l.c.).

People with Disabilities.—No laws mandate accessibility for people with disabilities. Several government agencies and NGO's provide services and employment to various groups of disabled citizens. In January 1998, the Prime Minister appointed the first blind member of the Senate, an action that is expected to raise the parliamentary profile of problems affecting disabled persons. In July an incident in which police rounded up 32 persons (many of whom reportedly were mentally ill) triggered a national debate over police action (see Section 1.c.).

Section 6. Worker Rights

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

The LRIDA neither authorizes nor prohibits the right to strike, but strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization (ILO) repeatedly condemned as overly inclusive. The Government did not declare any strikes illegal during the year.

Unions maintain a wide variety of regional and international affiliations.

b. *The Right to Organize and Bargain Collectively.*—The Government rarely interferes with union organizing efforts. Judicial and police authorities effectively enforce the LRIDA and other labor regulations. All parties are committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handles 35 to 40 cases each year. Most are decided within 90 days, but some take longer to resolve due to the complexity of the dispute or delays requested by the parties. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Domestic labor laws apply equally to the "free zones" (export processing zones). However, there are no unionized companies in any of the 3 zones—established in 1972, 1985, and 1988—that employ 10,039 workers. Organizers attribute this circumstance to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue. Company-controlled "workers' councils" handle grievance resolution at most free zone companies, but do not negotiate wages and conditions with management. Management determines wages and benefits within the free zones; these are generally as good as or better than those in similar industries outside the zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and actually performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution does not specifically address the matter of forced or compulsory labor for either adults or children, but there were no reports that this practice exists.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may only be in domestic, agricultural, or horticultural work. However, enforcement is erratic. Children under the age of 12 peddle goods and services on city streets, but there is no evidence of widespread illegal employment of children in other sectors of the economy. The Educational Act stipulates that all children between 6 and 11 years of age must attend elementary school. Industrial safety, police, and truant officers are charged with enforcement. However, due to difficult economic circumstances, thousands of children are kept home to help with housework and avoid school fees. A 1994 report by the U.N. Children's Fund (UNICEF) stated that 4.6 percent of children below the age of 16 worked to help support their households. In December the Minister of Labor, Welfare, and Sport made a widely reported speech in which she stated that 23,000 children were engaged in child labor. While the Constitution does not prohibit forced or bonded labor by children, such practices were not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum wage, raised from $20 (J$800) to $30 (J$1,200) per week in August, is widely considered inadequate to provide a decent standard of living for a worker and family. Most salaried workers are paid more than the legal minimum. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that is observed widely.

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

The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

f. *Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. There were no reports that persons were trafficked in, to, or from the country.

MEXICO

Mexico is a federal republic of 31 states and the Federal District, with an elected president and a bicameral legislature. President Ernesto Zedillo of the Institutional Revolutionary Party (PRI) was elected in 1994 to a single 6-year term. The PRI, the oldest and largest political party, enjoys significant advantages in patronage, incumbency, and fund-raising, and has won every presidential election since the party's founding in 1929, some of which involved credible allegations of fraudulent practices. However, in largely free and fair elections in 1997, the PRI lost its absolute majority in the lower house for the first time, and the two main opposition parties—the Democratic Revolutionary Party (PRD) and the National Action Party (PAN)—have become firmly established and continue to be competitive in elections. Politically motivated violence continued to plague the southern states of Chiapas, Guerrero, and Oaxaca. The peace process in Chiapas between the Government and the Zapatista National Liberation Army (EZLN) remained stalled, although in Sep-

tember the Government proposed a new peace initiative to restart talks. The judiciary is generally independent; however, it occasionally has been influenced by the executive branch.

The military shares responsibility for internal security with the police forces, which include federal and state judicial police, the new federal preventive police, the municipal police, and various police auxiliary forces. Elected civilian officials have control over the military and police; however, corruption is widespread within police ranks and also is a problem for the military. The military maintains a strong presence in the states of Chiapas and Guerrero. Military personnel and police officers continued to commit serious human rights abuses.

The Government continued to deregulate and open the market-based, mixed economy. The real rate of growth in gross domestic product (GDP) in 1998 was 4.8 percent and the inflation rate was 18.6 percent. One-fourth of the population reside in rural areas where subsistence agriculture is common. Per capita GDP in 1999 was about $4,600. The economy is still recovering from the 1994 economic crisis, and real wages are less than before the crisis. Leading exports include petroleum, automobiles, and manufactured and assembled products, including electronics and consumer goods. Income distribution remained skewed; the top 20 percent of the population received about 60 percent of total income, while the bottom 20 percent earned less than 5 percent.

The Government generally respected many of the human rights of its citizens; however, serious problems remain in several areas, and in some states where a poor climate of respect for human rights presents special concern. Continued serious abuses include extrajudicial killings; disappearances; torture and other abuse; police corruption and alleged involvement in narcotics-related abuses; poor prison conditions; arbitrary arrest and detention; lengthy pretrial detention; lack of due process; judicial inefficiency and corruption; illegal searches; attacks and threats against journalists; some self-censorship; assaults, harassment, and threats against human rights monitors; violence and discrimination against women; child prostitution and abuse; discrimination against indigenous people; violence and discrimination against religious minorities; violence against homosexuals; limits on worker rights; extensive child labor in agriculture and in the informal economy; and trafficking in persons.

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

Armed civilian groups operating in the state of Chiapas were responsible for human rights abuses. The incidence of narcotics-related violence and human rights abuses also increased, allegedly with the assistance of members of the security forces. Guerrilla attacks against government property and personnel continued.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Members of the security forces, both the military and police, committed political and other extrajudicial killings.

On March 4 in the state of Guerrero, men dressed in Federal Judicial Police uniforms and armed with automatic weapons killed Aurelio Garcia, a former state attorney general and advisor to the PRD's unsuccessful gubernatorial candidate in the February 7 election. On April 16, the authorities charged Bernardino Alvear Villa and Juan Valdovinos Rodriguez in connection with this murder. The Federal Attorney General's (PGR) investigation continued at year's end.

On May 8, the military admitted that soldiers killed two farmers during the month of April (see Section 1.g.).

On May 15, Federal Fiscal Police killed 1 immigrant when they opened fire on a van containing 23 persons. The PGR opened an investigation into the incident and detained three Federal Fiscal Police officers. Press reports indicate that at least one of the officers detained also was involved in a similar incident on March 17 when the Federal Fiscal Police opened fire on a van. The police wounded 4 of the 45 passengers but did not kill anyone in that incident.

On August 12, a judge ordered the arrest of current and former Tamaulipas PGR officials Carmen Oralio Castro Aparicio, Aurelio Soto Huerta, Jose Isabel Lopez Rivas, Gabriel Angel Gutierrez Portillo, and Ramiro Garcia Eugenio. They are charged with the murder of fellow PGR official Jaime Rajid Gutierrez Arreola.

On October 3, Cosem Demian Sanchez Sastre, a member of the Zapatista National Liberation Front (FZLN, the political branch of the EZLN), was found dead in his cell in a Tijuana detention facility. Police arrested him along with two others on charges of possession of marijuana and public intoxication the previous evening. The authorities announced that the official cause of death was suicide by hanging. However, Sanchez's family and fellow FZLN members claim that at least two witnesses saw prison guards beat him to death. The Binational Center for Human Rights office in Tijuana also protested the official cause of death. Sanchez was the fourth person to die in this Tijuana detention center during the year.

There have been numerous reports of executions carried out by rival drug gangs, whose members have been proven to include both active and former federal and state security personnel.

Throughout the country, but particularly in the northern border states, violence related to narcotics trafficking increased. The police and military were accused of being responsible for disappearances, arbitrary detentions, torture, use of excessive force, and other serious human rights violations as they carried out the Government's efforts to combat drug cartels.

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

On March 24, a court convicted the former Morelos state attorney general, Carlos Peredo Merlo, of tolerating the coverup of the kidnaping, torture, and murder of Jorge Nava Aviles in 1998 and sentenced him to 3 years and 7 months in prison. However, a higher court later reduced his sentence to less than 2 years. The killing of Nava Aviles was discovered when the then-chief of the antikidnaping unit and other members of the Morelos state judicial police were found dumping his body alongside a highway. The court also convicted Cuernavaca's former deputy prosecutor and the former director of the judicial police on related charges in the same case and sentenced each of them to 3 years and 3 months. The remaining persons accused in this case still were awaiting trial at year's end.

In another incident, and following a public campaign by the victim's family, the authorities brought charges against two police officers in February for the 1998 robbery and murder of a foreign visitor in a death that first had been ruled accidental. Video cameras from automatic teller machines showed police officers Lucio Tapia Galindo and Francisco Leon Gonzalez withdrawing money from the victim's account. The two officers also were implicated in similar incidents involving foreign tourists. They fled the country, but were brought back to stand trial. In February the court found them guilty of robbery and murder.

In January the PGR arrested two former Chiapas officials, public security official Absalon Gordillo Diaz and prosecutor Roberto Arcos Jimenez, and charged them with crimes relating to the December 1997 massacre of 45 persons in Acteal, Chiapas. In the first convictions for actual involvement in the Acteal massacre, on July 19 a court sentenced 20 persons to 35-year prison terms on charges including homicide, assault, and illegal possession of firearms. In September the court sentenced a second group of 24 persons to 35-year prison terms on similar charges. Former mayor of Chenalho Jacinto Arias Cruz, believed to have played a significant role in the Acteal massacre, was among those sentenced. At year's end, the court had not ruled on charges against more than 80 other individuals.

The September 1997 killing by police of six youths during a police operation in the Mexico City neighborhood of Buenos Aires remains unresolved. The authorities brought charges against only 6 of the 26 police officers originally accused of the crime, and charged only 1 of the 6, Eleazar Perez Zavala, with homicide.

The courts have convicted 9 former public officials and 13 former police officers of crimes in the 1995 Aguas Blancas massacre of 17 indigenous farmers. In April a circuit court released 15 former Guerrero state police officers without bringing them to trial. Former Guerrero governor Ruben Figueroa is alleged to have masterminded the massacre. However, the authorities never thoroughly investigated this allegation and never charged him with any crime.

In February 1998, Gerardo Villarreal Rodriguez died in Nuevo Leon, after being tortured by four state police officers. His body was discovered the next day in a shallow grave. A local television station broadcast a taped conversation in which state police chief Americo Melendez Reyna asked the state attorney general for help in covering up the crime. Melendez Reyna immediately left office; the authorities prosecuted him but did not bring charges against any of the alleged torturers.

In June 1998, in El Charco, Guerrero, army troops killed 12 alleged members of the rebel Revolutionary Army of the People's Insurgency (ERPI), a breakaway fac-

tion of the People's Revolutionary Army (EPR), in a firefight. Five individuals were wounded and 22 were arrested. After investigating the incident, human rights NGO's found it suspicious that the military had sustained no casualties if, as the army asserted, there had been an intense firefight between troops and well-armed guerrillas. The authorities later released 20 of the persons arrested during the incident; they kept 2 persons in jail and subsequently arrested 2 more individuals. The Government charged the four persons with rebellion, possession of illegal weapons, and organized delinquency. The authorities insisted that those detained confessed to being guerrilla leaders, while the accused claimed that the confessions were false and extracted under torture. A judge in Acapulco upheld a ruling in January that the four are presumed members of the ERPI; they remained in prison, and a CNDH investigation into their allegations of torture continued during the year.

There was no information available on the investigation of the June 1998 killing of an alleged migrant smuggler, in which seven members of the Grupo Beta police unit were detained. Officials were investigating whether the victim was killed after he had been detained and whether evidence was planted on him.

There were no new developments in the investigation into the March 1997 incident at San Pedro Nixtalucum, El Bosque municipality, Chiapas, in which police killed 4 persons and detained 24 others during a confrontation between PRI supporters and opponents.

On May 20, a court sentenced former judicial police officer Mario Alberto Gonzalez Trevino to a total of 49 years in prison for the torture and murder in 1990 of Norma Corona Sapien, a cofounder of the Sinaloa Human Rights Defense Commission. Corona Sapien had been investigating narcotics-related violence.

Some killings apparently were politically motivated. Jorge Aguirre Meza, cofounder of the Sinaloa Human Rights Defense Commission and a mayoral candidate in the municipality of Navolato, was killed on January 27. The other two cofounders of the defense commission, Jesus Michel Jacobo and Norma Corona Sapien, were killed in 1987 and 1990, respectively. The authorities have not charged anyone with Aguirre Meza's murder.

In June a police officer in Naucalpan, in the state of Mexico, killed Mauricio Martinez Hernandez, a municipal worker. Union activists and members of the opposition PAN party claimed that the killing was politically motivated. The authorities arrested one officer, who was tried and convicted for murder. A second suspect remained a fugitive at year's end.

Violence in the predominately indigenous state of Oaxaca increased. On May 9, PRD Senator Hector Sanchez Lopez and two companions were shot. All three survived the attack, which occurred near the town of Chalcatongo. There is some dispute whether the attack was politically motivated, and the PGR was investigating.

On May 11, the leader of an indigenous rights movement, Heriberto Pazos Ortiz, was shot and seriously wounded in the Oaxaca capital. Two other politically active indigenous leaders were killed in the same attack. On August 10, the secretary general of an organization supporting the Triqui indigenous group was killed as he left his home.

On October 3, a group of men armed with AK–47 assault weapons attacked an Acapulco city councilor-elect and his family en route to a PRD election victory celebration. The councilor's son was killed, and the councilor seriously wounded. State authorities charged a PRD activist with the crime and alleged that he was affiliated with the ERPI insurgent group. The suspect later repudiated a confession that he alleges was coerced by torture. PRD officials rejected the results of the state investigation as falsified and called for federal intervention. Human rights observers charged that state and federal authorities used the investigation into electoral violence to repress opposition parties and peasant organizations by linking the political opposition to insurgent groups.

On January 5, a group of persons killed villagers in Tzacabel, Chiapas, including a 4-year-old child. One survivor notified the state authorities, who arrested three men on January 8 in connection with the killings. One report of the incident asserted that a landowner hired the suspects to avenge the theft of two weapons. Another report described the attackers as men dressed in black who pretended to be police officers looking for thieves. Chiapas police said that they had detained a total of six persons in the attack, including two women. On the same day, state authorities found the remains of three indigenous persons and were investigating their killing.

In January Raul Salinas de Gortari, brother of former president Carlos Salinas, was convicted of ordering the 1994 murder of PRI leader Jose Francisco Ruiz Massieu. Salinas, who maintains his innocence, was sentenced to 50 years in prison. On appeal, the court reduced his sentence to 35 years' imprisonment.

There has been some progress in solving the disappearances and murders, beginning in 1993, of about 200 women near Ciudad Juarez. Most of the victims were young women working in the in-bond export processing (maquila) sector. According to the state's special prosecutor for crimes against women, the authorities had completed investigations and filed charges or obtained convictions in 80 percent of the 198 cases under their purview from 1993 through 1999. Of the 46 cases discovered in 1998 and 1999, the authorities have investigated and made arrests in the majority of the killings. In February a court sentenced Abdel Latif Sharif to 30 years in prison for committing one of these murders. He is also alleged to have hired two persons to prove his innocence; they have been accused of 16 murders between them. There is no evidence that Sharif or his accomplices had political motives for their alleged crimes.

Several human rights organizations and the U.N. Special Rapporteur on Extrajudicial Executions, Asma Jahangir, who visited the country in June, believe that the limited progress in solving these murders was due to the fact that most of the victims were poor, young women, few of whom had anyone to press the authorities for intensive investigation. However, police incompetence, prosecutorial ineptitude, and lack of investigative resources also hampered the investigation. No one else has been charged in any of the other 184 disappearances or murders, which apparently stopped after Sharif's arrest (see Section 1.b.).

Narcotics-trafficking organizations committed many killings. Human rights groups allege that military and police forces are responsible for some killings generally attributed to narcotics traffickers or other criminals, including some of those whose bodies were discovered in Chihuahua in December (see Section 1.b.).

There were many reports of vigilante killings and violence during the year. For example, in Mexico City there were at least two incidents in which bus passengers overpowered would-be robbers and beat them before police could intervene. Only the alleged robbers were reportedly prosecuted in these incidents.

b. *Disappearance.*—There continued to be credible reports of disappearances. In 1998 the CNDH registered 42 complaints of disappearance, compared with 30 in 1997. It was able to resolve 25 of these cases. The CNDH also is working to establish a nationwide database to assist in the identification of unknown remains. By the end of 1998, 20 states had agreed to take part in this network.

Kidnaping is a seriously underreported crime throughout the country. After the authorities arrested state police officers in Morelos in January 1998 for participation in the operations of a kidnaping ring, the state police force was subsequently purged and no further such incidents were reported. In Baja California human rights groups claimed that 79 kidnapings took place in 1998 and 13 in the first 2 months of the year. The groups blamed the increase on local kidnaping rings and the lack of police response to escalating crime.

As of December 22, a total of nine bodies had been recovered from graves in the state of Chihuahua. The authorities believe that the graves were used by narcotics-trafficking organizations, and that some of the remains found are of the 224 persons reported missing in the state since 1994. The Chihuahua-based Committee for the Defense of Human Rights alleges that military and police forces are responsible for some of the disappearances. It also claims that at least 20 of the disappearances were politically motivated, but there was no evidence offered to support these claims. The Association of Families of the Disappeared Persons also has alleged that the security forces were behind many of the disappearances and has argued that the cases were not investigated properly for that reason.

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

On June 10, Jose Hidalgo Perez, a member of a politically active family in San Cristobal de las Casas, disappeared in the state of Chiapas. No motive was found for his disappearance. On June 24, human remains were found alongside the Nachiv-Yalentay highway and were to be DNA-tested to determine if they belong to Hidalgo Perez. However, the Miguel Agustin pro-Juarez Human Rights Center (PRODH) said that the PGR claimed that the skull was too deteriorated to provide a DNA sample; no one had been arrested in the case by year's end.

There was no progress in the investigations of the 1995 disappearances of peasant leader Gilberto Romero Vasquez or journalist and human rights activist Cuauhtemoc Ornelas Campos.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, it continues to be a serious problem. The Constitution excludes as evidence confessions obtained in the absence of the accused's defense attorney, and the law excludes coerced confessions, including those

extracted under torture; however, the police regularly obtain information through torture, prosecutors use this evidence in courts, and the courts continue to admit as evidence confessions extracted under torture. The authorities prosecute and punish few officials for torture, and this impunity abets the practice.

In her annual address in June, the president of the CNDH acknowledged that torture continues to be a serious human rights problem. She cited the PGR and the Defense Secretariat as the principal organizations responsible for the use of torture. Although the CNDH reported receiving only 21 complaints of torture in 1998, this figure likely understates the extent of the use of torture. In a report published in July, the U.N. Human Rights Committee expressed concern that laws aimed to prevent torture were inadequate because of the absence of an independent body to investigate allegations of mistreatment. There are persistent reports by nongovernmental organizations (NGO's) of the widespread use of torture by the police and the security forces. Nigel Rodley, the U.N. Special Rapporteur on Torture, reported in January 1998 that torture continued to occur despite the fact that the country had in place an array of legal safeguards.

The authorities punish few officials for torture, which continues to occur in large part because confessions are the primary evidence in many criminal convictions. Poorly trained and inadequately equipped to investigate crimes, police officers often attempt to solve crimes by rounding up likely suspects and then extracting confessions from them by force. Many victims do not report, or do not follow through on, their complaints against the police due to fear of reprisals, thereby hampering prosecution of the perpetrators.

State human rights commissions also received reports of torture allegedly committed by police. The Jalisco state Human Rights Commission charged in September that the state attorney general, Felix Ledezma Martinez, and the mayor of Guadalajara, Francisco Ramirez Acuna, impeded an investigation into an alleged case of torture. The state commission claimed that information was withheld to protect high-ranking members of the Guadalajara municipal police force.

On September 15, the president of the Mexico City Human Rights Commission (CDHDF), Luis de la Barreda, announced that during the CDHDF's 6 years of existence, the Mexico City attorney general's office (PDJDF) was the subject of the majority of its recommendations regarding torture. The commission made 14 recommendations involving 18 alleged perpetrators; 7 against the PDJDF, 6 against the Director General of Prisons, 3 against the Secretary of Public Security, and 2 against the Director General of Public Health. As of September 13, the CDHDF had investigated 44 security personnel for the use of torture. It had 17 of these cases still under investigation, dismissed 5, and had found culpable 22 public officials. However, the authorities had yet to arrest 11 of those found culpable.

Government officials conceded the country's serious human rights shortcomings. U.N. High Commissioner for Human Rights (UNHCHR) Mary Robinson, who visited the country in November, characterized President Zedillo's admission that serious human rights violations occur as a positive sign. In an effort to fight corruption and provide better public security, the Government created a new federal preventive police force. The 12,000-person force is to include approximately 5,000 transferred military personnel, when it reaches full strength. The inclusion of former military personnel led to criticism from some human rights NGO's.

Official corruption and complicity in crime continues to be a source of human rights violations. Some forms of corruption are less serious but illustrate the widespread nature of the problem. For example, in August Mexico City police chief Alejandro Gertz removed ticketing authority from all male traffic police officers in an effort to respond to the public's lack of confidence in police integrity. At the time, Gertz proclaimed that he was doing so because female officers were less liable to become corrupt. However, a few months later Gertz admitted that he was wrong; female traffic officers turned out to be as susceptible to corruption as their male counterparts.

Public security officials also committed more serious crimes. For example, Human Rights Watch reported that in June, federal police officers beat a state police bodyguard who was assigned to protect the editor of the magazine Pulso, who had received death threats after reporting on the drug trade.

A 1998 report by the Inter-American Commission on Human Rights (IACHR) described a definite pattern of rape and sexual assault committed by state agents. The Commission stated that it had received information indicating that some women, particularly those in detention, were the victims of sexual assault either by or with the consent of state agents.

In a case that received widespread publicity, in July a court convicted 15 Mexico City mounted police officers for the abduction, sexual abuse, and rape of 3 teenage

girls in 1998. In May soldiers allegedly raped two women in Chiapas (see Section 1.g.).

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

Prison conditions are poor. Many prisons are staffed by undertrained and corrupt guards, and some lack adequate facilities. The penal system comprises 441 facilities: 4 federal penitentiaries, 8 Federal District prisons, 280 state prisons, and 149 municipal jails. Prison overcrowding is a common complaint, despite an early release program endorsed by the CNDH and legal reforms reducing the number of crimes that carry mandatory prison sentences. For example, La Mesa state penitentiary in Tijuana, built to hold 1,800 inmates, has a prison population of at least 4,300. The situation is no better in other parts of the country. It is estimated that the majority of prisons have populations 50 percent in excess of intended capacity. At a prison undergoing renovation in the state of Chiapas, the authorities assigned up to eight prisoners to cells designed to hold two inmates.

Prisoners complain that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. In 1998 Federal District prison director Carlos Tornero Diaz admitted that guards supply 40 percent of the illegal drugs smuggled into the prisons and that inmates lacked sufficient drinking water. While the authorities investigate some prison officials for abusing prisoners, they more commonly dismiss those who commit abuses or charge them with only minor offenses.

Drug and alcohol abuse is rampant in prisons. A Baja California state official estimated that 80 percent of the state's prison population is addicted to drugs. Conflicts between rival prison groups involved in drug trafficking continue to occur.

In many prisons inmates exercise authority, displacing prison officials. Influence peddling, drug and arms trafficking, coercion, violence, sexual abuse, and protection payoffs are the chief methods of control used by prisoners against their fellow inmates. Corruption and poor conditions led to riots and escapes. A March 18 riot at La Loma prison in Nuevo Laredo reportedly arose from the planned transfer of an inmate considered to be the leader of the prison population. There were several other prison riots, notably in Ciudad Juarez and in the state of Chiapas. According to the Tabasco state government, nine inmates were killed in prison riots following severe flooding in that state.

Although the Constitution calls for separation of juveniles from adult prisoners, men from women, and convicted criminals from detainees held in custody, in practice these requirements were violated routinely as a result of overcrowding and corruption. Moreover, according to information from 1998, prison officials encouraged sexual liaisons between female inmates and male prisoners and guards.

There is no specific law or regulation allowing human rights organizations or other NGO's to visit prisons; however, in practice such visits are allowed in certain situations. The Government granted special advance permission for the ICRC to visit prisoners charged in politically sensitive cases in Guerrero, Chiapas, and Oaxaca.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily. Arbitrary arrest and detention were among the most common human rights abuses. Legally, a prosecutor may hold a detainee no more than 48 hours before he must present the accused to a judge, except when the accused is caught in the act or within 72 hours of committing a crime. A great number of disappearances eventually are found to be cases of arbitrary detention (see Section 1.b.).

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

The Constitution provides that the authorities must sentence an accused person within 4 months of detention if the alleged crime carries a sentence of less than 2 years, or within 1 year if the crime carries a longer sentence. These periods can be extended if the parties agree. In practice, judicial and police authorities frequently ignored these time limits. Criminal defendants often were held with convicted prisoners. Furthermore, many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges. Those able to pay were released from custody. Corruption is rampant throughout the system.

Judges often failed to sentence indigenous detainees within legally mandated periods. In 1996 the CNDH reviewed 8,661 files of indigenous persons who were detained and recommended the immediate release of 1,727 persons. Of those states with the largest numbers of indigenous prisoners, the CNDH reviewed 2,222 cases in Oaxaca, and recommended 407 releases, of which 296 had been accomplished by

the end of 1998; 1,219 cases in Veracruz, with 331 recommendations for release and 245 releases; and 639 cases in Puebla, with 157 releases recommended, and 61 releases.

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

Some human rights groups claim that activists arrested in connection with civil disobedience activities are in fact political detainees. The Government asserts that the system fairly prosecutes those charged in sometimes violent land invasions for common crimes, such as homicide and damage to property.

The law does not permit forced exile, and it is not practiced.

e. *Denial of Fair Public Trial.*— The judiciary is generally independent; however, on occasion it has been influenced by the executive branch, particularly at the state level. Corruption, inefficiency, and disregard of the law are major problems. The wealthy and the powerful generally benefit from impunity. Judicial reforms have begun to address some of these problems, but full resolution of these problems awaits more extensive and systemic judicial reform. In February and March, the Congress and the states passed constitutional reforms designed to streamline the administration of justice and repeal archaic laws. Human rights groups criticized these reforms, claiming that they effectively allow prosecutors to disregard defendants' allegations of violation of due process during criminal proceedings.

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

Efforts to implement the 1995 judicial reforms continued. The Federal Judicial Council strengthened administrative control over the judiciary, investigated cases of corruption, and removed some corrupt judges during the year. On January 4, the 11 Supreme Court ministers elected reform-minded Genaro David Gongora Pimentel to lead the Supreme Court.

In a report released in January, Human Rights Watch asserted that judicial reforms have done little to improve the problems that plague the justice system. The report states that the continued use of forced confessions, illegal detentions, and fabrication of evidence is ignored by judges and government officials, and that this undermines the democratic process.

Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. Court officials may add notarized documents (that are not authenticated) into the case file. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the general public; only the parties have access to the official file, although by special motion the victim may have access to it.

The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government respects these rights in practice. In general, court hearings are open to the public and it is common to find not only the accused, but also relatives of the accused and journalists in the courtroom.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice the authorities often do not assure adequate representation for many poor defendants. Moreover, the public defender system is not adequate to meet the demand, although improvements in salaries and benefits began to ameliorate this situation. Attorneys are not always available during the questioning of defendants; in some instances a defense attorney may attempt to represent several clients simultaneously by entering different rooms to certify formally that he was present, although he did not actually attend the full proceedings.

In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. The courts do not routinely furnish translators for them at all stages of criminal proceedings, although this is their right by law, and thus defendants may be unaware of the status of their case. The CNDH, through the Fourth General Visitor's Office, has a program to assist incarcerated indigenous defendants. In 1998 it reviewed 5,799 cases and obtained the release of 802 persons. The National Indigenous Institute has judicial assistance programs for indigenous defendants and advocates on their behalf. The INI also distributes educational and informational material in indigenous languages.

A particularly egregious abuse of due process is the prosecution's ability to use evidence gathered by means of torture. While torture itself is a criminal act, judges

routinely allow statements coerced during torture to be used as evidence to convict the accused (see Section 1.c.).

The law does not require civil trial of soldiers involved in civil crimes, and the military continues to handle such cases. The Constitution provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to request transfer immediately of the case to military jurisdiction. Although the military retains jurisdiction over its personnel, it has begun cooperating with the PGR on investigations of counternarcotics cases involving soldiers and sailors.

Calls for reform of the military justice system and criticism of it increased. In January the Military Judicial Police arrested five members of a military dissident group, the Patriotic Command for Raising People's Awareness (CPCP), a group composed of military personnel protesting what they called an unjust military justice system. The authorities charged the five CPCP members with the crime of sedition and later arrested the leader of the group, Hildegardo Bacilio Gomez, who led a December 1998 public demonstration against the military justice system. At year's end, the authorities held Bacilio Gomez in jail but had not yet brought him to trial.

Amnesty International reported that Manuel Manriquez San Agustin, allegedly a political prisoner, was released from a maximum security prison in Guadalajara and absolved of a murder conviction on March 29 after the IACHR recommended his release. Manriquez, an Otomi Indian, was accused of being a member of the EPR and was detained on murder charges in 1990. His conviction was based on little evidence except his confession, which was obtained under torture.

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

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the rights to privacy, family, home, and correspondence, and the law requires search warrants; however, there were credible reports that unlawful searches without warrants were common.

In November 1996, Congress passed the Federal Law Against Organized Crime, which—among other innovations—allows for electronic surveillance with a judicial order. The law prohibits electronic surveillance in cases of electoral, civil, commercial, labor, or administrative matters.

In March 1998, PRD Senator Layda Sansores asserted that the Government was responsible for a wiretapping operation in Campeche state. The Government denied involvement, and the PGR charged three persons found at the scene with illegal wiretapping. The investigation was still pending at the end of the year.

The Constitution states that all persons have the right to make free, responsible, and informed decisions on the number of children they choose to have. The 1984 General Health Law provides for criminal action against those who pressure a woman to undergo sterilization procedures or perform such procedures without the woman's consent. Independent agencies believed that forced sterilization exceeded by several times the number of known cases, but the overall scope of the problem was difficult to quantify. Women may not realize that procedures have been performed until after the fact, and many victims are reluctant to file complaints, although there are mechanisms for filing formal complaints with the National Medical Arbitration Commission and with the national and state human rights commissions. Nevertheless, there have been reports of possible violations of informed consent standards in the state of Guerrero; these charges have not been substantiated.

In 1997 state health services workers encouraged men to have vasectomies in exchange for government social benefits. In May some of those affected lodged complaints with the state human rights commission. In December the commission issued a recommendation confirming that the men who had undergone vasectomies were in fact threatened with the withholding of benefits. The commission also found that once the procedures had been performed, the men were not paid the promised benefits. In previous years, NGO's have received similar complaints that women had undergone tubal ligation procedures without informed consent, sometimes under similar circumstances.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—There were numerous allegations of the use of excessive force and the violation of international humanitarian law. Incidents of conflict in Chiapas between the security forces and EZLN sympathizers and in Guerrero between the army, the EPR, and the ERPI led to many of these accusations. UNHCHR Robinson suggested in November that the Government consider creating a military human rights ombudsman to combat impunity in the armed forces. The military continued to main-

tain a large presence throughout the state in response to the EZLN-backed uprising that began in 1994.

The peace process in Chiapas between the Government and the EZLN remained stalled, although in September the Government proposed a new peace initiative to restart talks. At that time, the Government proposed that the Senate take up its legislative initiative on indigenous rights; invited the EZLN to return to dialog, possibly through a mediator; suggested the creation of a new law enforcement office to investigate human rights abuses committed by individuals or armed civilian groups; and offered to release prisoners accused of being EZLN sympathizers but not charged with violent crimes. The initiative also proposed activation of the verification commission under the 1996 San Andres Accords, called on the EZLN to permit to social development of indigenous communities in Chiapas, and offered a government negotiator with decisionmaking authority. The EZLN did not accept the Government's offer.

In August a military force occupied the area surrounding the village of Amador Hernandez to protect road construction crews, increasing tension in the region. On August 25, the army and the EZLN clashed near San Jose la Esperanza. A total of seven persons on both sides were injured. This was the first clash between the army and the EZLN since June 10, 1998.

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

In the southern states of Oaxaca and Guerrero, there have been attacks by the EPR, the EPRI, and other rebel groups on government property. There have been numerous accusations in Guerrero that police and army personnel have used excessive force during operations against these groups.

On April 20, military forces, in response to an attack that injured one soldier, occupied the municipality of Tlacoachistlahuaca, Guerrero. Also on April 20, two local Mixtec men were reported missing, and two female relatives (who were searching for them) alleged that they were raped by soldiers stationed in the area. On May 8, the military conceded that soldiers had killed the two farmers during an armed confrontation but did not respond to the women's allegations of rape. The state Attorney General's office, citing lack of evidence, declined to pursue the allegations of rape.

On September 22, the EPRI was blamed for an attack on a military convoy on a highway in the state of Guerrero, near the town of Ayutla de los Libres, which injured two soldiers.

The human rights network All Rights for All contended that the Government's response to the guerrilla presence in Guerrero has resulted in an increase in reports of human rights violations.

Armed civilian groups, controlled by local political bosses loosely affiliated with the PRI, were alleged to have committed many human rights violations in Chiapas, including the Acteal massacre. NGO's, such as the PRODH, the Fray Bartolome de las Casas Human Rights Center in Chiapas, and the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), identified at least nine such groups. The NGO's, and some press accounts, contended that these groups were not only the private armies of local bosses, but also army surrogates armed by the military and used to attack the EZLN. The Government denied these allegations and likewise rejected the existence of paramilitary groups.

In December 1998, the Fray Bartolome de Las Casas center and the PGR published conflicting reports on the Acteal massacre. The Fray Bartolome report blamed the Government for sponsoring armed civilian groups in Chiapas and for failing to protect the victims. The NGO accused the Government of waging "low-intensity warfare" in Chiapas and stated that the Government was responsible for the massacre. The PGR attributed the massacre to a history of local confrontation, the presence of the EZLN, an absence of the rule of law, and the neglect of local enforcement officials.

The military continues to deny any responsibility for abuses committed during the early stages of the Chiapas rebellion in 1994. The military authorities who have jurisdiction failed to punish any military personnel or government officials for committing abuses, although the CNDH issued an interim report in May 1994 finding that

there was reason to believe that the military had injured or killed civilians in aerial attacks and that there were summary executions, illegal detentions, and instances of torture.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. The mass media are not subject to formal censorship by any element of the Government; however, there were reports of some self-censorship. In addition, threats and attacks on journalists—some reportedly by federal, state, or local authorities—hindered press freedom. Nonetheless, the media were more free and more independent than at any time in the country's history. Many observers believe that drug trafficking organizations or corrupt security personnel in the pay of such groups carry out most attacks on the media.

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

The many credible reports of attacks on journalists constituted the most serious problem for press freedom. A report issued by 4 NGO's recorded 240 attacks of various types against journalists during 1998, compared with 187 during 1997. These numbers include all aggressive acts against the media as reported in the media. According to the report, government institutions (including federal, state, or local police) or officials were responsible for 40 percent of the incidents. The Manuel Buendia Foundation, one of the NGO's, concluded that the vast majority of attacks were intended to intimidate. During the first 7 months of the year, the CNDH program on aggression against journalists investigated 22 complaints of attacks on journalists; most were for assault or intimidation. One, from July in the state of Morelos, was for murder. The CNDH began an investigation of that case.

A report by the Committee for the Protection of Journalists of the Mexican Academy of Human Rights selected five cases that, in its judgment, are indicative of attacks on freedom of the press. Three of the cases, all from the northern states, were closely related and linked to narcotics trafficking. Two other cases took place in southern states and were tied to political actors. In the first case, Benjamin Flores Gonzalez, the editor of the local daily newspaper La Prensa in San Luis Rio Colorado, Sonora was murdered in 1997 after publishing stories about a local narcotics trafficker. This case highlighted the continued impunity for the alleged murderer, who recently was released from jail on unrelated charges. In the second case, Sergio Haro Cordero, director of the Baja California weekly Sietedias began receiving death threats in April after writing about the foregoing case. In the third case, journalist Jesus Barraza Zavala of the weekly Pulso in Sonora, again writing about the same case, received death threats, and federal police officers reportedly attacked his state police bodyguard in April and May (see Section 1.c.). In the other two cases, public authorities and common criminals harassed Carlos R. Menendez Navarrete, editor of the Diario de Yucutan newspaper in Merida, Yucutan, and Luisa Veronica Danell Monter, correspondent for the Para Empezar television program in Villahermosa, Tabasco, after they reported negatively on local PRI politicians.

There was no information available about the PGJDF investigation of the February 1998 killing of Luis Mario Garcia Rodriguez, a reporter for the Mexico City daily newspaper La Tarde. Garcia was shot and killed very close to a Mexico City police station, and witnesses stated that the perpetrators were from the PGR. Garcia had reported on PGR corruption and charged that PGR officials were collaborating with notorious drug traffickers.

Television news independence has been enhanced by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers, which continued to separate government and media interests. Moreover, as much of the national media developed higher journalistic standards and independence over the past 10 years, government influence declined. The media

showed a high degree of editorial independence, particularly in the capital and other major urban centers. Direct criticism of the Government, especially in radio and the print media, was severe and commonplace.

There was one complaint from a French journalist that the authorities denied an entry visa without explanation.

The Constitution recognizes academic freedom in higher education, and the Government respected this provision in practice. Beginning on April 20, some students at the National Autonomous University of Mexico (UNAM) occupied campus buildings and shut down the institution. The strike began when the authorities announced an increase in tuition but quickly evolved from a protest by some students into a more generalized attack on the national political system. The university administration made the tuition hike voluntary but had not met other striking students' demands at year's end.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly, and the Government respects this right in practice. The only requirement for holding demonstrations is that groups that wish to meet in public areas must inform local police authorities in advance. Organized, peaceful demonstrations occur frequently throughout the country.

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

On October 14, municipal police forcibly removed strikers who were blocking a major thoroughfare in Mexico City. The authorities later investigated two policemen for use of excessive force against prone strikers after the media broadcast videotape showing the officers beating and kicking several unresisting strikers. An internal police investigation absolved the policemen, but city officials vowed to impose administrative sanctions on the officers.

The Constitution provides for freedom of association, and the Government respects this right in practice. Political parties, opposition, and independent associations functioned freely without government interference or restriction. The Federal Electoral Code recognizes national political parties as well as political associations. Political associations can participate in elections through an agreement with a political party but are not allowed to use their names or symbols during the election campaigns. Political parties do not have legal status until they receive their official designation from the Federal Electoral Institute (IFE). The IFE currently recognizes 11 political parties and 31 political groups.

Citizens are free to associate and may form private or charitable associations. However, in 1998 the Mexico City legislature passed a law that gave the city government more influence over private charities. The more than 8,000 NGO's active in the country are an important and vocal part of civil society. The Government was accused of harassing NGO's, especially in the state of Chiapas (see Section 4).

c. *Freedom of Religion.*—The Constitution provides for the right to practice the religion of one's choice, and the authorities generally respect this right in practice; however, local officials sometimes infringed on this right. In November 1998, the Government and representatives of many religious denominations signed a Religious Code of Conduct that reaffirms freedom of religion. The law bars clergy from holding public office and from advocating partisan political views.

The authorities at times used immigration law to restrict the activities of religious workers, particularly in the state of Chiapas (see Section 2.d.). Some groups claim that it is government policy to keep foreign religious practitioners out of Chiapas and Oaxaca. There also have been incidents of violence between religious groups in Chiapas (see Section 5).

The Government lifted almost all restrictions on the Catholic Church in 1992. The Catholic Church and other religions maintain their own schools. Nonetheless, the Church's ability to own and operate mass media is limited, and it asserts that there are restrictions on the running of schools and the raising and spending of funds.

To obtain legal status, religious organizations must register with the Office of Religious Affairs in the Secretariat of Government. Since 1992 over 5,000 religious associations have been registered.

Relations were difficult between the Catholic diocese of San Cristobal de las Casas, Chiapas, and the Government. The Government blamed Samuel Ruiz, the former Bishop of the diocese, for exacerbating its problems with the EZLN and the international human rights community (see Section 1.g.). The diocese complained that its lay catechists constantly were threatened and harassed, and that foreign clergy working for the diocese could not have their visa status clarified. In May the IACHR declared that the June 1995 deportation of Catholic priests Loren Riebe, Rodolfo Izal, and Jorge Baron was a violation of their right to religious freedom and recommended that the Government investigate and sanction officials involved in the

case. The Government criticized the IACHR's ruling as interference in internal affairs and declared it invalid.

The non-Catholic Christian population was growing in Campeche, Chiapas, Yucatan, and along the northern border. The Evangelical Commission in Defense of Human Rights claimed that the authorities had expelled 35,000 evangelicals from San Juan Chamula, Chiapas, in the last 30 years. Traditional religion includes indigenous practices that cause friction with Christian religions. Tribal chieftains or leaders of the traditional, syncretist religions are the usual organizers of the expulsions of evangelicals.

Municipal authorities expelled 70 evangelical Christians living in San Juan Chamula in 1998, but state officials assisted their return later that year. However, the children of evangelicals have been denied access to the local public schools in six nearby communities since 1994. Societal harassment of, and pressures against, evangelical Christians continued to be a problem (see Section 5).

On June 15, local police in Mitziton, Chiapas, arrested 13 evangelicals who were building a Protestant church. After intervention by state authorities, the police released them after 3 days; however, the local authorities prevented them from completing construction of the church.

In certain indigenous communities practicing traditional religion, a long history of religious intolerance and expulsions exists. In these communities, religious diversity is viewed as a threat to indigenous culture. The Government failed to intervene to prevent local officials from threatening, harassing, attacking, and expelling evangelical representatives (see Section 5).

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

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

Corrupt police sometimes violated the rights of illegal immigrants. Illegal immigrants rarely file charges in cases of crimes committed against them, because the authorities generally deport immediately such persons who come to their attention; any pending case brought by an illegal immigrant is subject to dismissal because the person is no longer present. There were several incidents on both the southern and northern borders in which intending immigrants either were injured or killed. One such incident occurred on March 17 near Mexicali, Baja California, in which the Federal Fiscal Police allegedly beat four persons. In May the authorities arrested two agents of the Fiscal Police in connection with this incident; they remained in custody at year's end. There were also credible reports that police, immigration, and customs officials were involved in the trafficking of illegal migrants (see Section 6.f.).

The law provides for protection of foreigners who face political persecution. The Government accepts the principle of first asylum and reviews each claim on a case-by-case basis with the assistance of the office of the U.N. High Commissioner for Refugees (UNHCR). In June UNHCR Sadako Ogata visited Mexico, signing agreements with the government that strengthened protections for refugees. During her visit, Ogata attended ceremonies regularizing the status of those former Guatemalan refugees who chose to remain in Mexico.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. In conjunction with the UNHCR, the Government completed a repatriation program for Guatemalan refugees desiring to return home after having fled their country during the civil war, which ended in 1996. During the course of this program, a total of 42,641 persons returned to Guatemala and a further 22,144 were granted immigrant residence status or Mexican nationality.

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

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Since the party's founding in 1929, the PRI has dominated politics, controlled the Federal Government, and won every presi-

dential election. The PRI has maintained power, in part, through public patronage, use of government and party resources, and electoral fraud. However, political change continued to alter the nation's politics, and opposition parties continued to gain strength nationally and locally. As a result of electoral reforms approved and implemented in recent years, the political and especially the electoral process have become more transparent. While elections are open and generally fair, some abuses continue to occur.

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

Presidents are elected every 6 years and cannot be reelected. President Ernesto Zedillo chose to forgo the traditional process of hand-picking his party's candidate for the presidential election in 2000. This decision was part of the democratic transition taking place within the PRI. The three political parties that dominate national politics—the PRI, PAN, and PRD—all announced that they would hold some form of primary election to choose their presidential candidate for the 2000 election; however, the PRD and the PAN had only one entrant into their internal nomination process. On November 7, about 10 million persons voted in the contested primary held by the PRI. Of the 4 candidates, Francisco Labastida won by taking 272 of the 300 electoral districts.

As of September, in the Chamber of Deputies, the PRI holds 238 seats; the PAN 117; the PRD 124; the Labor Party (PT) 11; the Green Ecologist Party (PVEM) 5, and there are 5 independents. The PRI holds 73 seats in the Senate; the PAN 31; the PRD 16; the PT one; and there are 6 independents. Legislators can and do change their party affiliation frequently.

On the state level, the PRI governs 21 states; the PAN 6; the PRD 1; and opposition coalitions govern in 3 states. On the municipal level, opposition strength is well established. The PRD governs the Federal District and the PAN governs 13 of the 20 largest metropolitan areas.

In the February 7 elections in the state of Guerrero, the PRI candidate was elected governor by a margin of 2 percent. The opposition charged that the vote was tainted by fraud. As a result of legal challenges filed by the PRD, the state electoral commission eventually invalidated the votes cast in 18 of the more than 3,000 voting booths; this action did not change the results. In the election in the state of Mexico on July 4, also won by the PRI candidate for governor, a survey reported in the Reforma newspaper indicated that one-third of voters received a gift from the state PRI for their vote. These acts and other irregularities caused the PAN and the PRD to file protests with the state electoral board.

The Federal Electoral Institute, operating with full autonomy, organized the federal elections for the Congress and in 1997 for the mayor of Mexico City. (In subsequent elections, Mexico City is to have its own electoral commission.) The IFE has implemented extensive constitutional and legislative reforms passed in 1996 to help prevent electoral fraud and to create more uniform conditions for political party participation by regulating campaign finance, advertising, and other areas. The IFE also has provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

Although there are no legal impediments to their full participation, women are underrepresented in government and politics. However, the three largest political parties are attempting to increase the number of women who run for elected office through formal and informal means. They have utilized quotas requiring that a certain percentage of candidates on a party list be female and in practice have supported female candidates over equally qualified male candidates. The PRD has set a 30 percent quota for female candidates; 22 percent of its leadership is female, and it elected a female party president in July. The PAN has used more informal methods, and 23 percent of its leadership is female. PRI party rules mandate that a certain number of spaces on the candidate lists be reserved for women, and 12 percent of the party leadership, including its president, is female.

Women hold approximately 16 percent of the seats in the Congress. There are two female cabinet members. The mayor of Mexico City is a woman. No women serve as governors or justices on the Supreme Court.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to national office according to traditional "usages and customs," rather than standard electoral law. These traditional customs vary from village to village. In some villages, women have neither the right to vote nor to hold office. In others, they can vote but not hold office. Women were excluded systematically

from the political process by traditional "usages and customs" in most of Oaxaca state and expected to face the same phenomenon in the state of Quintana Roo.

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

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

After the December 1997 Acteal massacre, foreign concern over Chiapas increased significantly, and many foreigners traveled to that area, often on tourist visas, to learn first-hand about conditions there. Members of human rights groups also made the journey, several with tourist visas, to observe the human rights situation and donate supplies. However, when individual foreign activists in Chiapas acted in ways that the Government considered political and inconsistent with their tourist status, the Government expelled them.

According to a report issued by the NGO Global Exchange, in collaboration with the PRODH and the CMDPDH, the authorities expelled 144 human rights observers from the country in 1998. Most of these expulsions were made under Article 33 of the Constitution, which allows the President to expel foreigners whose presence is judged to be "inconvenient." Human rights groups contended that the use of this provision was unconstitutional, and the Government did not use that article in 1999. Instead, the authorities issued a letter of departure to those individuals deemed to be engaging in unauthorized political activities in pursuit of human rights objectives, which required them to leave the country upon the expiration of their visas.

On September 13, Thomas Hansen, former director of Pastors for Peace, won a court order overturning his deportation from the state of Chiapas in February 1998. The Government has refused his subsequent requests for visas.

In May 1998, the National Migration Institute began requiring persons who wished to enter the country to monitor the human rights situation to go through a new application process. This application process required, among other things, a 30-day advance application, a 10-day limit on visits, a limit of 10 visitors per NGO, a detailed travel itinerary, and submission of an agenda. Domestic and foreign NGO's objected to these new visa requirements. Human Rights Watch argued that, taken together, the rules appeared designed to restrict human rights monitoring and give the Government the right to decide which human rights organizations were legitimate. While government officials promised that the process would improve access for human rights observers, the effect has been the opposite. Human rights observers reported that the process is difficult, complex, rarely results in visa issuance, and interferes significantly with their ability to monitor human rights violations. Immigration officials have used this new visa requirement to remove from the country religious workers whom they judge to be engaging in human rights activities. They also have used this procedure to restrict the activities of human rights monitors.

The PRODH and human rights lawyer Digna Ochoa were victimized by threats, harassment, and attacks. The most serious incident occurred on October 28, when unknown assailants held Ochoa captive for 9 hours in her home. According to Ochoa, her captors tied her to a chair, covered her face, and interrogated her regarding guerrilla groups operating in the country. Then, they left her bound next to an open canister of propane gas, but she was able to free herself and escape. The PGJDF investigated this incident and four other threats against the PRODH. In August the PGR and the Secretariat of Government offered their assistance in the investigation. In November the Inter-American Court of Human Rights ordered the Government to provide protection to Ochoa and members of the PRODH. The investigation continued at year's end, and human rights NGO's began a dialog with federal officials regarding the safety of human rights workers.

Credible NGO's reported that human rights workers in several states received death threats while working on cases that implicated government officials. For example, in Guerrero Abel Berrera of the Tlachinollan Mountain Human Rights Center implicated members of the army in human rights abuses and subsequently received death threats.

The National Human Rights Commission, established by the Government in 1990, has steadily improved its credibility. In an important vote that was expected to pro-

vide greater political autonomy to the CNDH, the Senate approved legislation that allows it, rather than the President, to appoint the commission's president. Some NGO's were critical of the Senate's decision, fearing that it makes the CNDH more susceptible to political pressure. Utilizing these powers for the first time, in November the Senate replaced the sitting president of the CNDH prior to the expiration of her term in office. The Senate named legal scholar Jose Luis Soberanes to a 5-year term as CNDH president. This is the first time since the creation of the CNDH that the executive branch did not play a role in the selection process. Although most NGO's have a favorable opinion of the CNDH, many are critical of its method of presenting information, especially the reporting of compliance with recommendations. NGO's also criticized the CNDH's reliance on former government security or judicial personnel as investigators of human rights abuse allegations.

In July the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir, visited the country at the Government's invitation. Jahangir suggested that the Government invite international observers for the 2000 presidential elections. The IFE invited international observers for the 1997 Congressional elections and has invited them for the 2000 presidential elections. Jahangir had not made any formal recommendations regarding her mandate at year's end. The Foreign Relations Secretariat criticized Jahangir's public comments that impunity would persist unless the Government undertook legal and political reform, saying that she was "completely misinformed."

In November Mary Robinson, the U.N. High Commissioner for Human Rights, made a 6-day visit and met with President Zedillo, other officials, and NGO representatives. Robinson signed a memorandum of intent with the Government that provides for technical assistance and further cooperation with the United Nations. She characterized the human rights situation in the country as "serious" and highlighted official impunity and poor administration of justice as areas of particular concern. She told a press conference that the Zedillo administration had demonstrated a commitment to improving the human rights situation. During her trip she also visited Chiapas, where she voiced concern about the size of the military presence, which she said contributed to an environment of impunity and conflict. Government officials expressed moderate criticism of Robinson's comments on Chiapas, emphasizing that deployment of a military force to the region was exclusively a sovereign decision.

The military jailed General Jose Francisco Gallardo Rodriguez in 1993 on a range of charges, including embezzlement and dishonoring the military, but he maintained that military authorities were persecuting him because he wrote an academic dissertation calling for the establishment of a human rights ombudsman's office in the military. Since 1996 the IACHR and Amnesty International had called for his immediate release. In March and April 1998, two different military tribunals convicted General Gallardo on charges of illegal enrichment and diversion of funds and sentenced him to 28 years in prison. At year's end, he remained in jail in the state of Mexico, where he gives telephone interviews and receives regular visits from family members. General Gallardo has not complained of any mistreatment while in custody.

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

The Constitution states that men and women are equal before the law. It also provides that education should avoid "privileges of race, religion, groups, sexes, or individuals." These provisions are not enforced effectively, although the Government continues to make progress in efforts to do so.

Amnesty International has reported that homosexual men and women were likely to be victims of abuse and violence. The Citizen's Commission against Homophobic Crimes reports that there are an average of four murders committed due to sexual orientation per month, and the consensus among gay rights groups is that the police fail to investigate these crimes seriously.

Women.—The most pervasive violations of women's rights involve domestic and sexual violence, which is both widespread and vastly underreported. A rape is committed in Mexico City on average every 6 minutes. Victims report only 23 percent of rapes, and the courts penalize only 23 percent of the men eventually charged with rape. The Center for Attention to Intrafamily Violence expected to receive a total of over 13,500 complaints of domestic violence during the year. Women are reluctant to report abuse or file charges, and even when notified, the police are reluctant to intervene in what society considers to be a domestic matter. Police also are inexperienced in these areas and unfamiliar with appropriate investigative technologies. According to press accounts, reports of domestic violence in Jalisco increased 86 percent in 1997.

The authorities began to implement and enforce the legislative reform initiative on intrafamily violence Congress passed in December 1997. This law had three main objectives: to discourage and punish intrafamily violence, establish protective measures for victims, and educate the public. The legislation expanded the crime of rape to include spousal rape, involving married or common-law couples.

Over 1 million women each year, according to the CMDPDH, seek emergency medical treatment for injuries sustained because of domestic violence, the fourth highest cause of death for women. Groups such as the nongovernmental Center for Research and Care of Women are working to educate both men and women in an effort to counter the widespread view of domestic violence as a private act that is common (and therefore tolerated) and to deter future violence.

Under certain circumstances limited to statutory rape of a minor between the ages of 12 and 18, the Criminal Code provides that a judge may dismiss the charges if the persons involved voluntarily marry. In practice, this provision is invoked rarely.

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

The Federal Criminal Code includes penalties for sexual harassment, but victims must press charges. Many female victims were reluctant to come forward, and cases were difficult to prove. Sexual harassment in the workplace was considered widespread by NGO's and women's agencies.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this in practice. The legal treatment of women's rights is uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support, unless the child was a product of rape or cohabitation, the child resides with the father, or there is written proof of paternity.

Within the CNDH, the Office of the First Inspector General is devoted solely to protecting the rights of women. This office is staffed by a variety of professionals, including lawyers, sociologists, and doctors.

The Constitution and labor laws provide that women shall have the same rights and obligations as men, and "equal pay shall be given for equal work performed in equal jobs, hours of work and conditions of efficiency." However, women in the work force generally are paid less and are concentrated in lower-paying occupations. According to an academic study, even though girls and boys attend school at similar rates, a woman on average needs 4 more years of education to earn the same salary as a man in a comparable position.

Labor law includes extensive maternity protection, including 6 weeks' leave before and after childbirth and time off for breast feeding in adequate and hygienic surroundings provided by the employer. During pregnancy, employers are required to provide a woman full pay, not to dismiss her, and to remove her from heavy or dangerous work or exposure to toxic substances. In order to avoid these expensive requirements, some employers, including some in the maquila industry, reportedly deliberately violate these provisions by requiring pregnancy tests in preemployment physicals, by regular examinations and inquiries into women's reproductive status (including additional pregnancy tests), by exposing pregnant women to difficult or hazardous conditions to make them quit, or by dismissing them. A report released in 1999 by Human Rights Watch indicated that the Government not only was aware of such practices and failed to take action to punish or prevent them, but also publicly made excuses for companies that violated the law. The U.S. National Administrative Office (NAO), under terms of the North American Agreement on Labor Cooperation (NAALC), the labor side agreements to the North American Free Trade Agreement, accepted a challenge to these practices in the maquila industry and in January 1998 recommended ministerial consultations. As a result, the U.S. and Mexican Secretaries of Labor participated in a conference in Merida, Yucatan, in March on gender discrimination in employment. In addition, the U.S. and Mexican NAO's organized cross-border outreach sessions in August on the rights of women in the workplace in McAllen, Texas and Reynosa, Tamaulipas. The conference and the outreach sessions concluded that discrimination does exist, that it is not sanctioned by law, and that the authorities have taken steps to inform women workers of their rights to bring complaints against such practices by publishing and distrib-

uting brochures and developing networks of government offices, which together with NGO's work to raise awareness of the problem and available remedies.

In order to protect women's labor rights, the Ministry of Labor made 23,138 safety and hygiene inspections in private factories and public institutions during 1996. However, while the Government increased the number of federal inspectors during 1997 and negotiated agreements with an increasing number of state governments to expand and coordinate labor inspections better, the number of maquila plants far outstrips what state and federal inspectors can monitor.

In 1995 the CNDH found that the largest number of complaints against health care institutions involved negligence or abuse during childbirth by medical personnel and charges of forced sterilization. It said that the number of such complaints had grown, in large part due to women's increased awareness of their rights. There continued to be credible allegations of forced sterilization (see Section 1.f.).

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

Children.—Children under the age of 15 make up 35 percent of the population, and the median age of the population is 21. The Government maintains several programs to promote child welfare that support maternal and infant health, provide stipends for educating poor children, subsidize food, and provide social workers; however, problems in children's health and education remain. The CNDH receives numerous complaints about the services provided by the Secretary of Health, the Secretary of Education, and the Institute of Social Security. Although 9 years of education are compulsory, the director of the National Education Council reported in August 1998 that 1.7 million school-age children were not in school because their poverty obligated them to work. In the same year, children from Jalisco visited the state congress to protest the use of child labor in the streets after 9:00 p.m. The legal minimum age for employment is 14.

UNICEF classified the country as "lacking adequate strategies" to combat malnutrition among children and reported that 30,000 children die each year as a result. The problem of child labor is particularly pronounced among migrant farming families, although programs recently have been instituted to allow for portability of educational credentials. There is a large population, estimated at 40,000, of vulnerable street children in Mexico City. UNICEF and the National Institute for Integral Development of the Family, in a study of working children in the 100 largest cities, estimated that 150,000 children work in those cities. (NGO's maintain that the total is higher.) Street children often become involved with alcohol, drugs, prostitution, petty thievery, and increasingly, violent crimes. Corrupt police officials sometimes exploit these children by pressuring them to commit petty crimes and extorting money from them. The CNDH attempted to protect children's rights by educating children on their rights and reviewing legislation to ensure compliance with relevant international conventions.

A report by the Center for Research and Advanced Study in Social Anthropology counted 5,000 minors, 90 percent of them female, working as prostitutes or subjects of pornography. In 1998 police in Guadalajara broke up a child prostitution ring; they arrested 17 adults and 12 girls on charges including corrupting minors and pandering. The arrests spurred press investigations into juvenile crime, as well as meetings with city officials and local NGO's.

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

People with Disabilities.—Estimates of the number of disabled persons ranged from 2 to 10 million. Disabled persons and their specific disabilities are to be counted separately in the 2000 census so that the Government can learn what services are most needed. In Mexico City alone, 124 NGO's dealt with issues affecting the physically disabled.

Twenty-seven of the 31 states have laws protecting the disabled. The law requires access for the disabled to public facilities in Mexico City but not elsewhere in the country. However, in practice most public buildings and facilities do not comply with

the law. The Federal District also mandated access for physically disabled children to all public and private schools. The Mexico City secretary of education, health, and social development maintained that 78 percent of these children received some schooling.

Mental Disability Rights International (MDRI), an NGO, discovered mistreatment and violations of the rights of mentally disabled persons within government mental health facilities. Visits to institutions during 1996–99 revealed abuses including inhuman and degrading treatment, misuse of physical restraints, and neglect that in some cases led to deaths of patients. MDRI alleged that the process through which persons are legally admitted to state institutions is conducted without oversight by a judicial or independent body, which can lead to a total loss of independent decisionmaking or consent to treatment by patients.

Indigenous People.—The indigenous population, long subject to discrimination, repression, and marginalization, is estimated at 11 million persons, of which 9 million live in extreme poverty. According to the National Indigenous Plural Assembly for Autonomy (ANIPA), there are 56 distinct indigenous groups, each with its own unique culture and language. Indigenous people are located principally in central and southern regions and represent a majority in the states of Oaxaca (53 percent) and Yucatan (52 percent). However, these groups remain largely outside the political and economic mainstream, a result of longstanding patterns of economic and social development. In many cases their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources is negligible.

The 1994 Chiapas uprising focused unprecedented attention on the demands of that state's indigenous population for increased economic and social rights. Among its basic demands, the EZLN called on the Government to enact measures to protect indigenous cultures, provide more opportunity for employment, and invest in schools, clinics, and infrastructure projects. In the 1996 San Andres Accords, the Government agreed with the EZLN on the need to expand indigenous rights. However, these accords have not yet been codified. In the continuing dispute, NGO's characterize the Government's heavy military presence in Chiapas as threatening and intimidating the indigenous population (see Section 1.g.).

The Government, through the National Indigenous Institute, the CNDH, and various NGO's, operates programs to educate indigenous groups about their political and human rights. The Government generally professes respect for their desire to retain elements of their traditional culture. In 1998 the CNDH created the Office of the Fourth Inspector General to review and investigate violations of indigenous rights. More than 130 NGO's are dedicated to the promotion and protection of indigenous rights.

Indigenous people do not live on autonomous reservations, although some indigenous communities exercise considerable local control over economic and social issues. In the state of Oaxaca, for example, 70 percent of the 570 municipalities are governed according to the indigenous regimen of "usages and customs," which may not follow democratic norms in allowing for secret ballot, universal suffrage, and political affiliation. These communities apply traditional practices to resolve a variety of disputes, including allegations of crimes, and to elect local officials. Quintana Roo's state legislature passed a similar provision in 1998. While the laws allow communities in these states to elect officials according to their traditions, these usages and customs tend to exclude women from the political process (see Section 3).

The law provides some protection for indigenous people, and the Government provides indigenous communities support through social and economic assistance programs, legal provisions and social welfare programs. However, these were not sufficient to meet the needs of all indigenous people. Although the overall population growth rate slowed to less than 3 percent annually, the birthrate among marginalized indigenous groups has not decreased. The General Education Act states that "teaching shall be promoted in the national language [i.e., Spanish] without prejudice to the protection and promotion of indigenous languages." However, many indigenous persons speak only their native languages. ANIPA statistics suggest that indigenous people suffer from a high rate of illiteracy and a low rate of school attendance. Non-Spanish speakers frequently are taken advantage of in commercial transactions involving bilingual middlemen and have great difficulty finding employment in Spanish-speaking areas.

Religious Minorities.—In the highlands of Chiapas and other indigenous areas, traditional leaders sometimes acquiesced in, or actually ordered, the expulsion, beatings, or killing of Protestants belonging primarily to evangelical groups. Although religious differences were often a prominent feature of such incidents in Chiapas, other factors such as ethnic differences, land disputes, and struggles over political power were very often at the root of the problem.

On July 18, there was a violent confrontation between Catholic and evangelical Protestant groups in the community of Icaluntic, Chiapas. Two persons were injured by gunfire. Following this incident, local authorities drove 91 members of the Organization of Evangelical Peoples of the Chiapas Highlands from the community.

On December 3, 97 evangelical residents of the Chiapas community of San Juan Chamula, who were expelled from their homes in July in a religious conflict, returned to their homes. They were escorted by 250 state public security officers, 200 of whom remained in the community to ensure their safety.

Progovernment supporters have accused the Catholic Church in the three Chiapas dioceses of supporting the EZLN.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the Federal Labor Law (LFT) provide workers with the right to form and join trade unions of their choice. About 25 percent of the total work force is unionized, mostly in the formal sector, where about one-half the labor force is employed.

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

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

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

Unions form federations and confederations freely without government approval. Most unions belong to such bodies. They, too, must register to have legal status. The largest trade union central was the Confederation of Mexican Workers (CTM), traditionally a part of the labor sector of the ruling PRI, but affiliation is by individual unions.

The Federal Employee Union Federation (FSTSE), the Revolutionary Worker and Peasant Confederation, and most of the separate national unions, smaller confederations, and federations in the Labor Congress (CT) also were allied with the PRI. However, several unions do not ally themselves with the PRI, including the large teachers' union, which severed its PRI ties several years ago, freeing its minority factions to cooperate openly with other parties, particularly the PRD. Rivalries within and between PRI-allied centrals are strong. There also are a few small labor federations and independent unions outside the CT not allied with the PRI. One is the small, left-of-center Authentic Labor Front (FAT). Most FAT members sympathize with the PRD, but the FAT is independent and not formally tied to the PRD. In November 1997, 160 labor organizations representing workers in the private and public sectors, led by the telephone workers and social security workers unions, formed the National Union of Workers (UNT)—a labor central in competition with the officially recognized CT. In April the Mexican Electricians Union (SME) announced that it would withdraw from the CT over its failure to give full support to the SME's opposition to the Government's plan to privatize partially the electric power sector.

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

The International Labor Organization (ILO) Committee of Experts (COE) has found that certain restrictions in federal employee labor law, adopted at FSTSE re-

quest, violated ILO Convention 87 on freedom of association, which the Government has ratified. These restrictions allow only one union per jurisdiction, forbid union members from quitting the union, and prohibit reelection of union officials. In 1998 the COE and the ILO Committee on Application of Standards reiterated their criticism and asked the Government to amend the law. A 1996 Supreme Court decision invalidated similar restrictions in the laws of two states, but the decision applied only in the specific instances challenged. In May the Supreme Court extended this interpretation to unions in federal government entities.

The Constitution and the LFT provide for the right to strike. The law requires 6 to 10 days' advance strike notice, followed by brief government mediation. If federal or state authorities rule a strike "nonexistent" or "illicit," employees must remain at work, return to work within 24 hours, or face dismissal. If they rule a strike legal, the company or unit must shut down completely, management officials may not enter the premises until the strike is over, and the company may not hire replacements for striking workers. Provisions for maintaining essential services are not onerous. The law also makes filing a strike notice an effective, commonly used threat that protects a failing company's assets from creditors and courts until an agreement is reached on severance pay. Although few strikes actually occur, informal stoppages are fairly common, but uncounted in statistics, and seldom last long enough to be recognized or ruled out of order. The law permits public sector strikes, but formal public sector strikes are rare. Informal ones are more frequent.

During the first 11 months of the year, the JFCA reported that 6,080 strike notices were filed and 30 legal strikes occurred in federal jurisdiction, 11 percent more notices and 9 percent fewer strikes than in the same period in 1998. Federal labor authorities did not stretch legal requirements to rule strikes nonexistent or illicit, nor did they use delays to prevent damaging strikes and force settlements. However, in 1998 strikers at the Han Young maquiladora plant in Tijuana filed an "amparo" (a type of injunction) action in a Federal District court challenging the ruling of the JLCA in Tijuana that declared the strike, which began on May 22 of that year, to be illegal. On May 3, the court recognized the striking union's right to the collective bargaining contract and declared the 1998 strike to have been legal. Acting quickly on that decision, the union put strike flags at the plant, but the JLCA declared the new strike illegal because the board had not yet been officially informed of the court's ruling nor given time to act on that ruling.

On November 11, 1998, dissidents from the National Teachers Union used violence to force their way into the Senate. The dissidents held a number of senators hostage all night. That incident, although more violent than other incidents, was part of an ongoing struggle for control of the teachers' union. The Government released five leaders of that forcible takeover from jail on bond on February 3, after 34 days' detention, and reduced the charges against them.

The Constitution and the LFT protect labor organizations from government interference in their internal affairs, including strike decisions. However, this also can protect undemocratic or corrupt union leaders. The law permits closed shop and exclusion clauses, allowing union leaders to vet and veto new hires and to force dismissal of anyone the union expels. Such clauses are common in collective bargaining agreements.

Employer organizations slowed efforts to push for labor law reform early in the year and entered into discussions with the Government, and labor unions about reforming the LFT's rules of procedure. Government, employers, and unions had negotiated reforms through tripartite national agreements and collective bargaining at the enterprise level. Reforms were effected also via cooperation in programs to increase, and compensate for, productivity. Government, national labor unions, and employer organizations met periodically throughout the year to discuss ways and means of cooperation to boost productivity, wages, and competitiveness.

Unions are free to affiliate with, and increasingly are interested in actively participating in, trade union internationals.

b. *The Right to Organize and Bargain Collectively.*—The Constitution and the LFT provide for the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer either to recognize a union and negotiate with it or to ask the federal or state labor board to hold a union recognition election. LFT prounion provisions led some employers to seek out or create independent "white" or company unions as an alternative to mainstream national or local unions. Representation elections are traditionally open, not secret. Traditionally, management and union officials are present with the presiding labor board official when workers openly declare their votes, one by one. Such open recounts are prevailing practice but are not required by law or regulation. Secret ballots are held when all parties agree.

Wage restraints no longer exist, except for those caused by recession or an employer's difficult situation. Wages in most union contracts appeared to keep pace with or ahead of inflation, but most workers had not yet regained buying power lost over the past decade.

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

A disputed 1997 election for the right to the collective bargaining contract for workers at a Korean-owned maquiladora in Tijuana, Baja California continued to provoke controversy. Although the parties reached a settlement in January 1998, allegations that plant management violated health and safety regulations were considered in a public hearing by the U.S. NAO that year. The dispute over union representation at the plant continued, and in June the U.S. and Mexican federal labor authorities reached agreement on steps to resolve this dispute; as of late fall, the two sides still were discussing details of how those steps were to be taken.

In another case involving freedom of association linked to the right to organize unions, in December 1997, 9 unions and 24 human rights NGO's jointly filed a submission with the U.S. NAO alleging that a CTM-affiliated union used strong-arm tactics to intimidate workers so that they would not vote in favor of a rival union to represent workers at a plant in Mexico state. This submission also alleged violations of health and safety regulations. The Canadian NAO also received a submission on this case in the spring of 1998. The U.S. NAO issued a report in July 1998 that recommended ministerial consultations. At year's end, U.S., Mexican, and Canadian labor authorities continued to discuss the issues raised in both submissions.

On November 10, the U.S. Association of Flight Attendants filed a submission with the U.S. NAO alleging violations of worker rights to freedom of association and to bargain collectively, protection of the right to organize; minimum employment standards; and prevention of occupational injuries and illnesses at Executive Air Transport, Inc. (TAESA). The complaint focused on the voting process employed when the Mexican Flight Attendants Union sought the right to represent flight attendants employed by TAESA.

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

Unionization and wage levels in the in-bond export sector vary by area and sophistication of the manufacturing process. Wages have been lower and job creation has been greater in this sector than in more traditional manufacturing, but the gap continues to narrow. Wages in the maquiladora sector are still lower than in the traditional manufacturing sector, although they are approaching manufacturing sector level. Some observers allege poor working conditions, inadequate wages, and employer and government efforts to discourage unionization in this sector. There is no evidence that the Federal Government opposes unionization of the plants (the maquiladora sector tends to be under state jurisdiction), but some state and local governments in the west are said to help employers discourage unions, especially independent ones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor, which includes forced and bonded labor by children. There have been no credible reports of forced labor for many years, with the exception of abuses of refugees and illegal immigrants in Chiapas (see Section 2.d.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits children under 12 years of age from working. The law sets the minimum legal work age at 14 years. Those between the ages of 14 and 15 may work only limited hours, with no night or hazardous work, which generally makes hiring them uneconomical. Enforcement was reasonably good at large and medium-sized companies, especially in export industries and those under federal jurisdiction. Enforcement was inadequate at many small companies and in agriculture and construction. It was nearly absent in the informal sector, despite government efforts.

The ILO reported that 18 percent of children 12 to 14 years of age work, often for parents or relatives. Most child labor is in the informal sector (including myriad underage street vendors), family-owned workshops, or agriculture and rural areas. Mexico City's central market employs approximately 11,000 minors between the ages of 7 and 18, who work as cart-pushers, kitchen help, and vendors. The children do not receive a fixed wage, and most work long shifts, starting in the early morning hours. The CTM agricultural union's success years earlier in obtaining free transport for migrant seasonal workers from southern states to fields in the north inadvertently led to a significant increase in child labor. The union and employers were

unable to convince indigenous farm workers to leave their families at home, and many have settled near work sites in the north. The union has had some limited success in negotiating with employers to finance education in Spanish and indigenous languages near work sites and in obtaining social security child care centers, but it has had difficulty in persuading member families not to bring their children into the fields. Many urban child workers are migrants from rural areas, are illiterate, and have parents who are unemployed. The law bans child labor, including forced or bonded labor (see Section 6.c.).

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

e. *Acceptable Conditions of Work.*—The Constitution and the LFT provide for a daily minimum wage. The tripartite National Minimum Wage Commission (government, labor, and employers) usually sets minimum wage rates each December, effective January 1, but any of the three parties can ask that the commission reconvene during the year to consider a changed situation. In December the wage commission adopted a 10 percent increase effective January 1, 2000, based in part on the Government's projection of a 10 percent annual inflation rate for 2000. For the first time, all labor representatives on the commission abstained from the vote in protest, and also for the first time, the Government stood firm on its original offer. During the course of the year, wage and benefit adjustments to collective bargaining contracts averaged about 15 to 16 percent, which was several points above the final inflation rate of 12.32 percent for the year.

In Acapulco, Mexico City and nearby industrial areas, southeast Veracruz state's refining and petrochemical zone, and most border areas, the minimum daily wage was set at $3.99 (37.90 pesos). However, employers actually paid $4.55 because of a supplemental 14 percent subsidy. These income supplements to the minimum wage, agreed to in annual tripartite pacts, are for all incomes less than four times the minimum wage, decreasing as wages and benefits rise. In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage (before the subsidy) was $3.70 (35.10 pesos). In other areas, it was $3.44 (32.70 pesos). There are higher minimums for some occupations, such as building trades.

The minimum wage does not provide a decent standard of living for a worker and family. Few workers (about 16 percent) earn only the minimum wage. Industrial workers average three to four times the minimum wage, earning more at bigger, more advanced, and prosperous enterprises.

The law and contract arrangements provide workers with extensive additional benefits. Legally required benefits include free social security medical treatment and pensions, individual worker housing and retirement accounts, substantial Christmas bonuses, paid vacations, and profit-sharing. Employer costs for these benefits add from about 27 percent of payroll at marginal enterprises to over 100 percent at major firms with good union contracts. In addition, employers frequently subsidize the cost of meals, transportation, and day care for children, and pay bonuses for punctuality and productivity.

The LFT sets six 8-hour days as the legal workweek, but with pay for 56 hours. For most industrial workers, especially under union contract, the true workweek is 42 hours, although they are paid for 7 full 8-hour days. This is one reason why unions jealously defend the legal ban on hourly wages. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the normal wage.

The Federal Government established 11 special labor arbitration and conciliation boards (in Queretaro, Pachuca, Ciudad del Carmen, Zacatecas, Orizaba, Ciudad Juarez, Cancun, Colima, La Paz, Reynosa, and Tijuana) in 1997 and four more state offices of the STPS in 1998 to make it more convenient for workers to file complaints and bring other actions before the labor court system. In addition, the Labor Secretary transferred more personnel to the JFCA to reduce backlogs. He also highlighted as special issues child labor, women in the workplace, and the physically disabled by assigning responsibility for them directly to one of the under secretaries. In February the Labor Secretariat established a separate office for equality and gender issues.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the Social Security Institute (IMSS), and to pay contributions that vary according to their workplace safety and health experience ratings. LFT-mandated joint management and labor committees set standards and are responsible for workplace enforcement in plants and offices. These committees meet

at least monthly to consider workplace needs and file copies of their minutes with federal labor inspectors. In 1998 the STPS completed signing agreements with all of the state labor authorities and implemented new regulations on inspections, which provided for information exchanges and federal training of state inspectors.

STPS and IMSS officials report that compliance is reasonably good at most large companies. Federal inspectors are stretched too thin for effective enforcement if companies do not comply voluntarily and fulfill their legal obligation to train workers in occupational health and safety matters. There are special problems in construction, where unskilled, untrained, poorly educated, transient labor is common, especially at many small sites and companies. Many unions, particularly in construction, are not organized effectively to provide training, to encourage members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

Individual employees or unions also may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves.

f. *Trafficking in Persons.*—Available information does not suggest that trafficking of persons in or to the country is a significant problem. However, there have been isolated cases of organized trafficking of persons for the purpose of forced prostitution or sexual services, domestic servitude, forced or bonded sweatshop labor, or other debt bondage. Mexico is used as a transit country for the trafficking of persons, especially from China, to the United States and Canada. The Government has significantly strengthened its cooperation with China, the United States, and other countries to address this problem. However, there were credible reports that police, immigration, and customs officials were involved in the trafficking of such persons (see Section 2.d.). There have been no reports of foreigners being trafficked to the country for the purpose of performing forced labor within its borders.

There are no specific laws that prohibit the trafficking of persons; however, immigration laws, the federal organized crime law, and federal and state penal codes contain laws that are used to prosecute traffickers of undocumented migrants, women, and children.

NICARAGUA

Nicaragua is a constitutional democracy, with a directly elected president, vice president, and unicameral legislature. President Arnoldo Aleman was elected in a free and fair election in 1996, defeating his closest competitor, Daniel Ortega of the Sandinista National Liberation Front (FSLN). The Supreme Electoral Council is an independent fourth branch of government. The Constitution provides for an independent judiciary; however, the judiciary is at times susceptible to political influence.

The President is the supreme chief of the national defense and security forces. President Aleman established the first-ever civilian Defense Ministry upon his inauguration. The Ministry of Government oversees the National Police, which is charged formally with internal security. However, the police share this responsibility with the army in rural areas. The civilian authorities generally maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

Nicaragua is an extremely poor country, with an estimated per capita gross domestic product of $454. The economy is predominantly agricultural, dependent on sugar, beef, coffee, and seafood exports, with some light manufacturing. In late 1998, Hurricane Mitch had a devastating effect on the economic infrastructure, reducing the annual growth rate for 1998 from a pre-hurricane estimate of 6 percent to 4 percent. Despite this setback, the economy grew 6.3 percent in 1999. The inflation rate dropped to 11.5 percent from 18.5 percent in 1998. The unemployment rate was estimated officially at 11 percent; however, some nongovernmental organizations (NGO's) estimated the rate of unemployment and underemployment combined at 40 to 50 percent. Private foreign investment continued to increase; however, economic growth continued to be hindered by unresolved property disputes and unclear land titles stemming from massive confiscations by the Sandinista government of the 1980's. The country continued to have a precarious balance of payments position and remained heavily dependent on foreign assistance, which also increased significantly in the wake of Hurricane Mitch.

The Government generally respected many of its citizens' human rights; however, serious problems remained in some areas. Members of the security forces committed

several extrajudicial killings, and police continued to beat and otherwise abuse detainees. There were allegations of torture by the authorities. Prison and police holding cell conditions remain harsh, although prison conditions improved slightly. Security forces arbitrarily arrested and detained citizens, although apparently less frequently than in the previous year. The Government effectively punished some of those who committed abuses; however, a degree of impunity persisted. Most of the human rights abusers cited by the Tripartite Commission in well-documented reports remain unpunished. The Government followed few of the Commission's recommendations, and the political will to reopen these cases is virtually nonexistent. In March the Government forced Colonel Lenin Cerna, an egregious human rights abuser and former head of state security under the Sandinistas, to retire from the army, along with some of his top deputies; however, despite Cerna's admissions in newspaper interviews that he committed abuses, the Government has not prosecuted him. Lengthy pretrial detention and long delays in trials remain problems, and the judiciary suffers from a large case backlog. The judiciary also is subject at times to political influence and corruption. The Supreme Court continued its structural reform program for the judicial system. A new Judicial Organic Law, intended to address many of these problems, came into effect in January; however, the weak judiciary continued to hamper prosecution of human rights abusers in some cases. In June the National Assembly elected Benjamin Perez, President of the Assembly's Human Rights Commission, as the country's first Human Rights Ombudsman. Discrimination against women is a problem. Violence against women and children, including domestic abuse and rape, remained a problem. Child prostitution increased. Discrimination against indigenous people is a problem. Child labor also remained a problem. There were some cases of trafficking for forced labor and trafficking in women and girls for the purpose of forced prostitution.

FSLN leaders continued to threaten, in speeches and public statements, the use of violence for political ends.

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

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by government officials; however, there were several reports of extrajudicial killings by police attempting to arrest suspects, of suspects while in detention, and by army members in rural areas.

During the year, the Inspector General's office (IG) of the National Police reported 18 instances in which police officers killed alleged criminals and 2 instances in which police seriously wounded criminal suspects, while attempting to arrest them. The IG automatically remands to the court system for review cases in which police use deadly force; however, the cases often take considerable time to process. Of the 20 cases that the IG remanded to the courts during the year, 3 were adjudicated. In those cases, one officer was found innocent of wrongdoing and released; one officer was discharged dishonorably; and one voluntary police officer was found guilty of homicide and received a prison sentence. Police Inspector General Eva Sacasa has stated that the police themselves are often in great danger when apprehending heavily armed members of criminal gangs.

On January 12, Hilario Briones Arostegui and Santos Arostegui Torres, reportedly wanted by the police for multiple crimes, were collecting discarded cans from a trash dump in Esteli when four police officers in civilian clothes and two civilians identified as Pablo Andino and "Cesar" approached them. The civilian known as Cesar shot Briones repeatedly in the head, killing him. Arostegui attempted to flee, but the four police officers prevented him from doing so. Cesar then reportedly killed Arostegui in a manner similar to the killing of Briones. According to the Nicaraguan Association for Human Rights (ANPDH), the police could have arrested the unarmed suspects without difficulty. Late in the year, the ANPDH filed a formal complaint in the case with the police Internal Affairs Unit; action by the Internal Affairs Unit was pending at year's end.

On February 14, in Puerto de Hierro, Matagalpa department, voluntary police officer Juan Thomas Lopez Guerrero killed Juan Adolfo Mejia Leon following an argument between Mejia and Lopez's brother while they both were attending a baseball game. According to an investigation by the Nicaraguan Center for Human Rights

(CENIDH), after the argument, the Lopez brothers left the stadium and waited outside for Mejia to leave; Juan Lopez then killed him. The CENIDH assisted the victim's sister in filing a complaint with the District Court in Matagalpa. On February 23, a District Court judge found Lopez guilty of first degree homicide and sentenced him to 7 years' imprisonment. However, according to the CENIDH, despite the judge's guilty verdict and issuance of an arrest warrant, the authorities reportedly did not take Lopez into custody to serve his sentence by year's end, and he continued to serve as a voluntary police officer.

On February 23, in Belen, Boaco department, Martin Canales Suarez was playing baseball with friends when army member Marcos Antonio Chavarria arrived in a drunken state and shot Canales approximately 40 times with an assault rifle. The crime appeared to have roots in personal animosity between the two men. Chavarria fled; however, the case was remanded to the civilian courts, and in March a court tried Chavarria in absentia, found him guilty of the murder, and sentenced him to 30 years' imprisonment. In April the authorities took Chavarria into custody; he was serving his sentence at year's end.

On April 20, Lieutenant Enrique Flores of the National Police antiriot unit shot and killed Roberto Jose Gonzalez, a student demonstrating in support of the "6 Percent Rule" (see Section 2.b.), with a rubber bullet. On April 27, a police investigative panel released a report indicating that Gonzalez was shot at a range of approximately 3 meters. Correct police procedure calls for such bullets to be fired from at least 20 to 30 meters. Police witnesses to the incident said Flores acted in self-defense after Gonzalez pointed a homemade mortar—a potentially lethal type of device, which had caused Flores to lose an ear in a previous riot—at him. Student witnesses disputed this account. The authorities remanded Flores's case to the courts following the police investigation; in June a jury found him innocent of wrongdoing in Gonzalez's death and he was reinstated in the police force.

On May 10, police killed Pedro Gonzalez Talavera near Villa Sandino in Chontales department after Talavera had arrived in the area on horseback to attend a local festival. A group of police officers recognized Talavera, who was wanted for aggravated assault, and chased him; six officers then shot at him with assault rifles. A subsequent investigation indicated that a shot fired from a distance of about 1,000 feet knocked Talavera off his horse; police officer Donald de Jesus Lanzas then allegedly approached Talavara as he lay on the ground, kicked him, and shot him twice, killing him. The authorities charged Lanzas and several other police officers with premeditated homicide; however, despite evidence presented by the CENIDH in the case, in June the presiding judge released the officers without charges. At year's end, the case was pending in the Appellate Court of Juigalpa.

On August 20, in the town of Jicaro, police shot brothers William and Roger Chavarria Garcia, killing William and wounding Roger. According to the CENIDH, the victims were wanted for cattle rustling; however, according to the police IG's office and the ANPDH, the incident began when the victims, who were inebriated and on horseback, deliberately knocked over officer Juan Arguijo's motorcycle. There also reportedly was personal animosity between William and voluntary police officer Dimas Pasos Centeno, one of the officers involved in the incident. In September a court convicted Pasos of William Chavarria's murder and sentenced him to a prison term; the court found three other officers innocent in the case.

On November 17 in La Libertad, Chontales department, police shot and killed Armando Roberto Perez Ocana, who was wanted in Juigalpa on robbery charges, after they arrived to expel a group of squatters at the house where Perez was living. According to family members, after four officers entered the house and found Perez lying down complaining of stomach pain, Lieutenant Victor Galeano hit Perez with the butt of his rifle. Moments later, Galeano shot Perez; Perez died of his wounds on the way to a local medical facility. The police claimed that Galeano shot Perez in self-defense; however, the CENIDH concluded after looking into the case that the police account lacked credibility. In December the Criminal Circuit Court of Juigalpa accepted the argument of self-defense and opted not to pursue charges against Galeano or the other officers involved in the incident.

In August Wilmer Antonio Gonzalez Rojas, age 16, committed suicide in Modelo prison near Managua; a subsequent investigation indicated that Gonzalez was subjected to abusive treatment by prison personnel prior to his death (see Section 1.c.).

On December 24, 1998, police officer Nicasio Martin Jiron killed 14-year-old Everet Alexander Gonzalez Gaitan in the German Pomares neighborhood of Managua. Jiron and other police officers reportedly were attempting to apprehend an armed robbery suspect when a group of neighborhood residents attempted to prevent the suspect's arrest; in the ensuing clash between residents and police, Jiron shot Gonzalez. A lower court released Jiron without charges, but in January an appellate court found him guilty of involuntary homicide.

On December 25, 1998, Douglas Enrique Toruno was leaving the Enamores discotheque in Condega when two soldiers in a state of severe inebriation arrived and began firing automatic weapons indiscriminately in the direction of Toruno and his friends. One of the bullets hit Toruno in the back, and he died shortly thereafter. In February the District Criminal Court found one of the soldiers, Sergeant Mario Garcia Perez, guilty of murder and sentenced him to 7 years in prison. The court absolved the second soldier, Francisco Bello Oporta, of wrongdoing.

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

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

There were no further developments in the case of former army officer Frank Ibarra, who in 1993 was sentenced in absentia to 20 years' imprisonment for the November 1992 murder of Dr. Arges Sequeira Mangas, president of the Association of Nicaraguan Confiscated Property Owners. (The killing occurred when Ibarra was still a member of the army.)

There were no further developments in cases cited by the Tripartite Commission. The Commission, established by then-President Violeta Chamorro in 1992 to address the issue of unresolved deaths of former Contras and others, was composed of representatives from the Government, the Catholic Church, and the OAS International Support and Verification Commission (CIAV). It concluded its review in October 1996 and turned over 83 human rights cases involving 164 allegedly murdered former combatants, as well as 181 specific recommendations, to the Government for followup. However, only one soldier and five policemen cited by the Commission ever served a partial or whole sentence.

In March the Government forced Colonel Lenin Cerna, an egregious human rights abuser and former head of state security under the Sandinistas, to retire from the army, along with some of his top deputies; however, despite Cerna's admissions in newspaper interviews that he committed abuses, the Government did not prosecute him.

In 1997 the Government negotiated the disbandment and disarmament of over 1,200 members, a majority of them former Contras, of the "Northern Front 3–80" and promised them food, clothing, seeds, and small plots of land. It also disarmed 423 members of the pro-Sandinista "Andres Castro United Front" (FUAC). Despite these successful disarmaments, armed bands, including former members of the 3–80 front and FUAC engaged in murder, kidnaping for ransom, and armed robbery in the north and north-central regions. FUAC members have alleged that they were acting in opposition to the Aleman administration, and FSLN leaders have made positive reference to the FUAC activities in public statements. Law enforcement groups and political analysts described the political motivations as tenuous and stated that most of these actions were purely criminal in nature.

In 1998 members of a Sandinista-affiliated agricultural cooperative attacked a group of squatters at the Las Plazuelas Ranch in Chontales department, leaving three persons dead and seven wounded. The ANPDH alleged the involvement of voluntary police officers in the killings. Although in December 1998, a jury found five voluntary police officers innocent of murder charges in the case, IG Sacasa's office expelled them from the police force. The ANPDH asserted that the authorities failed to take any action against the persons who had planned the attack. At year's end, the ranch remained in the hands of the cooperative members allegedly responsible for the killings.

There were no new developments related to the February 1991 killing of former Contra commander Enrique Bermudez.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law makes the use of torture a punishable crime; however, there were credible reports that police beat or otherwise physically mistreated detainees, often to obtain confessions. During the year, the ANPDH received 70 complaints of torture or degrading treatment by the authorities. The ANDPH and other human rights groups forwarded complaints of human rights abuses directly to police Inspector General Sacasa, who proved willing to prosecute abusers. During the year, her office recorded 94 complaints of physical abuse by police, including those submitted by the ANPDH, and found 26 to have merit. The Inspector General sanctioned 51 officers in these cases.

While the Inspector General's office investigated allegations of abuse and sanctioned the offenders in many cases, a degree of impunity persisted. Inadequate budget support for the National Police also hampered efforts to improve police performance and resulted in a continuing shortage of officers. However, the police were

provided with some training during the year, much of it through international assistance programs.

The Office of Civil Inspection for Professional Responsibility is responsible for monitoring allegations of illegal detention and police abuse and forwarding complaints received to the police Inspector General for followup action. A small budget and a small staff limited its effectiveness. Police Inspector General Sacasa received a total of 529 complaints of human rights abuses by police officers during the year, including complaints forwarded by the Office of Civil Inspection for Professional Responsibility, and found 155 of these cases to have merit. She sanctioned a total of 232 officers for violations of human rights. Of those sanctioned, 11 officers were discharged dishonorably, and 54 were remanded to the courts; the rest received lesser punishments, including demotion, suspension and loss of pay.

In April a number of persons were injured in a series of violent clashes between police and students demonstrating in support of additional government funding for universities (see Sections 2.a. and 2.b.). During one of the demonstrations on April 9, police injured some demonstrators when they shot rubber bullets at a group of protesters after some protesters threw homemade grenades at police officers. There were media reports that police beat a student whom they detained. After conducting an investigation, the Chief of Police announced that six police officers would be remanded to the courts on charges of destruction of property (a sound system being used by students) and using unnecessary force in dealing with students during the demonstration. In May a court found the six officers innocent of the charges. On April 20, when further student demonstrations took place, the police killed one student (see Section 1.a.), and four police officers and several students were wounded, in violent confrontations between demonstrators and police. In addition, Luis Chavez, age 12, was severely wounded by the explosion of a homemade grenade apparently left behind by a demonstrator.

Prison conditions remained harsh, although they improved slightly. The prison system is overcrowded and underfunded, with medical attention virtually nonexistent. There was some improvement in prison food, but malnutrition remained a widespread problem in local jails and police holding cells. A series of uprisings at the Modelo Prison in Tipitapa, just outside Managua, coincided with a change in the leadership of the prison system. In February William Frech, the first civilian prison director in more than 20 years, replaced the quasi-military prison administration that had been in place since the 1980's. Frech, a lawyer and a sociologist, attempted to provide more humane treatment for prisoners, but soon faced the threat of a walkout by prison guards after he fired the Modelo Prison director and three deputies in May. The conflict was resolved on May 11 after high-level mediation and concessions by both sides. After Frech's appointment, prison conditions improved slightly due to the arrival of 1,200 donated beds and to small improvements in medical care. In October Frech resigned, and the Government appointed another civilian, Carlos Quintana, to replace him. According to government statistics, prisons had a total inmate population of 5,298 in September, down from 5,570 in September 1998.

In August 16-year-old Wilmer Antonio Gonzalez Rojas committed suicide in Modelo Prison. In letters he wrote before taking his life, Gonzalez described severe beatings by a prison official called "Rocky" and solitary confinement in a small "punishment cell" for months. At the time of his death, Gonzalez, who had served 15 months in prison, believed that he had to serve another 21 months; he had not been informed yet that his sentence had been reduced, requiring him to serve only 3 more months before being released. Then-Director of Prisons William Frech initiated an investigation into Gonzalez's death; as a result of the investigation, the prison psychologist, the prison official responsible for Gonzalez's transfer to a punishment cell, and the prison guard known as Rocky all were fired. An additional six prison officials were reprimanded and demoted. However, the authorities did not file criminal charges against any of those involved.

Prison officials calculated that the daily expenditure per prisoner for food was about $0.58 (7 cordobas) and reported that the annual budget for food remained constant. However, food distribution improved after Frech's appointment as Director of Prisons. Many prisoners also received additional food from visiting family and friends. Medical care available to prisoners fell far short of basic needs. Some prisons and many police holding cells were dark, poorly ventilated, and unhygienic. At the Bluefields jail, there were only 4 showers and 4 toilets for more than 150 prisoners.

As of September, 4 percent of the prison population were between the ages of 15 and 18, compared with 8.5 percent in 1998 and 10.4 percent in 1997. Youths generally are housed in separate prison wings from those housing adults; however, at year's end, some prisons outside the Managua area had not completed the process

of establishing separate facilities for juveniles or converting part of their existing prison space into separate youth wings. In the Managua area, juveniles are housed in the youth wing of the Modelo Prison. Only Managua has a separate prison for women; outside the Managua area, women were housed in separate wings in prison facilities and were guarded by female custodians. As of September, females made up 4.5 percent of the prison population. The Public Defender's office assigned two full-time employees to work with the women's prison system to help ensure its proper functioning in such areas as timely release of inmates granted parole.

Conditions in jails and holding cells also remained harsh. Police station holding cells were severely overcrowded. Suspects often were left in these cells during their trials, since budgetary shortfalls often restricted the use of fuel for frequent transfers to distant courtrooms. At the Corn Island jail, six cells holding six detainees each frequently were filled to capacity. At the Bluefields jail, over 150 prisoners were crowded into 4 cells originally designed to hold 8 prisoners apiece. The authorities occasionally released detainees when they no longer could feed them.

Several churches and national and international NGO's donate foodstuffs, beds, and medicine to the prison system to help alleviate shortfalls, which remain severe. The ANPDH worked with the Director of Prisons in an effort to ensure that prisoners were released in a timely fashion when their sentence had been served or they were granted parole (see Section 1.e.). Prison guards received human rights training from NGO's and the Catholic Church and generally treated prisoners well, although there were some reports of abuses.

The Government permits prison visits by independent human rights monitors.

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

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

Lengthy pretrial detention remained a problem. It is estimated that, contrary to law, as many as one-third of prisoners had been jailed for 6 months or more without a trial. Some prisoners spend more than a year in jail without a trial.

During the year, the ANPDH forwarded 113 complaints of illegal detention to the police IG's office. That office deemed 13 complaints to merit investigation. Of these, nine were determined to be without merit and four remained under investigation at year's end. Some complaints came to the IG's office directly, while others were made via human rights organizations such as the ANPDH and the Permanent Commission for Human Rights (CPDH). As in past years, incidents of arbitrary detention were most common in Managua and in the rural northern and north-central regions, where much of the civil war was fought.

Exile is not practiced. There were no reports of political violence against any citizens returning from civil war era self-imposed exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is susceptible at times to political influence. The judiciary is hampered by arcane legal codes, prosecutors who play a passive role, a hitherto nonexistent public defender's office, judges and lawyers who often lack sufficient training or education, and corruption. In the past, many judges were not lawyers. Judges' political sympathies or acceptance of bribes reportedly often influenced judicial actions and findings.

The judicial system comprises both civil and military courts. The 12-member Supreme Court is the system's highest court, and in addition to administering the judicial system, is also responsible for nominating all appellate and lower court judges. The Court is divided into specialized chambers on administrative, criminal, constitutional, and civil matters. Under the Law of the Child and Family, which took effect in 1998, the Attorney General's office rather than the police investigates crimes committed by and against juveniles. The 1994 Military Code requires the civilian court system to try members of the military charged with common crimes.

A 5-year administration of justice reform program, begun in 1997, continued during the year. A new Judicial Organic Law, passed by the National Assembly in 1997

to overhaul the archaic structure of the court system, finally was signed by President Aleman in 1998 and took effect in January. The new law contains a provision establishing minimum professional standards for judicial appointees. The Supreme Court commission supervising the revision of the country's outdated criminal codes and procedures continued its work, in coordination with the National Assembly's Judicial Commission. Reform of these codes is intended to reduce judicial delays and resulting excessive pretrial detention. By year's end, the Assembly's Judicial Commission approved a new draft Criminal Code, which was scheduled for consideration by the full Assembly in 2000. At year's end, a special subcommission of the Judicial Commission was reviewing a new draft Criminal Procedures Code. A draft of an important reform of the Attorney General's office and functions was made public in May and was under review by a special commission of the Assembly at year's end.

All legal actions on property-related lawsuits in district courts were suspended in December 1997 in anticipation of the establishment of new mediation and arbitration services referred to as "new property courts" (see Section 1.f.). By year's end, the delay in establishing the new courts had deprived property claimants of due process in the judicial system for 24 months.

Human rights and lawyers' groups complained about the delay of justice, sometimes for years, caused by judicial inaction. Among the steps the judiciary took to address such delays were an increase in the number of courts, the creation of a Public Defender's office in Managua, the designation of trained lawyers as judges, the creation of an appeals court on the Atlantic Coast, and a separation of juvenile courts from adult courts in Managua.

Judges appear susceptible to corruption. For example, in June the president of Banco del Sur was accused of corruption and fled the country. The National Police tracked him for several weeks; he eventually turned himself over to the authorities, after which he came to Managua to stand trial. Under suspicious circumstances, the judge handling his case absolved him of all wrongdoing.

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

Judges at times appeared to be susceptible to political influence. On November 8, a criminal court judge handed down a "provisional sentence" (similar to an indictment) against Controller General Agustin Jarquin and two codefendants, journalist Danilo Lacayo and Nestor Abaunza, a former employee of the Comptroller General's office, for fraud against the State in connection with payments of official funds Jarquin made to Lacayo with Abaunza's involvement (see Section 2.a.). The same day, Jarquin relinquished his position as Comptroller General. However, contrary to normal practice, the judge did not issue a warrant for the arrest or detention of Jarquin or his codefendants prior to making her ruling. Following criticism by jurists and the press of this departure from normal procedure, the judge issued a warrant and police arrested Jarquin and his codefendants on November 10. Jarquin and his codefendants appealed the court's ruling, as provided for in the law; in December an appeals court overturned the provisional sentencing on the fraud charge; all three defendants were released from custody and Jarquin resumed his position as Controller General.

In criminal cases, the accused has the right to legal counsel, and defendants are presumed innocent until proven guilty. The new Judicial Organic Law provided for the establishment of a Public Defender's office to represent indigent defendants. At year's end, the office was operational in Managua and had 13 appointed public defenders; however, more are needed. Elsewhere in the country where public defenders were not available, the system in effect before the passage of the new law continued in use. Under that system, the presiding judge appoints attorneys from a standard list to represent indigent defendants, but, because they are not paid by the State, many attorneys have paid a fine of about $8.30 (100 cordobas) rather than represent such clients.

According to the ANPDH, despite difficulties in implementing fully the provisions of the new law, the number of indigent defendants who went to trial without an attorney to represent them decreased significantly. Under the Napoleonic legal system, a trial does not consist of a public hearing. Rather, there is a desk review by a magistrate of the accused's file. An initial hearing usually is held within the constitutionally mandated 10 days. Although very simple cases or those with high profile or outside interest may be resolved quickly, many languish for months. Due to a lack of administrative coordination between judges and the penal system, many prisoners have remained in prison after their scheduled release date. The ANPDH

worked with the Director of Prisons during the year in an effort to ensure that prisoners were released in a timely manner after serving their sentence or being granted parole.

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

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for protection against these abuses, and the Government generally respected these provisions in practice. The Constitution stipulates that all persons have the right to privacy of their family and to the inviolability of their home, correspondence, and communications; requires warrants for searches of private homes; and excludes from legal proceedings illegally seized letters, documents, and private papers.

In November 1997, the National Assembly passed a law intended to resolve longstanding property disputes that stemmed from massive confiscations by the Sandinista government in the 1980's. The law's purpose is to implement President Aleman's 1996 campaign promise that the poor would receive titles to properties received during Sandinista-era land redistributions, and that wealthier beneficiaries either would have to pay for such properties or return them. The law suspended judicial actions on property claims until new property courts offering mediation and arbitration procedures are established to expedite settlement of property disputes. By year's end, the Supreme Court had established the physical locations for the new courts and had begun identifying personnel to train mediators and arbitrators; however, the courts were not operational yet at year's end, and property claims, some of which had been pending for over 2 years, remained suspended.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. However, freedom of the press is potentially qualified by several constitutional provisions. The 1987 Constitution stipulates that citizens have the right to "accurate information," thereby providing an exception by which the freedom to publish information that the Government deems inaccurate could be abridged. Although the right to information cannot be subject to censorship, there is retroactive liability established by law, defined as a "social responsibility," implying the potential for sanctions against irresponsibility by the press. Although the legislature did not modify these provisions in the 1995 constitutional reforms, the Government has not invoked these provisions to suppress the media.

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

The privately owned print media, the broadcast media, and academic circles freely and openly discussed diverse viewpoints in public discourse without government interference. However, the IAPA reported that the Government directed a disproportionate amount of total government advertising in the print media to publications favorable to the Government and denied to a newspaper critical of the government certain tax benefits provided to other media businesses.

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

In March a presidential adviser publicly asserted that Controller General Agustin Jarquin, a political rival of President Aleman who previously had raised questions about the President's financial holdings, had made payments from official funds to numerous political allies and journalists through contracts for "public relations consulting." The next day, a major daily newspaper identified one of the beneficiaries, who used a false identity to receive payments, as a well-known journalist and host of a popular television interview program. There were allegations that the payments were made in return for media coverage favorable to Jarquin in his ongoing dispute with the Aleman administration about alleged government corruption. Jarquin and the journalist, Danilo Lacayo, both acknowledged the payments, but claimed that Lacayo had provided unspecified investigative support in return and denied that the purpose was to influence media coverage of Jarquin. Following public disclosure of the payments, Lacayo resigned from his television show. In November a judge in Managua charged Jarquin, Lacayo, and a third individual with fraud against the State in connection with the payments. The defendants appealed the judge's finding; in December the appeals tribunal overturned the lower court's ruling and dismissed the fraud charge (see Section 1.e.). However, the tribunal did not rule out the possibility of further judicial action against the defendants on lesser charges, including falsification of documents, mismanagement of funds and use of a false name.

The IAPA reported that in June Mario Mariena Martinez, a reporter for a major daily newspaper, was prevented from covering a presidential news conference. The presidential communications secretariat issued a statement that it suspended Mariena's credentials due to his improper attitude. A presidential advisor stated that he asked the newspaper's managing editor to assign another reporter to cover the President; the newspaper subsequently published an editorial protesting the government action regarding Mariena.

The Government does not restrict academic freedom. In April student demonstrations organized by the FSLN to demand increased government funding for universities under the so-called "6 Percent Rule," a Sandinista-supported constitutional provision that allocates funding for universities at 6 percent of the national budget, led to violent confrontations between police and university students, which resulted in one death and several injuries (see Sections 1.a., 1.c., and 2.b.). On May 5, the situation finally was defused when the National Assembly reached a compromise agreement on university funding following government talks with university and student representatives.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution recognizes the right to peaceful assembly without prior permission, and the Government generally respects this right in practice. However, the Constitution also recognizes the right to public assembly, demonstration, and mobilization "in conformity with the law," and the law requires demonstrators to obtain permission for a rally or march by registering its planned size and location with the police. The authorities routinely granted such permission, but many groups chose not to register because, they claimed, the process was too cumbersome.

In April there were violent confrontations between police and university students during a series of student demonstrations (see Section 2.a.). On April 9, several hundred students confronted police outside the National Assembly building in Managua while the Assembly was debating the budget. Some students threw homemade grenades at police, who responded by shooting rubber bullets, wounding some students (see Section 1.c.). In another demonstration on April 20, a student was killed by a rubber bullet fired by a police officer as antiriot police were attempting to dislodge a group of 80 to 100 masked students who had taken over the Central Bank building (see Section 1.a.). Following this incident, a 12-year-old boy was maimed by the explosion of a homemade grenade apparently left behind by a demonstrator (see Section 1.c.). Later the same day, students and others, apparently including youth gang members and older agitators, attacked police headquarters in Managua with rocks and homemade grenades and vandalized and looted the headquarters of the governing Liberal Constitutionalist Party. Four police officers and several students reportedly were injured in the incidents (see Section 1.c.). On April 22, a large group of pro-Sandinista students tried to assault Managua police headquarters with rocks and homemade explosive devices; they withdrew after antiriot police responded with rubber bullets and tear gas.

The Constitution provides for the right to organize or affiliate with political parties, and the Government respects this right in practice. Opposition and independent associations functioned freely without government interference or restriction. Private associations do not have legal status to conduct private fund raising or receive public financial support until they receive this authorization from the National Assembly, which it routinely confers.

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

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

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Constitution provides for asylum, and refugees cannot be expelled to the country that persecuted them. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

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

The 1995 reforms to the 1987 Constitution established a more equal distribution of power and authority among the four coequal branches of government. The executive branch is headed by the President and a cabinet appointed by the President, who is both head of state and head of government, as well as supreme chief of the defense and security forces. The Vice President has no constitutionally mandated duties or powers. Both the President and Vice President are elected to 5-year terms by direct popular vote, with the possibility of a runoff election between the top two candidates if one does not obtain at least 45 percent of the vote on the first ballot. The Constitution does not permit reelection of the President.

A single-chamber National Assembly exercises legislative power. In October 1996, voters chose 93 members, including 20 deputies from nationwide lists, 70 from lists presented in each of the 15 departments and the 2 autonomous regions, and 3 defeated presidential candidates who obtained a minimum percentage of the national vote. Members elected concurrently with the President and Vice President in 1996 are to serve 5-year terms.

On December 10, the National Assembly voted to approve a package of proposed constitutional amendments supported by the leadership of both the governing Liberal Constitutionalist Party and the opposition FSLN. The proposed amendments require a second favorable vote in the subsequent National Assembly session, scheduled to begin in January 2000, in order to take effect. Key elements of the legislation include a change in the requirements that a presidential candidate must meet to avoid a second-round runoff election; expansion of the Supreme Court from 12 to 16 judges; expansion of the CSE from 5 to 7 magistrates; an automatic assembly seat for the outgoing President and Vice President; a requirement for a two-thirds majority vote in the Assembly, rather than the current "qualified majority" vote, to remove presidential immunity from prosecution; and the replacement of the current single Controller with a 5-person collegial body. The proposed amendments provide for election of the President and the Vice President in the first round of voting if one political party wins at least 40 percent of the vote, or if one party wins at least 35 percent of the vote and the party in second place is more than 5 percentage points behind the front-runner. In addition, a party would lose its legal status if it obtained less than 4 percent of the vote in a general election. The latter provision, if enacted, is expected greatly to reduce the number of parties eligible to field candidates in general elections; over 20 parties ran candidates in the 1996 elections.

There are no restrictions in law or practice against women, indigenous groups, or other minorities voting or participating in politics; however, they are underrepresented. Women served as President and Vice President until January 1997, and a woman serves as president of the CSE. Additionally, 3 of 12 Supreme Court justices are women; women hold ministerial, vice ministerial, and other senior positions in government; and voters elected 10 women to the National Assembly in October 1996. Two members of the National Assembly claim indigenous heritage.

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

With the exception of some peace commissions, human rights groups operated without government interference. Major organizations included the Permanent Commission for Human Rights (CPDH), the Nicaraguan Association for Human Rights (ANPDH), and the Nicaraguan Center for Human Rights (CENIDH). During the year, the CENIDH demonstrated increased independence from the FSLN by supporting Zoilamerica Narvaez in a complaint that she filed with the IACHR against her stepfather—FSLN leader, former President, and National Assembly Deputy Daniel Ortega—for sexually abusing her (see Section 5). However, the CENIDH maintained sufficient allegiance to the FSLN to limit the objectivity and impact of much of its reporting. The ANPDH, the CENIDH, the CPDH, and the Catholic Relief Services continued to conduct human rights workshops at the police training academy, at various police headquarters, and with army units throughout the country. Some military officers received internationally sponsored human rights training.

In July 1997, a small successor organization to the OAS/CIAV, the OAS Technical Cooperation Mission (TCM), opened at the request of the Government and continues to operate. The TCM's presence was focused on the 13 municipalities that were affected most adversely by the decade-long civil war, where the TCM worked on conflict resolution, reconciliation, improving local government, and extending legal infrastructure.

The OAS/CIAV and Catholic Relief Services helped maintain more than 200 peace commissions in the northern and central parts of the country, intended to give inhabitants of the area a means of dispute resolution, a means of monitoring human rights abuses, and a vehicle for expressing their concerns to government authorities. Many of the commissions operate in areas that are without any governmental presence, and serve as surrogates for absent police and courts. The Government granted legal standing to additional such grassroots organizations during the year. Some peace commission members initially reported that soldiers, rural police, and local residents sometimes misunderstood their efforts at advocacy on behalf of jailed criminals, interpreting them as challenges to law enforcement officials' authority. However, during the year, the commissions continued to report increased support from all elements of the societies they serve, including law enforcement.

In 1995 the National Assembly passed a law creating a Human Rights Ombudsman's office, with the Ombudsman to be elected by the Assembly. In June, after a delay of nearly 5 years, the National Assembly elected Benjamin Perez, formerly the head of the Assembly's Human Rights Commission, as the country's first Ombudsman. The Assembly also elected Julian Corrales as Deputy Ombudsman.

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

The Constitution prohibits discrimination on the basis of birth, nationality, political belief, race, gender, language, religion, opinion, national origin, economic condition, or social condition. In practice the Government made little or no effort to combat discrimination. However, few, if any, discrimination suits or formal complaints were filed with government officials.

Women.—The most prevalent violations of women's rights involved domestic and sexual violence, which were widespread and under-reported. The Nicaraguan Demography and Census office reported that in a 1998 poll of 13,600 women, more than 3,900 women stated that they had been physically or sexually abused by their husbands or boyfriends; 1,400 stated that they were abused while pregnant, and 2,800 reported that they had suffered severe physical abuse during the previous year.

The National Police confirmed local human rights groups' charges that while police sometimes intervene to prevent injury in cases of domestic violence, they rarely prosecute perpetrators because victims often refuse to press charges. Those cases that actually reached the courts usually resulted in a not guilty verdict due to judicial inexperience with, and lack of legal training related to, proper judicial handling of such violence.

The National Police reported 1,253 instances of rape during 1998, up very slightly from 1,249 cases in 1997. Many women are reluctant to report abuse or file charges due to social stigmas attached to victims of rape. However, police stated that the apparent rise in rapes from previous years is at least partially due to the increased willingness of rape victims to report the crime.

On October 24, with the help of the CENIDH, Zoilamerica Narvaez filed a complaint with the IACHR against her stepfather, FSLN leader, National Assembly Deputy, and former President Daniel Ortega. Narvaez asserted that Ortega sexually molested and harassed her from the time she was 11 years old until she filed

charges against him in 1997. The case publicized the problems of incest, rape, and women's rights and also highlighted the issue of immunity from prosecution for parliamentary deputies. In 1998 Narvaez championed an effort to persuade the National Assembly to withdraw Ortega's immunity so that she could bring a lawsuit against him; however, the Assembly did not take up the issue of Ortega's immunity by year's end. On November 8, the IACHR officially opened a case in response to Narvaez's complaint and advised the Government that it would be required to respond to the charges. The Government did not do so by year's end.

The police manage 14 "women's commissariats" in 11 cities. Each commissariat is located adjacent to a police station and is staffed by six police officers, two social workers, one psychologist, and one lawyer. The commissariats provide both social and legal help to women and mediate spousal conflicts. The 1996 Law against Aggression against Women reformed the Criminal Code to make domestic violence a crime and to provide for up to 6 years' imprisonment for those found guilty of such violence. The law also provided for the issuance of restraining orders in cases in which women fear for their safety.

Prostitution is common, and there were credible reports that some women were trafficked and forced into prostitution (see Sections 6.c. and 6.f.). Modes of prostitution vary. In Managua most prostitutes work on the streets or clandestinely in nightclubs. In towns along the Pan American Highway, women and girls sell sexual services to truck drivers and other travelers, often foreigners driving north from Costa Rica. In port cities such as Corinto, the primary clientele are sailors. Corinto is unusual in that prostitutes receive medical examinations and the town provides those who are free of disease with cards certifying this. In addition, prostitutes in Corinto reportedly often worked together to maintain a rudimentary price-setting structure that enabled them to earn much more than prostitutes generally earn in other areas. However, in most areas, prostitutes do not have access to medical screening or treatment.

Although the Constitution provides for equality between the sexes, reports of discrimination against women are persistent and widely believed. A 1998 poll on women and discrimination showed that 70 percent of women believe that they suffer from discrimination and showed the most prevalent form of discrimination to be lower pay for similar work. Women are well represented in the public sector, more so than in the private sector, but women's groups claim that they are losing ground in both. Women are underrepresented in management positions in the private sector. Women constitute the majority of workers in the traditionally low-paid education, textile, and health service sectors. Women have equal or somewhat better access to education than men, especially in urban areas. Primary school enrollment rates for boys and girls are estimated at 73 and 75 percent, respectively; secondary school enrollment rates are 39 and 47 percent.

Children.—Children 18 years of age and younger make up approximately 53 percent of the population. Education is compulsory through the sixth grade, but this provision is not enforced. The Government expresses its commitment to children's human rights and welfare publicly, but does not commit adequate funding levels for children's programs or primary education. A constitutional provision known as the "6 Percent Rule" automatically allots 6 percent of the annual budget to a higher education consortium, often at the expense of funding for primary and secondary education programs.

Children were increasingly involved in crime, both as victims and as perpetrators. From January to July, 39 minors (younger than age 17) died as a result of violent crime. During the same period, victims of rape included 239 children under the age of 13, and 482 between the ages of 13 and 17. Children, especially boys in street gangs, contributed to an ongoing rise in the crime rate, which resulted in a police crackdown on youth gangs in August that involved over 500 juvenile arrests.

As a result of the Child and Family Law, which took effect in late 1998, juvenile prisoners could no longer be held in adult facilities, nor could they be held for more than 24 hours without being charged. However, implementation of the new law proved problematic. In August 17-year-old Modesto Perez ambushed and killed his former employer, National Assembly deputy Jose Cuadra, after Cuadra fired Perez. Public outrage at the inability of the system to punish Perez effectively was directed primarily at the new law, in particular the provision that minors charged with crimes be prosecuted in new juvenile courts, where the possible penalties for serious crimes are more limited than the penalties that could be imposed on an adult convicted of the same crime. In addition, by year's end the juvenile courts were operational only in the Managua area; consequently, minors charged with crimes elsewhere in the country often avoided prosecution entirely. The National Assembly, the Catholic Church, and other organizations spoke out in favor of reforming the law

to allow prosecution as adults of minors who commit serious crimes. At year's end, Perez was still in custody and the investigation in his case was continuing.

In 1998 the U.N. Children's Fund (UNICEF) reported that 65 percent of children are literate, and that 20 percent of children between the ages of 6 and 9 work. A study published in 1998 by the National Commission Against Child Labor concluded that over 160,000 children under 17 years of age work, including approximately 140,000 employed in rural activities such as the annual harvests. Others are forced by their parents to work in the streets of Managua as vendors or beggars (see Section 6.d.). According to local media and the Ministry of the Family, the incidence of child prostitution increased, especially in Managua and near borders with Honduras and Costa Rica. According to press reports, UNICEF noted significant growth in prostitution among children between the ages of 12 and 16 in towns where taxi drivers were said to serve as middlemen. OAS personnel in the country also noted growth in prostitution among girls as young as 10 years of age; in rural areas, clientele are often truck drivers and other travelers, including foreigners, who patronize prostitutes in towns along the Pan American Highway. From December 1998 to May 1999, the Ministry of the Family sponsored an investigation into child prostitution in five municipalities. Of the more than 300 children surveyed, 82 percent reported that they had started engaging in prostitution within the past year, leading investigators to believe that the practice of child prostitution is growing rapidly, particularly in border towns, port cities, and the Managua area. Many of those surveyed said that they engaged in prostitution to buy basic necessities such as food and clothing, or to support a drug habit. There were cases of trafficking in girls for the purpose of forced prostitution. In July the local media reported the arrest in Guatemala of three Guatemalan citizens for trafficking in girls and young women, including Nicaraguan citizens, for the purpose of forced prostitution (see Section 6.f.).

People with Disabilities.—The Government has not legislated or otherwise mandated accessibility to buildings for the disabled. In 1998 the Ministry of Health created a National Council for Rehabilitation to address the needs of the 559,000 citizens with some type of disability, only 3 percent of whom receive medical treatment. Through its clinics and hospitals, the Government provides care to war veterans and other disabled persons, but the quality of care is generally poor. However, with assistance from international NGO's, foreign governments, and the public health care system, the Government has procured thousands of prostheses and other medical equipment for veterans and former resistance members.

Indigenous People.—Indigenous people constitute about 5 percent of the country's population and live primarily in the Northern Autonomous Atlantic Region (RAAN) and Southern Autonomous Atlantic Region (RAAS). The RAAN and the RAAS, which were created in 1987 out of the former department of Zelaya and which border the Caribbean Sea, constitute 47 percent of the national territory. Based on 1998 information from the Center for Investigation and Documentation of the Atlantic Coast and other sources, the four major identifiable tribes are the Miskito (with approximately 100,000 members), the Sumo (10,000), the Garifuna (3,000), and the Rama (1,000). In an effort to encourage indigenous participation in Atlantic coast regional elections held in 1998, the CSE distributed electoral and civic education materials in four languages, including Miskito and Sumo.

The indigenous people of the RAAN, primarily the Miskito and the Sumo, have a political organization known as Yatama, which has representation in regional and municipal councils, and there is also an armed faction of the same name. The extent to which the two groups are linked is not clear. Like many armed groups operating since the end of the civil war, the Yatama groups mix banditry with a genuine desire to force the Government to devote more resources to their underdeveloped region. However, two factors differentiate the armed groups in the RAAN from those that have operated elsewhere in the country. First, most participants in these groups are Amerindians who long have seen themselves as having a separate culture. Second, drug trafficking and drug money on the Atlantic coast have become far more pervasive than elsewhere in the country. Total strength of Yatama armed groups was estimated at 210 men.

In 1998 President Aleman signed a disarmament agreement with representatives of the Yatama armed groups. In return, the Government made a number of promises to the Miskitos including land to fighters who turned in their arms, support for housing for Yatama-affiliated families, agricultural credits, protection of traditional Amerindian fishing rights, and resolution of long-standing disputes about the boundaries of communal Miskito land. These provisions had not been implemented fully by year's end.

The 1987 Autonomy Law requires the Government to consult indigenous people regarding the exploitation of their areas' resources. Indigenous people claim that the central Government often made decisions without adequate community consultation.

As in previous years, some indigenous groups complained that central government authorities excluded the indigenous people of the Atlantic coast from meaningful participation in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Government health care exists in the Atlantic towns of Puerto Cabezas, Siuna, and Bluefields, but a majority of indigenous people in rural areas has no access to modern health care. Critics of government policy cited extremely high unemployment rates, but calculation of reliable employment statistics was complicated by the fact that most of the working indigenous population on the Atlantic coast is engaged in subsistence fishing, farming, and mining.

The Awas Tingni, an Amerindian tribe in the RAAN, sued the Government in 1996, claiming that the Government's decision to award a long-term lumber concession to a Korean firm on a portion of the land it claims as its own was a violation of the American Convention on Human Rights. In 1997 the Supreme Court declared the Government's concession to the Korean firm unconstitutional. The case eventually went before the IACHR, where it remains. In 1998 a court decree shut down the Korean firm's operations on the land, but a domestic company purchased the enterprise and reopened it not long afterward.

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

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of workers to organize voluntarily in unions, and this right was reaffirmed in the new Labor Code that entered into effect in 1996 and replaced the antiquated 1944 code. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing, and they exercise this right extensively. New unions must register with the Ministry of Labor and be granted legal status before they may engage in collective bargaining. The new code legally recognizes cooperatives, into which many transportation and agricultural workers are organized. Less than half of the formal sector work force, including agricultural workers, is unionized, according to labor leaders. Union membership continued to fall during the year. The unions are independent of the Government, although many are affiliated with political parties.

The Constitution recognizes the right to strike. The Labor Code requires a majority vote of all the workers in an enterprise to call a strike. Workers may strike legally only after they have demonstrated that they have just cause to strike and have exhausted other methods of dispute resolution, including mediation by the Ministry of Labor and compulsory arbitration.

The Labor Code prohibits retribution against strikers and union leaders for legal strikes. However, this protection may be withdrawn in the case of an illegal strike. Only two strikes have ever been declared legal, one in the 1970's and another in 1990. At the beginning of May, the national construction workers' union was about to begin a legal strike after having spent 2 years following all the necessary measures. However, a strike was avoided when the construction branch of the Private Enterprise Council finally agreed to negotiate with the union.

On April 29, bus and taxi owners and employees went on strike to protest the Government's tax on diesel fuel. There were a number of violent incidents as strikers blocked streets, burned tires, shot off homemade mortars, and damaged buses and taxis that continued to operate. The police initially avoided confrontations with the strikers, but on April 30 moved to remove strikers who were blocking traffic. The strikers were joined in some areas by members of neighborhood street gangs, who took advantage of the situation to engage in criminal activity; in other areas, street gang members attacked strikers who were blocking access to their neighborhood. In the course of the protests, 2 persons were killed and at least 12 were injured. One of those killed apparently was shot by a street gang member; the other was a street gang member shot by an individual whose car the gang member apparently was vandalizing. On May 4, the strike ended when the Government and the strikers reached a settlement in which the Government agreed to reduce diesel fuel prices, drop a proposal to deregulate bus transit, and release detained strikers who faced charges of "minor crimes."

The Labor Code provides protected status to union leaders, requiring that companies receive permission from the Ministry of Labor after having shown just cause in order to fire union executive board members. Such protection is limited to nine individuals per union. However, the Labor Code allows businesses to fire any em-

ployee, including union organizers, provided the business pays the employee double the normal severance pay. This practice is used routinely by business leaders to stymie unionization attempts.

Unions freely form or join federations or confederations and affiliate with and participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to bargain collectively, and this right was reaffirmed in the 1996 Labor Code. The Government generally sought to foster resolution of pressing labor conflicts (usually in the public sector) through informal negotiations rather than through formal administrative or judicial processes. According to the reformed code, companies engaged in disputes with employees must negotiate with the employees' union if the employees have thus organized themselves.

There are 29 enterprises operating in the government-run export processing zone (EPZ), employing approximately 18,000 workers. In addition, there are five authorized private export processing zones, four of which were operational at year's end; the 14 enterprises in these zones employ some 2,400 workers. Approximately half the workers in the government-run EPZ are represented by a union organization; however, only about 10 percent of them are actual union members. While some of these unions have real collective bargaining power, others are primarily symbolic. In response to longstanding complaints by union representatives that the Ministry of Labor did a poor job of enforcing the Labor Code in the EPZ's, the Ministry opened an office in the Managua free trade zone in 1997 to ensure that the code was being enforced. EPZ officials claim that, due to memories of the corrupt and ineffective unions of the 1980's, many workers in the EPZ enterprises simply have no interest in unionizing. They also claim that wages and working conditions in EPZ enterprises are better than the national average.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor; however, it does not specifically address forced or bonded labor by children, and such practices occur. The Ministry of Labor reported that some child mendicants were forced to beg by their parents, and that some were "rented" by their parents to organizers of child beggars (see Sections 6.d. and 6.f.). There were cases of trafficking in persons for forced labor, and trafficking in women and girls for the purpose of forced prostitution (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution prohibits child labor that can affect normal childhood development or interfere with the obligatory school year. The 1996 Labor Code raised the age at which children may begin working with parental permission from 12 to 14 years. Parental permission to work also is required for 15- and 16-year-olds. The law limits the workday for such children to 6 hours and prohibits night work. However, because of the economic needs of many families, a cultural legacy of child work among peasants, and lack of effective government enforcement mechanisms, child labor rules rarely are enforced except in the small formal sector of the economy.

A study published in 1998 by the National Commission against Child Labor concluded that over 160,000 children under 17 years of age work, 140,000 of them in rural activities, including the annual harvest of crops such as coffee, cotton, bananas, tobacco, and rice. Most of the children working in rural areas are age 14 or younger. In Managua 4,000 to 5,000 children work on city streets, selling merchandise, cleaning automobile windows, or begging. The Labor Ministry reported that many child mendicants are forced to beg by their parents, and that many are "rented" by their parents to organizers of child beggars. Children age 10 or older often worked for less than $1.00 per day on the same banana and coffee plantations as their parents. The Constitution prohibits forced and bonded labor, but does not specifically prohibit forced or bonded labor by children (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum wage is set through tripartite (business, government, and labor) negotiations, and must be approved by the Legislative Assembly. A new minimum wage scale took effect in August. Minimum wages vary by sector. For example, monthly rates that went into effect on August 1 included: Agriculture, $37.50 (450 cordobas plus food); fisheries, $58 (700 cordobas); mining, $71 (850 cordobas); industrial manufacture, $50 (600 cordobas); electric, gas and water utilities, $75 (900 cordobas); construction, $100 (1,200 cordobas); restaurants and hotels, $75 (900 cordobas); transportation, $75 (900 cordobas); banking, $83 (1,000 cordobas); community and social services, $58 (700 cordobas), central and municipal government (includes health and education employees), $46 (550 cordobas). The minimum wage does not provide a decent standard of living for a worker and family. It falls below the government estimate of what an urban family must spend each month for a basic basket of goods ($133, or 1,600 cordobas). The majority of urban workers earn well above the minimum rates.

The Labor Code incorporates the constitutionally mandated 8-hour workday; the standard legal workweek is a maximum of 48 hours, with 1 day of rest weekly. The 1996 code established severance pay at from 1 to 5 months' duration, depending on the duration of employment and the circumstances of firing. However, persons fired for cause may be denied severance pay through a process that requires employers to demonstrate proof of worker misconduct. The code also established an obligation of an employer to provide housing to employees who are assigned temporarily to areas beyond commuting distance.

The Labor Code seeks to bring the country into compliance with international standards and norms of workplace hygiene and safety, but the Ministry of Labor's Office of Hygiene and Occupational Security lacks adequate staff and resources to enforce these provisions. The code gives workers the right to remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons; however, the Government does not enforce the law adequately, and there were some cases of trafficking in women and girls for the purpose of forced prostitution. Effective enforcement of the law is hampered by corruption, low salaries, and lack of technical skills among Migration Office officials. The country is a major transit point for alien trafficking (generally to the United States) from other countries in the region and elsewhere, including China and the Middle East; however, not all such trafficking is for the purpose of providing forced labor or services. On occasions when Migration Office officials detain alien traffickers, the judicial system often releases them. The Government does not have special programs to provide assistance to victims of trafficking.

The Labor Ministry reported that the parents of many child mendicants "rented" their children to organizers of child beggars (see Section 6.c.). In July the local media reported that Guatemalan authorities arrested three Guatemalan citizens in Guatemala on charges of white slavery. The Guatemalans allegedly actively recruited Nicaraguan girls and young women, aged 15 to 21, ostensibly to work as dancers and waitresses in clubs in Guatemala; however, upon arrival in Guatemala, the victims were forced into prostitution. The extensive high-profile media coverage of this scheme served as an educational campaign, with newspapers and radio stations urging young women not to fall victim to "recruiters" for foreign brothels.

PANAMA

Panama is a representative democracy with an elected executive composed of a president and two vice presidents, an elected 71-member legislature, and an appointed judiciary. In May voters elected President Mireya Moscoso, who replaced former President Ernesto Perez Balladares on September 1. Although the Constitution provides for an independent judiciary, the judicial system is subject to corruption and political manipulation.

Panama has had no military forces since 1989. In 1990 the Government created the Panamanian Public Forces, which consist of the Panamanian National Police (PNP), the National Maritime Service (SMN), the National Air Service (SAN), and the Institutional Protection Service (SPI). In 1994 a constitutional amendment formally prohibited the establishment of a permanent military, although it contains a provision for the temporary formation of a "special police force" to protect the borders in case of a "threat of external aggression." The Ministry of Government and Justice oversees the PNP, SMN, and SAN, while the Ministry of the Presidency supervises the SPI. The PNP are responsible for law enforcement. The Judicial Technical Police (PTJ) perform criminal investigations in support of public prosecutors. The PTJ is a semiautonomous body with leadership appointed by the Supreme Court. Police forces respond to civilian authority, have civilian directors, and have internal review procedures to deal with police misconduct. There were reports of instances of abuse by some members of the security forces.

The service-oriented economy uses the U.S. dollar as currency, calling it the Balboa. Gross domestic product grew by 4.6 percent in 1998, but growth for 1999 was projected to be below 4 percent. The Ministry of Economy and Finance expects modestly higher growth in 2000 as the effects of economic liberalization and the Panama Canal transfer become evident. Poverty persists and income distribution remains extremely skewed, with large disparities between rich and poor. Unemployment is estimated at 13 percent.

The Government generally respected the human rights of its citizens; however, there continued to be serious problems in several areas. Police and prison guards on occasion used excessive force against detainees and prisoners, and on occasion

police used force against protesters. Credible reports of corruption within both the PNP and PTJ contributed to some police dismissals. Despite some modest improvements, overall prison conditions remained harsh, with occasional outbreaks of internal prison violence. Prisoners were subject to arbitrary and prolonged pretrial detention. The judiciary was subject to political manipulation, and the criminal justice system was inefficient and often corrupt. The Government began implementation of a $27 million program to reduce case backlogs, inefficiency, and corruption in the judiciary. There were instances of illegal searches and political pressure on the media. Violence against women remained a serious problem, and discrimination against women persisted. Discrimination against indigenous people and blacks is a problem. Child labor also is a problem. Worker rights were limited in export processing zones. Trafficking in persons, particularly Asian immigrants, also was a problem.

RESPECT FOR HUMAN RIGHTS

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

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

A Public Ministry investigation concluded in August 1998 that three PNP guards accused of the March 1997 beating death of detainee Jose Luis Alvarado at the Tinajitas prison should stand trial. The guards remain separated from the PNP pending the outcome of the trial, but as of year's end there had been no further action in this case.

There was no further action in the PNP investigation into the June 1997 shooting death of Ngobe-Bugle tribe member Juan Santos Chobra.

In September President Moscoso rescinded pardons granted by former President Perez Balladares for 33 former civilian and military collaborators of former ruler General Manuel Noriega, in order to allow the Government to continue prosecutions of officials for abuses committed during the dictatorship—from 1968 to 1989. One such official reportedly was involved in the execution of nine persons following a failed coup attempt against Noriega in 1989.

In September the authorities discovered an unmarked grave containing two bodies on the grounds of a former military base near Panama City. One of the bodies was believed to be that of Hector Gallego, a Colombian priest who disappeared in 1971 during the Torrijos dictatorship. In 1992 after the return of civilian rule, three former military officers were tried for his murder and given lengthy prison sentences. There was also speculation that the other body was that of Eber Quintanar, an accused guerrilla reportedly killed by the National Guard in 1969. After several DNA tests, investigators determined that the remains belonged to neither Gallego nor Quintanar. As of year's end, the identity of the corpses was still unknown. During the investigation, longstanding rumors of other gravesites scattered around the country reemerged in the press. Investigators initiated excavations at several sites but did not achieve any results by year's end.

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

Guerrillas from the Revolutionary Armed Forces of Colombia (FARC) reportedly kidnaped persons in the Darien region along the border with Colombia. At year's end, they had abducted three persons and held them for ransom; there were reports that the FARC harassed citizens and even killed some persons, but there were no confirmed killings.

The Hector Gallego Committee for Disappeared Relatives maintains a list of 120 people who disappeared during the military dictatorships of 1968–89.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of measures that could harm the physical, mental, or moral integrity of prisoners or detainees; however, while the public security forces generally performed in a professional and restrained manner, there were some reports of excessive use of force or inhuman punishment, particularly against prison inmates. There also were reports that police used physical violence and psychological threats to control detainees during the initial arrest, interrogation, and holding phases.

The legislation providing the legal basis for the PNP, promulgated in June 1997, includes specific guidelines for use of force, including deadly force; requires that police officers respect human rights; and prohibits instigation or tolerance of torture, cruelty, or other inhuman or degrading behavior. However, there is no follow-on training in the use of force provided to the PNP.

The PTJ and the PNP have offices of professional responsibility that act as internal affairs organs to hold officers accountable for their actions. Both have staffs of independent investigators as well as administrative authority to open internal in-

vestigations. In both organizations, a defined legal process is followed where, upon completion of the process, the respective director has the final authority to determine the disposition of each case. Penalties include reduction in rank, dismissal, and in severe cases, criminal prosecution. The PNP deputy director and secretary general address human rights issues that arise in the police force.

Corruption among police officers remained a problem, but in some cases, PNP and PTJ directors enforced disciplinary measures against officers shown to be involved in illicit activities. However, both organizations only react to egregious abuses, due to a lack of staff, independence, and institutional priority. Credible reports of corruption within both the PNP and PTJ contributed to some police dismissals.

According to residents of the Pueblo Nuevo neighborhood, in March police shot a minor who was lying on the ground in handcuffs. The authorities placed a sergeant and three officers on administrative duty while the PNP's Office of Professional Responsibility investigated, and sent the case to the PNP's disciplinary committee. At year's end, the investigation continued, and the officers remained on administrative duty.

In April the Office of Professional Responsibility stated that it was investigating 50 police officers for poor conduct, including the use of excessive force and violations of citizens' human rights. In addition to the Pueblo Nuevo shooting, the office sent the case of an alleged police attack on two sisters in San Miguelito to the Disciplinary Committee of the PNP.

There were several instances in which police responded with force to demonstrations. For example, in February and in August the police used tear gas and bird shot to disperse protesters (see Section 2.b.).

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

The FARC guerrillas and the paramilitary forces of the United Self-Defense Forces of Colombia (AUC) share a long history of spillover of violence from Colombia into the border area on the Darien peninsula, including killings, kidnaping, robbery, and other forms of harassment of innocent bystanders. In November the AUC reportedly forced the evacuation of the San Blas town of La Bonga and burned it to the ground.

Prison conditions throughout the country remained harsh and a threat to prisoners' health and safety. Most prisons are dilapidated and overcrowded. Medical screening and care is inadequate, with tuberculosis and other communicable diseases common among the prison population. Frequent gang battles injured or killed numerous inmates. Many of the problems within the prisons stem not only from overcrowding but also from the lack of separation of inmates by classification according to the type or severity of the crime committed. Gang violence, insufficient budgets, and abuse by prison guards also are problems of the prison system.

The General Penitentiary Directorate (DGSP) largely depends on PNP officers, who are trained inadequately for prison duty, to supply its guard force. Civilian corrections officers or "custodians" handle inmates within La Joya, El Renacer, and the central women's prison (which uses only female guards). The DGSP has authority to discipline prison guards with criminal or civil sanctions.

President Perez Balladares' Minister of Government and Justice attempted to introduce some reforms of the penal system. He changed the prison management structure in June and replaced the Department of Corrections with the DGSP, but substantive reform was lacking. In September President Moscoso's Minister of Government and Justice, Winston Spadafora, promised to make prison reform a top priority. PNP Director Carlos Bares also promised reform, stating in September that prison guard responsibilities should fall to civilian corrections officers and not the PNP. However, at year's end, PNP members continued to provide perimeter security at the prisons. Prison directors supervise "custodians" who provide internal security.

Prison conditions on Coiba Island Penal Colony remained harsh and dangerous. In January 1998, a prison gang reportedly beheaded four of five prison escapees who belonged to a rival gang. The authorities accused 14 prisoners of participating in the killings, but these prisoners continued to maintain their innocence. The lone survivor and witness is in a maximum security cell. Both guards and prisoners have been implicated in the investigation into the other eight murders discovered in 1998, but the authorities had brought no one to trial by year's end. Although national prison authorities had planned to close Coiba, they continued to use the island prison colony to relieve overcrowding at the two largest prisons, La Joya and La Joyita. Prison officials also had attempted to establish order in the other prisons by moving dangerous prisoners to Coiba. However, after completion of two new compounds, La Joya became the primary maximum security facility and houses most prisoners accused of serious crimes. This enabled the authorities to use Coiba to hold prisoners accused of lesser crimes and to relieve overcrowding in the prisons

of the central provinces (i.e., outside Panama City and Colon). The Government acknowledges that it must keep Coiba open, but it has not made adequate provisions for health, security, and other basic needs of prisoners there.

The authorities have not yet brought to trial many of the 361 prisoners on Coiba Island. Geographic isolation and lack of communications separated detainees from their attorneys and caused many to miss trials. Prisoners suffer from malnutrition and shortages of potable water, and medical care is practically nonexistent. Coiba has a civilian administrator, but its guard force still consists of police guards instead of civilian corrections officers. Escapes from Coiba reportedly are common.

According to unverified press reports, eight inmates at Coiba have AIDS. The prisoners told reporters that they are isolated in small cells and that medical attention is provided once a year. At La Joya prison, 22 inmates with AIDS went on a hunger strike in June to protest their lack of access to medical treatment and their need for special permits to receive medicine. La Joya has a planned capacity of 1,250, yet houses over 2,000 inmates.

Prison conditions in Colon province also are harsh. According to the Human Rights Commission of the Legislative Assembly, prisoners at the Women's Prison of Colon must contend with overcrowding, semidarkness day and night, constantly wet floors, and virtually no health care. The Commission also described the Public Prison of Colon as a "time bomb," which fails to provide the most basic health needs. The prison frequently has no running water or functioning sewage system. In June approximately 150 inmates at the Colon women's prison refused to return to their cells in order to force a dialog with the Corrections Director and Minister of Government and Justice. The inmates complained about the food, the failure to release inmates who had served two-thirds of their sentences with good behavior, the lack of rehabilitation or skills programs, and the sudden absence of Prison Director Cristina Torres. Then-Corrections Director Maritza Grifo acknowledged the overcrowding problem; 576 inmates were housed in a facility for 325 persons, and 61 persons eligible for conditional release still were incarcerated. The inmates' protest ended without violence after officials promised to investigate the complaints. As of year's end, there had been no substantive reform of the prison.

Conditions at women's prisons in Panama City and Chiriqui province and at the Juvenile Detention Center were noticeably better than at adult male prisons. However, female prisoners, especially those in the primary detention area, reportedly suffered from overcrowding, poor medical care, and lack of basic supplies for personal hygiene. Juvenile Detention Centers throughout the country suffer from inadequate resources to provide for education or adequate supervision of children, many of whom spend a majority of their time in an empty cell.

The current prison system has over 8,600 prisoners with only 6,843 allotted positions. Prison administrators plan to close both the Colon Women's Prison and the Public Prison of Colon and shift those inmates to Nueva Esperanza prison. The new inmates are to be housed in separate sections of Nueva Esperanza, where construction was quite advanced at year's end, with some of the new cells already outfitted with bunks and toilets. However, inmates from the rapidly deteriorating Public Prison reportedly were apprehensive about being moved to Nueva Esperanza, where their access to the outdoors will be limited.

In July 1998, the authorities introduced organizational reforms of the prison system, including a conditional release program for inmates charged with minor offenses who have served a substantial part of their sentence. The new government continued to implement the conditional release program, and released some 60 inmates by year's end, with new rounds expected for early 2000. The release program has already helped relieve pressure on the country's overcrowded prisons.

In June former National Penitentiary Director Enriqueta Davis filed an 80-page criminal complaint against then-Minister of Government and Justice Mariela Sagel. The complaint alleged that Sagel knew about prisoners buying furloughs, funds being mismanaged, and other abuses, yet refused to take action. Davis attributed other problems to the lack of modern administrative procedures. For example, because records are kept manually at each location, there is no central archive or census of inmates. The National Council for Private Enterprise (CONEP) publicly asked then-President Perez Balladares to look into Davis's allegations. CONEP expressed concern over the disappearance of materials and food that were destined for the penitentiary system. Several other reports of corruption and misallocation of prison resources appeared in the media throughout the year.

The Government generally allows prison visits by independent human rights monitors. However, the authorities arrange appointments ahead of time, and monitors generally speak to prisoners in the presence of guards or administrators. Prisoners may not feel comfortable speaking freely under such conditions, and they have expressed fear of retaliation if they complain. Officials from the Ombudsman's Office

occasionally had trouble gaining immediate access to some prisons, but various procedural details were worked out and it appeared that the situation had improved by year's end.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution stipulates that arrests must be carried out with a warrant issued by the appropriate authorities, and the Government generally respected this provision; however, the authorities often violated the provision that suspects are to be brought promptly before a judge. Exceptions are permitted when an officer apprehends a person during the commission of a crime, or when disrespect by an individual towards an officer prevents the officer from carrying out his duty. The law requires the arresting officer to inform the detainee immediately of the reasons for arrest or detention and of the right to immediate legal counsel, to be provided to the indigent by the State.

The Constitution also provides for judicial review of the legality of detention and mandates the immediate release of any person detained or arrested illegally. The Constitution prohibits police from detaining suspects for more than 24 hours without bringing them before a competent judicial authority. In practice, the authorities often violated the 24-hour time limit by several days. Under law the preliminary investigation phase may last 8 days to 2 months, and the follow-on investigation phase another 2 to 4 months, depending on the number of suspects. The courts frequently grant extensions of these limits, leaving the accused in detention for a long period without having been charged formally.

Extended pretrial detention continued to be one of the most serious human rights problems, in part a consequence of the elaborate notification phase in criminal cases. Many legal authorities (including court officials) criticized judges for excessive use of this measure. According to government statistics, there were 4,687 pretrial detainees, who constituted about 59 percent of the prison population, down from 65 percent in 1998. The average period of pretrial custody was 16 months, and pretrial detention in excess of the maximum sentence for the alleged crime was common. A legal mechanism exists to hold the Government financially accountable in cases where a detainee spends more than 1 year in jail but subsequently has all charges dismissed at a preliminary hearing. The dismissal must be either because the act of which the detainee was accused is not ruled a crime or because there is no evidence to link the suspect to the crime. Although this redress procedure is not complicated, few former detainees have employed it.

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

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

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary is susceptible to corruption and outside influence, including from other branches of government.

The President appoints nine Supreme Court magistrates to 10-year terms, subject to Legislative Assembly confirmation. New allegations of executive tampering with the judiciary arose with the creation of the Fifth Chamber of the Supreme Court. In July the Assembly passed a law that created a fifth chamber, which allowed then-President Perez Balladares to appoint three additional Supreme Court Justices before leaving office. In October the Assembly approved a Moscoso administration proposal to repeal the law, eliminate the three additional magistrate positions, and abolish the Fifth Chamber.

The Supreme Court magistrates appoint appellate (Superior Tribunal) judges, who, in turn, appoint circuit and municipal court judges in their respective jurisdictions. Judicial appointments are supposed to be made under a merit-based system, but the top-down appointment system lends itself to political tinkering and undue interference by higher-level judges in lower-level cases in which they have no jurisdiction. The Attorney General, who heads the Public Ministry, appoints the superior and circuit-level prosecutors.

In December 1998, the Legislative Assembly passed a law that gave the Supreme Court the power to appoint the Director and Sub-Director of the PTJ for 7-year terms and requires Supreme Court approval for their removal. Previously, the Attorney General appointed these two officials. The law also gave these two officials the power to name other PTJ officials without consulting the Attorney General. Opposition and media critics charged that this law increased the influence of the Supreme Court over the criminal investigators, removed the generally positive oversight of the Attorney General, and made cooperation between prosecutors and the police much more difficult.

Tensions between the Attorney General and the PTJ arose in July when PTJ officers and the Attorney General, accompanied by his PNP bodyguards, exchanged

shouts with guns drawn before both sides finally backed down. The incident was followed by charges by both sides of abuse of authority.

At the local level, mayors appoint administrative judges who exercise jurisdiction over minor civil and criminal cases in which they may impose fines or sentences of up to 1 year. This system has serious shortcomings: Defendants lack adequate procedural safeguards; judges need not be (and normally are not) attorneys; and some engage in corrupt practices. In reality, appeal procedures are nonexistent. More affluent defendants tend to pay fines while poorer defendants go to jail, one of the chief factors leading to prison overcrowding.

In May 1998, the Inter-American Development Bank (IDB) loaned the Government $18.9 million to reform the judicial system. The loan is to be used at national and local levels to provide better conditions for the court system, including better information management, training for personnel, revision of judicial procedures, and construction of administrative offices for judges and prosecutors in two locations, San Miguelito and David. Program implementation began during the year, with funding allocated to temporary courts to clear backlogs, for training additional judges, and for working with the judicial college to create a curriculum that encourages the merit-based hiring and promotion of judges. In September the IDB began work on a database linking prison population data with prosecutors and the courts, which is intended to facilitate the systematic release of prisoners who have served time beyond their potential maximum sentence but still are awaiting trial.

The two commissions established during the Endara administration and resurrected by the Perez Balladares administration to evaluate the justice system never presented publicly any results of their work.

The Constitution provides that persons charged with crimes have the right to counsel, to be presumed innocent until proven guilty, to refrain from incriminating themselves or close relatives, and to be tried only once for a given offense. If not under pretrial detention, the accused may be present with counsel during the investigative phase of the proceeding.

Judges can order the presence of pretrial detainees for the rendering or amplification of statements, or for confronting witnesses. Trials are conducted on the basis of evidence presented by the public prosecutor, and the accused person is not necessarily present. The Constitution and the Criminal Procedure Code provide for trial by jury at the defendant's election, but only in criminal cases where at least one of the charges is murder.

The Constitution obliges the Government to provide public defenders for the indigent. However, many public defenders are not appointed until after the investigative phase of the case, a serious disadvantage for the defendant since it is during this stage that the prosecutor produces and evaluates the bulk of the evidence and decides whether to recommend trial or the dismissal of charges. Public defenders' caseloads remained staggering, averaging 540 cases per attorney in 1998. Only 3 new public defenders have been hired since 1992, making a total of 38 nationwide, with a similar number of assistants. This heavy workload undermined the quality of representation, with many prisoners meeting their public defender for the first time on the day of trial.

The Legislative Assembly passed legislation in 1998, popularly known as the "Faundes Law," which requires judges and other public officials to retire at age 75. The law was designed to remove former Supreme Court magistrate Jose Manuel Faundes after attempts to impeach him failed to muster the necessary two-thirds majority vote in the Assembly. The law required the 82-year-old Faundes to retire, making the impeachment proceedings moot. The National Bar Association challenged the constitutionality of the law's retroactive nature. However, in July the Supreme Court ruled that the law did not violate the Constitution.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home, private papers, and telephonic communications, and the Government generally respected these rights; however, there were complaints that in some cases police failed to follow legal requirements and conducted unauthorized searches of private residences. The authorities may not enter private residences except with the owner's permission, or by written order from the appropriate authority for specific purposes. These may include entry to assist the victims of crime or disaster, or to conduct lawful health and safety inspections. The authorities may not examine private papers and correspondence, except as properly authorized by competent legal authority and in the presence of the owner, a family member, or two neighbors.

Although the Constitution prohibits all wiretapping, the Government maintains that wiretapping with judicial approval is legal, and that the Attorney General may authorize a wiretap when confronted with probable cause in a serious crime. Under

the guidelines established by antinarcotics legislation passed in July 1994, the Public Ministry may engage in undercover operations, including "videotaping and recording of conversations and telephonic communications." In March a dispute arose when critics charged Attorney General Sossa with illegally wiretapping a judge. The Attorney General countered that he was operating within his authority to pursue a criminal investigation. Although then-Chief Justice Arturo Hoyos publicly criticized Sossa, the Supreme Court has not issued a definitive ruling on whether wiretapping is constitutional and, if so, under what circumstances.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice.

There is an active and often adversarial press and a broad range of print and electronic media outlets, including foreign newspapers, radio and television broadcasts, and cable stations. Six national daily newspapers, 3 commercial television stations, 2 educational television stations, and approximately 100 radio stations provide a broad choice of informational sources; all are privately or institutionally owned. While many media outlets took identifiable editorial positions, the media carried a wide variety of political commentaries and other perspectives, both local and foreign. There is a noticeable concentration of control of television outlets in the hands of close relatives and associates of former President Perez Balladares.

In June the National Assembly passed a bill that made newspaper companies ineligible for radio and television concessions and vice versa. The bill was proposed after the La Prensa Corporation, the publisher of a newspaper of the same name, sought to acquire the Channel 8 frequency.

Panamanian and foreign journalists worked and traveled freely throughout the country. The Perez Balladares Government never fulfilled its informal promise to seek revocation of the 1978 law that requires directors and deputy directors of media outlets to be citizens. In June then-Minister of Government and Justice Mariela Sagel recommended the revival of the Noriega-era system of issuing journalist licenses to Panamanian citizens graduating from journalism schools. Working journalists and human rights groups criticized this suggestion, and it was dropped.

Under "gag laws" dating from the military dictatorship, the Government had legal authority to prosecute media owners and reporters for criminal libel and calumny. A special executive branch authority had discretionary powers to administer the libel laws, which provide for fines and up to 2 years in prison. Under the statute, opinions, comments, or criticism of government officials acting in their official capacity are exempted specifically from libel prosecution, but a section of the law allows for the immediate discipline of journalists who show "disrespect" for the office of certain government officials. In December President Moscoso ratified the National Assembly's decision to eliminate these gag laws. Although this action improved the legal status of the media, legal actions against many journalists remained pending at year's end.

Human Rights Ombudsman Italo Antinori criticized the Perez Balladares administration's use of libel laws to intimidate journalists who reported on government corruption. Approximately 85 journalists who had been charged with libel met with Antinori to describe the case they have submitted to the Inter-American Court of Human Rights. Other international free press and human rights bodies had criticized the continued use of the laws against journalists.

In 1998 then-PNP Director Jose Luis Sosa used the libel laws to bring charges against National University law professor (and now an adviser to the Moscoso administration) Miguel Bernal for statements about the decapitations of the prisoners on Coiba Island (see Section 1.c.). Bernal had said on television that "the only ones who have decapitated others in this country are the National Police and the National Guard of the now defunct Defense Forces." Bernal clarified that he had not said that the PNP had carried out the decapitations at Coiba, rather that the PNP, through acts of omission, allowed the decapitations. Bernal, an advocate of prison reform, repeated his charges in follow-up interviews and opinion pieces. He claimed that the PNP Director's charges amounted to a limit on freedom of expression. There was a preliminary hearing on Sosa's charges against Bernal in November, but no trial date had been set by year's end.

In another 1998 case, a prosecutor acting on behalf of Attorney General Jose Antonio Sossa charged La Prensa journalists Gustavo Gorriti and Rolando Rodriguez with a "crime against the honor of the authorities" for defaming a government official and allegedly falsifying evidence. Gorriti and Rodriguez refused to reveal sources for a story they wrote in 1996, which alleged that the Attorney General accepted checks of dubious origin in his unsuccessful 1994 campaign for a seat in the Legislative Assembly. Subsequent press reports suggested that the story was erro-

neous. The charges remained pending at year's end, and the Attorney General sued the two journalists for $1 million.

In December 1998, police officers attempted to escort journalist Herasto Reyes from his office at the La Prensa newspaper to a court appearance. Newsroom staffers prevented the police from taking Reyes into custody. Then-President Perez Balladares had filed libel charges against Reyes, after he published a story in August 1998 accusing the Perez Balladares administration of trying to cover up a government embezzlement scandal. The case was still pending at year's end.

The Electoral Tribunal must approve election polling results before publication. In April the Tribunal fined the newspaper Panama America $10,000 for failing to follow the approval procedure before printing Gallup poll results.

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

The law provides for academic freedom, which generally was respected in both public and private universities. However, the Faundes Law forced the retirement of dozens of professors at the public universities.

After protesters turned to violence in December 1998 (see Section 2.b.), then-Governor of Panama Province Eduardo Herrera ordered the police to enter and temporarily close the University of Panama. In August then-President Perez Balladares issued a pardon for Herrera, who was accused of abuse of authority for violating the university's autonomy. President Moscoso rescinded that pardon in September.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respects this right in practice. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. In 1998 the Legislative Assembly considered, but did not enact, legislation that would have tightened restrictions on public demonstrations.

Police response to public protests was mixed. Throughout much of the year, police showed restraint and professionalism while monitoring large protests by students, political activists, prisoners, and workers.

In February residents of the San Joaquin area protested the power company's cutting off electricity to 400 families that had fallen behind on payments. The move touched off 2 days of protests, during which demonstrators barred a section of the highway leading to the airport. In response, the police used tear gas and bird shot and arrested about 30 persons. Paramedics attended residents affected by the gas and injured by the bird shot. Eventually the residents and the electric company reached an agreement. On August 31, the police used similar methods to disperse bus drivers who blocked traffic in Panama City, as well as at smaller protests throughout the year.

In December 1998, a mix of student and worker groups protesting the privatization of the state-owned water utility, the changing of the date to celebrate a national holiday, and fee changes at the university engaged in a week of protests and confrontations. The demonstrators used Molotov cocktails and hurled stones at police. The police response to the at-times violent protests included the use of bird shot, tear gas, and rubber bullets. There were reportedly dozens of beatings and instances of abusive treatment, particularly against those taken into custody (also see Section 2.a.).

The Constitution provides for the right of association, and the Government generally respects this right in practice. Citizens have the right to form associations and professional or civic groups. They may form and organize political parties freely, although new parties must meet strict membership and organizational standards in order to gain official recognition and participate in national campaigns.

c. *Freedom of Religion.*—The Constitution, although recognizing Catholicism as "the religion of the majority of Panamanians," provides for free exercise of all religious beliefs, provided that "Christian morality and public order" are respected. The Government imposes no limitations in practice, and there is a broad diversity of religions. The Constitution prohibits clerics from holding public office, except as related to social assistance, education, or scientific research.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government respects them in practice. The Government enforced exit permit requirements for foreigners who overstayed their initial visas. A 9:00 p.m. curfew for minors under 18 years of age in the Panama City and San Miguelito districts of Panama province, imposed in 1992, remained in effect. Police enforcement of the curfew was uneven, with strictest compliance focused on high-crime areas.

During the year, between 300 and 500 Colombians fled the violence in Colombia and entered the country by crossing the border. At year's end the refugees were still

living in the Darien town of Jaque and refused to return to Colombia until the Colombian Government could guarantee their safety in Jurado municipality. The Government, along with local NGO's and the United Nations, provided the refugees with protection and humanitarian assistance. At year's end, the Ministry of Foreign Affairs had not taken an official stance on policy towards the Colombians.

The law has provisions for granting refugee status in accordance with the 1951 U. N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of first asylum did not arise during the year.

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

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

Citizens have this right and exercised it in the May general elections. The Constitution provides for a representative democracy with direct popular election by secret ballot of the President, two vice presidents, legislators, and local representatives every 5 years. While the Constitution provides for independent legislative and judicial branches, in practice the executive dominates. The independent Electoral Tribunal arranges and supervises elections. The Government respected the rights of its citizens to join any political party, propagate their views, and vote for candidates of their choice.

In the May 2 general elections, Arnulfista candidate Mireya Moscoso defeated Democratic Revolutionary Party (PRD) candidate Martin Torrijos and Christian Democratic Party candidate Alberto Vallarino, winning 44.8 percent of the popular vote. The PRD won 35 seats in the National Assembly; the Arnulfistas, 18; Solidarity, 4; the National Liberal Party, 2; MOLIRENA, 3; Democratic Change, 2; MORENA, 1; the Christian Democratic Party, 4; and the Civic Renewal Party, 2.

Domestic and international observers characterized the elections as generally free and fair; however, several local contests were marred by reports of vote buying and in extreme cases, voter intimidation. Legislative District 9–3, in Veraguas province, was criticized widely for such electoral interference.

There are no legal barriers to participation by women, members of minorities, or persons of indigenous descent, but they generally are underrepresented in government and politics. At year's end, women held 7 of 71 Legislative Assembly seats, and a woman served as its vice president. Women also held 3 of 13 cabinet positions. In May voters elected the first female President, and an indigenous person was elected President of the National Assembly. There are two female members of the Supreme Court, one of whom was elected Chief Justice in October.

The Government provides semiautonomous status to several indigenous groups in their homelands, including the Kuna, Ngobe-Bugle, Madugandi, and Embera-Wounaan reserves. The Kuna of San Blas have two representatives in the Legislative Assembly, proportionate to their share of the population. Locally, tribal chiefs govern each reserve; they meet in a general congress at regular intervals. Neither the Madugandi nor the Embera-Wounaan reserve has its own dedicated legislators, but each has a separate governor. The Government continued the process of demarcating electoral districts within a new reserve created for the Ngobe-Bugle. May elections allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts.

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

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

Human rights organizations, including both religious and secular groups, operated without government restrictions. These organizations carried out a full range of activities, including investigations and dissemination of their findings. Organizations generally had access to government officials while conducting investigations. Some organizations were particularly active in encouraging voter turnout for the May general elections and in assisting election observers.

The legislature created the office of Human Rights Ombudsman in December 1996, but initially did not provide funding, and the office did not open until January 1998, when it began to handle cases. In February 1998, the Supreme Court stripped the Ombudsman of his authority to investigate human rights violations involving the administration of justice.

Human Rights Ombudsman Italo Antinori, the first to fill the position, sparred with the Perez Balladares Government until it left office. The Ombudsman received 15 to 20 complaints daily. With the authority only to investigate and publicize, Antinori handled several high-profile cases, although he failed to develop close links with other domestic human rights organizations. This highly personalized approach may have limited the overall institutional development of the ombudsman's office. Nonetheless, the office handled some 4,000 complaints since its founding in 1998, and Antinori's activities were well-publicized in the press. The Ombudsman also conducted a high profile "get out the vote" campaign prior to the general elections, consisting of public information messages on radio and television.

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

The Constitution prohibits either special privileges or discrimination on the basis of race, birth status, social class, sex, religion, or political views. Nevertheless, societal prejudices persist, based primarily on social status. Cases of discrimination are difficult to prove, and legal remedies for victims are complicated, time-consuming, and costly.

Women.—Domestic violence against women continued to be a serious problem. The Center for the Development of the Woman estimated that victims report as few as 20 percent of sexual assaults to judicial or law enforcement authorities. However, statistics indicate a greater willingness by women to report incidents of abuse. The PTJ registered 959 cases of domestic violence through August, compared with 582 through August 1998 and only 35 for all of 1997. The PTJ also registered 514 cases of rape and 135 cases of attempted rape. The Foundation for the Promotion of the Woman, among other women's advocacy groups and government agencies, operated programs to assist victims of abuse, and to educate women on their legal rights. The 1995 Family Code criminalized family violence, including psychological, physical, or sexual abuse, although convictions are rare unless a death occurs. A widely acknowledged characteristic of rape is that it frequently occurs in the home.

In addition to domestic violence, sexual harassment is a threat to the equal status of women in society. According to a report by the Latin American Committee for the Defense of Women, in 1995, the latest year statistics were available, about 70 percent of female government employees reported having endured sexual harassment in the workplace, 42 percent by their immediate supervisors and 18 percent by more senior supervisors. Since a bill to criminalize sexual harassment failed to pass the legislature in 1995, no further legislation has been introduced.

The 1995 Family Code recognizes joint or common property in marriages. However, insufficient resources hampered government efforts to enforce the code's provisions effectively.

The Constitution mandates equal pay for men and women in equivalent jobs, but wages paid to women are on average 20 percent lower and increase at a slower rate. Although statistics are lacking, there are credible reports of irregular hiring practices based upon age and "attractiveness." In December 1998, the Legislative Assembly passed a law that reiterated protections laid out in the Constitution and prohibited all discrimination on the basis of sex.

A number of private women's rights groups, including groups for indigenous women, concentrate on disseminating information about women's rights, countering domestic abuse, enhancing employment and other skills, and pressing for legal reforms. The Foundation for the Promotion of the Woman stated that it provided legal assistance, counseling, and skills training to over 750 women during the year.

In January 1998, the Government created the Ministry of Women, Youth, Family, and Childhood, appointing Leonor Calderon as the Minister. Although the new Ministry is largely a consolidation of departments previously operating in other government ministries, its creation raised the profile of social issues.

Children.—Minors (under 18 years of age) represent 48 percent of the population. The PTJ registered 171 cases of child abuse during the year. Education of children is compulsory through the equivalent of ninth grade. However, in remote areas children do not always attend school due to a lack of transportation, traditional attitudes, and insufficient government resources to enforce the requirement. The Government furnishes basic health care for children through local clinics run by the Ministry of Health. A central children's hospital in Panama City operates on government funds as well as private donations.

The Superior Tribunal for Minors and Superior Tribunal for Families are judicial authorities charged with overseeing the protection and care of minors. The Minister of Women, Youth, Family, and Childhood acts much like an ombudsman, and the office proposes and reviews laws and monitors government performance. Many children continue to suffer from malnutrition, neglect, and inadequate medical care.

Malnourishment is lowest in urban areas and highest among rural indigenous groups. Child labor is a problem (see Section 6.d.).

Juvenile courts report a high incidence of juvenile delinquency in major urban areas. The authorities report an increase in crimes attributed to juvenile gangs, including drug trafficking, armed robberies, kidnapings, car thefts, and murders. In March the Minister of Women, Youth, Family, and Childhood charged the police with violating the human rights of minors by arresting and detaining them for minor infractions following periodic neighborhood sweeps.

People with Disabilities.—The Workers with Disabilities Office of the Department of Labor and Social Welfare is responsible for government policy and support for citizens with disabilities and for placing qualified disabled workers with employers. The office was in charge of implementing a June 1993 executive order that provided employers with tax incentives for hiring the disabled but has had only minimal success. Although some public buildings and retail stores have access ramps for the disabled, no national law compels the installation of facilitated access features in public or private buildings. In July the Panama City government began enforcing municipal building codes passed in 1998 that require such access to be included in new construction.

Indigenous People.—Indigenous people number approximately 194,000 (8 percent of the population) and have the same political and legal rights as other citizens. The Constitution protects the ethnic identity and native languages of indigenous people, requiring the Government to provide bilingual literacy programs in indigenous communities. Indigenous people have legal rights and take part in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. The Family Code recognizes traditional indigenous cultural marriage rites as the equivalent of a civil ceremony. The Ministry of Government and Justice maintains a Directorate of Indigenous Policy. The Legislative Assembly also has an Indigenous Affairs Commission to address charges that the Government has neglected indigenous needs. Despite legal protection and formal equality, indigenous people generally endure relatively higher levels of poverty, disease, malnutrition, and illiteracy than the rest of the population. Discrimination against indigenous people, although generally not overt, is widespread.

Since rural indigenous populations infrequently master Spanish well enough to use appropriate legal terminology, they often have difficulty understanding their rights under the law and defending themselves in court. The indigenous population has grown increasingly vocal in requesting that the Government grant it more autonomy by creating more indigenous reserves or expanding existing ones. The Government continued the process of demarcating electoral districts within a new reserve created for the Ngobe-Bugle. May elections allowed many Ngobe-Bugle to choose their own local representatives in these newly created electoral districts.

National/Racial/Ethnic Minorities.—There is some evidence that a constitutional provision reserving retail trade to Panamanian citizens originally was directed at Chinese immigrants, but government officials have stated that it serves as a barrier to prevent foreign retail chains from operating in the country. The measure is not enforced in practice. Chinese, Middle Eastern, and Indian legal residents, as well as citizens of Chinese and Indian descent, operate much of the retail trade, particularly in urban areas. Leaders of the over 100,000-member East Asian and South Asian communities credibly claimed that Panamanian elites treat Panamanian-resident Chinese and Indians as well as citizens of Asian origin as second-class citizens.

Although such practices are illegal, clubs and restaurants often discriminate against blacks by denying them admission. After student protests at several nightclubs, Ombudsman Italo Antinori investigated and found racial discrimination at four nightclubs. Racial discrimination also is found in the workplace, particularly in jobs involving dealing with the public, where light-skinned persons are disproportionately represented.

Section 6. Worker Rights

a. *The Right of Association.*—Private sector workers have the right to form and join unions of their choice, subject to registration by the Government. A labor code reform package signed in 1995 significantly increased workers' ability to establish unions. The reforms streamline the accreditation and registration process for unions, reduce the minimum size from 50 to 40 workers, and cut the Government's required response time on applications from 2 months to 15 days. In the event the Government does not respond within this time frame, the union automatically gains recognition and is accorded all rights and privileges under the law.

According to Ministry of Labor statistics, approximately 10 percent of the total employed labor force are organized. There are over 250 active unions, grouped under 7 confederations and 48 federations representing approximately 80,000 members in

the private sector. Neither the Government nor the political parties control or financially support unions.

The 1994 Civil Service Law permits most government workers to form public employee associations and federations and establishes their right to represent members in collective bargaining with their respective agencies. It also provides civil servants (but not other government workers) with the right to strike, except for those in areas vital to public welfare and security, such as the police and health workers and those employed by the U.S. military forces and the Panama Canal Commission.

The Labor Code reforms addressed some longstanding concerns of the International Labor Organization (ILO). The code no longer makes labor leaders automatically ineligible to keep their union positions if they are fired from their jobs.

As is general practice in the country's public offices after elections, newly elected politicians and appointees began dismissing public workers immediately upon taking office to free up positions for loyal followers. The authorities discharged up to several thousand government employees by year's end. Public workers do not benefit from union protection, Labor Code standards, or minimum wage provisions.

The Civil Service Law has proven insufficient to protect public workers. Under the law, public workers may be promoted into the civil service and thus enjoy some right to bargain collectively, strike, and evade summary dismissal. The Perez Balladares administration promoted some 10,000 public workers into the civil service during its final weeks in office, but the incoming Moscoso administration responded to this last minute influx by suspending the promotions of the new civil servants "for review." Only a small percentage of the 150,000 public workers truly enjoy job security by virtue of their status as civil service employees.

The ILO's Committee of Experts has observed for some years that the prohibition of public servants' associations is inconsistent with obligations under ILO Convention 87 (The Right to Organize and Freedom of Association). The ILO made a second request that the Government amend labor laws with regard to public workers, but no changes had been made at year's end.

Union organizations at every level may and do affiliate with international bodies.

b. *The Right to Organize and Bargain Collectively.*—The Labor Code provides most workers with the right to organize and bargain collectively, and unions exercise it widely. The law protects union workers from antiunion discrimination and requires employers to reinstate workers fired for union activities. The Ministry of Labor has mechanisms to resolve complaints against antiunion employers. The Civil Service Law allows most public employees to organize and bargain collectively and grants some of them a limited right to strike. While the right to strike applies to some 10,000 civil servants, it does not apply to the approximately 140,000 other government workers. The Labor Code establishes a conciliation board in the Ministry of Labor to resolve labor complaints and provides a procedure for arbitration. A March ruling by the Supreme Court declared unconstitutional Article 452 of the Labor Code, which obligated private sector strikers to submit to binding arbitration after a given period.

Employers commonly hire temporary workers to circumvent onerous labor code requirements for permanent workers; such temporary workers receive neither pensions nor other benefits. The practice of blank contracts is, according to union sources, becoming more widespread. Labor law addresses this problem by requiring all companies to submit copies of all labor contracts for permanent workers to the Labor Ministry and by requiring the Labor Ministry to conduct periodic inspections of companies' work forces and review all contracts to ensure that they are in order. The code also authorizes the Labor Ministry to levy fines against companies not in compliance with the law.

In January and February 1996, the Government issued cabinet decrees governing labor relations in export processing zones (EPZ's) as a means of attracting investment into areas vacated under the terms of the Panama Canal Treaty. The original decree limited a broad range of labor rights, including the right to strike and to bargain collectively. The second decree modified the first and restored most worker rights in EPZ's. However, it provides for collective bargaining with "representatives of employees" but makes no specific mention of trade unions; it requires mandatory arbitration of disputes; and it allows for the participation of an unrepresentative worker delegate in the tripartite (government, labor, and industry) arbitration commission.

A 1997 decree further modified the EPZ labor regulations, stipulating that a strike may be considered legal only after 36 workdays of conciliation are exhausted. If this requirement is not met, striking workers can be fined or fired. A 1998 ILO ruling noted that the 1997 regulations do not mention arbitration or specify procedures to resolve disputes in the courts. The ILO ruling stated that the Government should amend the EPZ labor regulations to conform with international norms, but

the Government did not respond. Minimum wage provisions do not apply in the EPZ's.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced or compulsory labor, including that performed by children, and neither practice was reported.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits the employment of children under 14 years of age as well as of those under age 15 if the child has not completed primary school; children under age 16 cannot work overtime; those under age 18 cannot perform night work. Children between the ages of 12 and 15 may perform farm or domestic labor as long as the work is light and does not interfere with their schooling. The Ministry of Labor enforces these provisions in response to complaints and may order the termination of unauthorized employment. However, the Government acknowledges that it is unable to enforce other child labor provisions in rural areas, due to insufficient staff. The law prohibits forced or bonded labor by children, and the Government enforces this provision (see Section 6.c.).

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

Child labor violations occur most frequently in rural areas during the harvest of sugar cane, coffee, and tomatoes. Farm owners usually pay according to the amount harvested, leading many persons to bring their young children to the fields to help with the harvest. In many small rural communities, the entire able-bodied population participates in a harvest, and parents are not willing to leave their children behind unattended. Many children also are involved extensively in subsistence agriculture.

Urban supermarkets employ an estimated 1,500 children, who work for tips bagging groceries. Some supermarket managers claim that these children are not employed by their firm, but these "baggers" often have schedules, uniforms, and must comply with company codes of conduct. In addition, many children work as domestic workers or sell items and wash cars in the streets.

The Government has not developed an effective strategy to address the problem of children working as street vendors and car washers, and has been unwilling to challenge the larger supermarket chains where large numbers of children work.

e. *Acceptable Conditions of Work.*—The Labor Code establishes minimum wage rates for specific regions and for most categories of labor. The minimum wage ranges from $0.77 per hour to $1.33 per hour, depending on the sector. This wage is not sufficient to provide a decent standard of living for a worker and family. Most workers formally employed in urban areas earn the minimum wage or above. An estimated 39 percent of the population who work in the large informal sector earn far below the minimum wage. The Government does not enforce labor laws in most rural areas, where laborers earn $5 or $6 per day, with no benefits. In December a tripartite commission comprising representatives from government, the private sector, and labor convened to negotiate an increase in the minimum wage, which would go into effect in July 2000. If the commission fails to reach consensus, the President has the power to raise the minimum wage by decree.

Unions repeatedly have alleged that contractors operating in the Panama Canal area pay less than the required minimum wage. The Ministry of Labor does not enforce the minimum wage law adequately, due to insufficient personnel and financial resources.

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

The Ministry of Labor is responsible for enforcing health and safety standards and generally does so. The standards are fairly broad and generally emphasize safety over long-term health hazards, according to organized labor sources. An occupational health section in the social security system is responsible for conducting periodic inspections of especially hazardous employment sites, such as those in the construction industry, as well as inspecting health and safety standards in response to union or worker requests. Worker complaints of health problems continued in the banana industry as well as in the cement and milling industries.

The law protects from dismissal workers who file requests for health and safety inspections. Workers also have the right to remove themselves from situations that present an immediate health or safety hazard without jeopardizing their employment. They generally are not allowed to do so if the threat is not immediate, but may request a health and safety inspection to determine the extent and nature of the hazard.

f. *Trafficking in Persons.*—The law prohibits alien smuggling, but does not prohibit specifically trafficking in persons. However, the authorities held several persons in custody for trafficking; they awaited trial at year's end.

The country is a transit point for aliens, primarily from other countries in South America (particularly Colombia and Ecuador) seeking to reach the United States, some of whom are trafficked into indentured servitude. An estimated 30,000 aliens transit the country annually, generally posing as tourists. Their travel is facilitated by a network of alien smugglers, travel agents, hotels, and safe-houses. The majority of aliens transiting through Panama originate in South America but a significant and increasing number come from India and China. Panamanians themselves represent only a small percentage of illegal aliens transiting through Central America.

Anecdotal evidence indicates that illegal aliens transiting through Panama overland are subject to frequent hardship. They commonly are deprived of adequate food and shelter. Chinese aliens are particularly vulnerable to poor treatment.

South Americans pay approximately $5,000 in their country of origin for the entire trip. For the Chinese, $5,000 constitutes only the down payment on a total fee that could reach $30,000. Once in the United States, many Chinese are coerced into working off their debt as indentured servants in the Chinese community.

Corruption, legal technicalities, and lack of resources and staff contribute to the Government's inability to combat the problem fully.

PARAGUAY

Paraguay is a constitutional republic with a strong executive branch and an increasingly important bicameral legislature. The President is the head of government and cannot succeed himself. The 1998–99 Government of President Raul Cubas Grau was marked by growing attempts by the executive to undercut the constitutional authority of the legislative and judicial branches. In turn, Congress and the Supreme Court challenged the President for months, and on March 23, Cubas foe and Vice President Luis Maria Argana was assassinated, allegedly by supporters of retired General Lino Oviedo. On March 28, President Cubas, General Oviedo's protege, resigned, and Senate president Luis Gonzalez Macchi assumed the presidency. The succession, while tense, was orderly and took place as mandated in the Constitution. The Congress, Supreme Electoral Tribunal, and the Supreme Court agreed that the new President should serve the remainder of the former President's term, until 2003. President Gonzalez Macchi formed a "national unity" government that included, for the first time in 50 years, the two major opposition parties. Although the Constitution provides for an independent judiciary and the Supreme Court continued a reform process, the courts continued to be subject to pressure from politicians and others.

The military no longer plays an overt role in politics; however, many citizens remained concerned about possible erosion of its apolitical status. The military's decision to support the democratic transition in late March was viewed as a sign of its increasing professionalism and acceptance of its role in a democracy. The national police force has responsibility for maintaining internal security and public order; while it is nominally under the authority of the presidency, in practice it reports to the Ministry of the Interior. The civilian authorities maintain effective control of the security forces. Members of the security forces committed serious human rights abuses.

Paraguay has a market economy with a large informal sector. The formal economy is oriented toward services, with less than half of the $7.9 billion gross domestic product resulting from agriculture and industry. Over 40 percent of the population are engaged in agricultural activity, and approximately 20 percent of families depend on cotton farming. Wealth continues to be concentrated, with both urban and rural areas supporting a large subsistence sector. Agricultural commodities (soybeans, cotton, lumber, and cattle) were the most important export items. The economy shrank by approximately 1.5 percent in 1999. Annual per capita income was approximately $1,500. About 30 percent of the population live in extreme poverty.

The Government's human rights record generally remained poor, and there continued to be serious problems; however, there were improvements in some areas under the Gonzalez Macchi administration. The principal human rights abuses included extrajudicial killings, torture and mistreatment of criminal suspects, prisoners, and military recruits, extremely poor prison conditions, arbitrary arrest and detention, lengthy pretrial detention, general weaknesses within the judiciary, infringements on citizens' privacy rights, violence and discrimination against women, abuse of children, discrimination against the disabled and indigenous people, incom-

plete protection at times for worker rights, instances of forced labor, and allegations of forced child labor.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The March 23 assassination of Vice President Argana has been widely attributed to retired general and coup-plotter Lino Oviedo, and his protege, then-President Cubas. The assassination, during which Argana's bodyguard Francisco Barrios Gonzalez also was killed, led to protests during which the police and civilian supporters of President Cubas fired on unarmed student demonstrators, killing 8 and injuring over 100. As the most prominent anti-Oviedo and anti-Cubas leader of the ruling Colorado Party, Argana had sought unsuccessfully in February to get Congress to approve Cubas' impeachment. The assassination and subsequent deaths of the demonstrators, widely viewed as political killings, intensified opposition within Congress, while at the same time the lower house impeached Cubas on charges that he had failed to abide by a Supreme Court order to take retired General Oviedo into custody; Cubas resigned on March 28 before the Senate could vote to convict him and fled the country.

The allegations that Oviedo and his key advisers planned Argana's murder are plausible. There are also credible allegations that Oviedo and the police command ordered supporters to fire on protesters later that week. Although the authorities freed some of those arrested from prison and placed them under house arrest, they kept others jailed on weak or no evidence, with no provision for due process. There also have been plausible accusations that the police tortured two of those persons they arrested.

The police and the military were responsible for some extrajudicial killings. On July 2, members of the president's military guard, with assistance from a unit of the Antinarcotics Secretariat Police (SENAD), shot and killed Jose "Coco" Villar during a raid on his home. Villar was a suspect in the assassination of Vice President Argana, which a congressional commission was investigating. The SENAD claimed that Villar was armed and shot at its agents when they raided his home. The Prosecutor General criticized the SENAD's role in the raid, since its mandate is limited to investigation and action in narcotics and firearms cases.

On July 13, agents from the Antinarcotics Police (DINAR) shot and killed Guillermo Jara Ramirez in Nueva Germania, San Pedro. Jara allegedly was harvesting marijuana leaves along with two other persons, who were not harmed, when the DINAR agents approached them. The DINAR reported that the suspects opened fire on agents, who fired back in self-defense, killing Jara.

Some military recruits died as a result of beatings by superior officers (also see Section 1.c.). According to the National Obligatory Service Law, conscripts may be assigned to service either in the armed forces or in the National Police. In April two military recruits were killed while serving at two different police stations; one, Fernando Aristides Gutierrez, was shot to death in a petty dispute with another recruit. The other, Marcial Torres, a 17-year-old conscript working in a police station in Puerto Antequera, in San Pedro province, died as the result of severe injuries inflicted in a beating by the station commander, Ramon Duarte. Although Torres' mother filed an official complaint against Duarte, no investigation or other judicial action had been taken against Duarte by year's end. Human rights monitors, including a support group for families of military recruits, report that 94 recruits, some underage, have been killed or died in accidents since 1989 while serving their mandatory military service.

Three female inmates died as the result of a prison fire of undetermined origin that broke out in their isolation cell (see Section 1.c.).

There has been no further action in the criminal investigation into the killing of Gustavo Daniel Gonzalez Delgado in 1997. Human rights monitors claim that police officers shot Gonzalez three times following a traffic incident between Gonzalez's car and a police vehicle.

There was no further action in the killing of Gumersindo Pavon Diaz, a peasant laborer on land expropriated from a businessman. The killing, allegedly by armed civilian security guards, provoked violence by peasants against the company operating on the land.

There was no further action in the investigations into the 1995 killing of peasant protester Pedro Jimenez and the 1994 killings of peasant leaders Sebastian Larrosa and Esteban Balbuena.

Authoritarian regimes ruled the country until 1989, when dictator Alfredo Stroessner was overthrown by General Andres Rodriguez, who was elected President later that year. In 1996 an appellate court affirmed the convictions for human

rights abuses of five Stroessner-era officials: Former police Investigations Director Pastor Coronel and police officers Lucilo Benitez Santacruz, Agustin Belotto Youga, Camilo Almada Morel, and Juan Aniceto Martinez. In September a judge added additional lengthy sentences to each of the prisoners' terms for their roles in the 1976 murder of two brothers, Rodolfo and Benjamin Ramirez Villalba.

In December a court sentenced Stroessner-era police chief, retired General Ramon Duarte Vega, to over 13 years in prison for the attempted murder and systematic torture of former political prisoner Sebastian Castillo. The authorities had arrested Duarte in 1997 and kept him in military prison for acts of torture committed in 1963.

The 1998 arrest of former Chilean dictator General Augusto Pinochet in the United Kingdom drew renewed attention to extrajudicial killings and other abuses that occurred under the Stroessner regime. There were renewed allegations that Stroessner cooperated in Operation Condor, a regional plan to eliminate leftists. One human rights activist, who was a political prisoner during that time, has filed cases with Spanish judge Baltasar Garzon, who was preparing the case against Pinochet, and provided him with documents from Paraguayan archives that he claims implicate General Pinochet in Operation Condor.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, as well as cruel, inhuman or degrading punishment or treatment; however, torture (primarily beatings) and brutal and degrading treatment of convicted prisoners and other detainees continued. A human rights nongovernmental organization (NGO), the Committee of Churches, reported several cases of torture and other abusive treatment of persons designed to extract confessions, punish escape attempts, or intimidate detainees. The Attorney General's office and the Committee of Churches compiled numerous examples of police abuse and extrajudicial killings.

Some of the more than 40 Oviedo supporters arrested following Vice President Argana's assassination alleged that the police tortured or otherwise abused them (see Sections 1.d. and 1.e.).

In addition, there were several allegations of mistreatment of military recruits by noncommissioned and commissioned officers. One NGO claims to have documented five cases of torture of recruits during the year, leading to the death of one of them (see Section 1.a.).

Credible reports continued that landowners living near the border in the Alto Parana, Canindeyu, and Amambay departments forcibly removed squatters from their property with the help of the police, without the required judicial order. Some of the evictions reportedly were violent, with paid armed civilians operating in conjunction with police personnel. The authorities undertook no effective action in response to these reports.

In March police armed with a detention order for 6 persons arrested 24 squatters on the property of an absentee landlord outside of Ciudad del Este and imprisoned them for 3 weeks. According to one of those detained, the police beat several of the women and children in the group when their friends protested their arrest. One of them, a woman who was 7 months pregnant, had her baby prematurely as a result of the beating. During their imprisonment, the prisoners reportedly were required to walk up to 15 miles each day to pick beans for their own meals and to collect wood to be carried back to the prison to be used as cooking fuel. After 3 weeks, during which their fellow squatters demonstrated on their behalf in front of the Justice Ministry in Asuncion, the Government released the prisoners and granted them a small plot of land.

Violence accompanied protests and demonstrations from January through April and included the use of excessive force by police and military forces. On two occasions in January, unknown attackers—allegedly Oviedo supporters—threw Molotov cocktails and fired shots into the residences of Supreme Court justices. Similarly, shots were fired into the home of former president Juan Carlos Wasmosy in the same month.

Violence peaked in March as the impeachment proceedings against then-President Cubas continued and following the assassination of Vice President Argana. A bomb threat to the Supreme Court closed the building. On March 23 and 24, police attacked protesters from peasant organizations and unions, as well as Oviedo supporters and proimpeachment activists with tear gas and a water cannon. On March 25, 37 protesters and 6 police officers were injured in confrontations. The police allowed factions involved in the protest to assault one another using rocks, sticks, and firecrackers. On March 26, increasingly violent confrontations resulted in the deaths of 8 persons and injuries to almost 100 others (see Section 1.a.). According to press

reports, Oviedo supporters shot at least 20 persons, allegedly without any action by the police.

Prison conditions are extremely poor. Overcrowding and unsanitary living conditions were the most serious problems affecting all prisoners. Prisons generally serve one meal a day and prisoners seldom get vegetables, fruit, or a meat protein source, unless they have individual means to purchase them. Mistreatment of prisoners is also a serious problem. Tacumbu prison, the largest in Asuncion, was built to hold 800 inmates but housed over 1,700 for most of the year. Other regional prisons generally hold about three times more inmates than originally planned. Jailing large numbers of landless peasants for trespassing exacerbates prison overcrowding.

In January at Buen Pastor, the Asuncion women's prison, a fire in the isolation cell killed two prisoners, and a third died of her injuries a month later. There were no guards near the cell, and women in a neighboring cell had to alert prison authorities to the fire, which slowed assistance to the victims and led a judge to claim that he had been unaware of the degree of isolation of the women's confinement. Although laws governing the prisons forbid male guards in the women's prisons, the laws are not always observed in practice, and there have been several reported rapes of prisoners by their guards.

Security is another problem. At one point during the year, there were 114 guards for over 1,800 prisoners at Tacumbu prison, before a court ordered some 200 released because of overcrowding; on December 28, another 255 prisoners were released for the same reason. The Congressional Human Rights Commission has criticized the prisons for their poor nutritional standards. Prisons have separate accommodations for well-to-do prisoners, ensuring that those with sufficient means receive far better treatment than other prisoners.

The Government permits independent monitoring of prison conditions by human rights organizations.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention are persistent problems. The Constitution prohibits detention without an arrest warrant signed by a judge and stipulates that any person arrested must appear before a judge within 24 hours to make a statement. The police can arrest persons without a warrant if they catch them in the act of committing a crime but must bring them before a judge within 24 hours. However, according to human rights activists, the authorities often violated these provisions.

Following the assassination of Vice President Argana and the killing of student protesters in March, the authorities arrested over 45 persons in connection with these cases. Many of those arrested were well-known political figures, including legislators allied with the former government. There was little evidence presented to support the charges against them, and most of the accused were held without bail, leading some to question whether due process had been observed. For example, those arrested included Senator Jose Francisco Appleyard, accused because he had accompanied Oviedo to a political rally in 1998, and former Vice President Angel Seifart, accused of having made remarks that somehow contributed to the deaths in March. By year's end, few suspects had been cleared of the charges against them (see Section 1.e.).

In November the authorities arrested 14 members of the army who were suspected of disloyalty when rumors circulated that a coup was being planned. At year's end, they remained incarcerated.

Pretrial detention remains a serious problem. About 93 percent of the over 5,000 prisoners were held pending trial, many for months or years after their arrest. While the law encourages speedy trials, the Constitution permits imprisonment without trial until the accused completes the minimum sentence for the alleged crime, which often occurs in practice. However, there were several cases in which detainees were held without conviction for terms longer than the maximum sentence associated with the crimes with which they were charged. A bail system based on judicial discretion exists for most crimes. Judges frequently set relatively high bail, and many accused persons are unable to post bond. The Supreme Court, the Public Ministry, and a judicial working group have taken steps to reduce the large number of pretrial detainees but have achieved only modest results. The Supreme Court and many criminal court judges also make quarterly visits to the prisons to identify and release improperly held individuals.

The Constitution expressly prohibits forced exile, and it is not practiced.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the courts often are pressured by politicians and other persons whose interests are at stake. There were credible allegations that members of the judiciary who issued arrest warrants for the Oviedo supporters following the events of March did so in response to political pressure. The judges defended their actions by noting the risk that the defendants might flee, and the need to investigate fully

the 10 murders. The courts dismissed charges against some persons originally accused of the March killings. Although the detained Oviedo supporters assert that they are held for political reasons, they face criminal charges in a system plagued by slow movement, as well as political pressures. The judiciary is not allied with any one political group.

In early November, the Senate voted not to confirm three of the nine justices on the Supreme Court, basing its authority to do so on a disputed article of the Constitution. Many persons assume that the vote was based on partisan political considerations. Two of the justices appealed the vote to the Court's Constitutional Chamber, which temporarily suspended the Senate's decision until it could be reviewed further.

The nine-member Supreme Court appoints lower court judges and magistrates, based upon recommendations by the Magistrate's Council. There are five types of appellate tribunals: Civil and commercial, criminal, labor, administrative disputes, and juvenile. Several minor courts and justices of the peace fall within these five functional areas. The military has its own judicial system.

The judicial system remains relatively inefficient, but the enactment of new criminal procedure and penal codes is expected to improve the judicial system's efficiency. However, the judiciary continues to suffer from insufficient resources. There was also a large backlog of cases, but the judiciary undertook to eliminate up to 40 percent of the cases that are inactive or invalid due to the statute of limitations.

The Constitution stipulates that all defendants have the right to an attorney, at public expense if necessary, but this right often is not respected in practice. Many destitute suspects receive little legal assistance, and few have access to an attorney sufficiently in advance of the trial to prepare a defense. In Asuncion, for example, there are only 20 public defenders available to assist the indigent, and just 77 nationwide. Some judicial districts have not even been assigned public defenders. Moreover, the public defenders lack the resources to perform their jobs adequately.

New penal and criminal procedures codes entered into force in 1998 and 1999 to replace antiquated codes. They provide for protection of fundamental human rights, and include procedures for an oral and accusatorial system, as well as a faster and more transparent criminal trial process.

Although trials still were conducted almost exclusively by presentation of written documents to a judge, who then renders a decision, the new penal and criminal procedure codes are expected to introduce oral proceedings gradually. A Public Ministry official is responsible in most cases for bringing charges against accused persons. Defendants and the Public Ministry can present written testimony of witnesses and other evidence. In practice, testimony is oral and generally taken by members of the judicial staff, without a judge present. All interested parties have access to all documents reviewed by the judge, and defendants can rebut witnesses' statements. Defendants enjoy a presumption of innocence. The judge alone determines guilt or innocence and decides punishment. During the pretrial phase, the judge receives and may request investigative reports. In this phase, the judge is also likely to make a personal inspection of the scene of the crime and of the available physical evidence. The accused often appears before the court only twice: to plead and to be sentenced. If the sentence is appealed, an appellate judge reviews the verdict, and the law provides for appeals to the Supreme Court in certain cases.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government and its security forces generally did not interfere in the private lives of citizens; however, human rights activists claimed that local officials and police officers abuse their authority by entering homes or businesses without warrants and harassing private citizens. The Constitution provides that police may not enter private homes except to prevent a crime in progress or when the police possess a judicial warrant. There was evidence that the Government occasionally spied on individuals and monitored communications for political and security reasons. There were allegations of the forced conscription of underage youths (see Sections 5 and 6.c.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press, and the Government generally respects these rights in practice; however, there were numerous instances of societal violence and threats against journalists during the year.

The print and electronic media are independently owned. The media commonly criticized the Government and freely discussed opposition viewpoints.

Reflecting political tensions in society, journalists reported some incidents of intimidation and violence, although the victims could not link any of them conclusively to the Government. In August an unknown person threw a hand grenade into

the garden outside the home of ABC Color newspaper publisher Aldo Zucolillo. Also in August, shots were fired at the house of Radio Nanduti owner Humberto Rubin, and the residence of the editor of the daily newspaper Popular was broken into and ransacked. In August an armed person stopped three employees of the La Nacion newspaper outside the city of Aregua, and ordered them at gunpoint to turn over their film, cameras, cellular phones, and other material. The gunman was identified as an off-duty narcotics policeman providing guard service to the subject of the journalists' investigation. In September shots were fired at the house of Noticias reporter Esteban Areco.

On January 26, members of the opposition-controlled National Congress filed a suit against four journalists—Julio Osvaldo Dominguez Dibb, publisher of La Nacion; Alberto Vargas Pena, columnist and editorial writer of that newspaper; Raul Melamed, announcer of the radio station Montecarlo; and Juan Carlos Bernabe, director of the radio station Nanawa—accusing them of "committing punishable offenses against constitutional institutions, offenses against the State, and offenses against the maintenance of the social order." Melamed and Bernabe in particular urged that Oviedo supporters physically intimidate Supreme Court justices who had ruled against the Cubas Government in December 1998. Melamed, who was the master of ceremonies at the December 1998 Oviedo demonstration in which Oviedo promised "rivers of blood" for his opponents, was particularly active in using the radio as a form of intimidation. In June the Inter-American Press Association (IAPA) sent a delegation to look into press freedom issues raised by these cases. It filed a preliminary report that concluded that the media were highly polarized and requested that the authorities ensure that press freedom be protected. In July the OAS Special Rapporteur for Freedom of Expression, along with members of the Inter-American Commission on Human Rights (IACHR), visited to demonstrate the international community's support for press freedom. The OAS Special Rapporteur expressed concern over acts of violence and threats against journalists, rulings by judges that affected freedom of expression, and lack of progress in the investigation of the 1991 murder of journalist Santiago Leguizamon.

In June a lower court judge in the city of Villarrica ordered the arrest of two radio journalists for transmitting comments critical of the judge's rulings. The Journalists' Union immediately filed a protest and a motion that won the release of the journalists. A month later, an official of the Attorney General's office determined that the judge had acted outside her authority, a decision later upheld by the Attorney General.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of all citizens to peaceful assembly, and the Government generally respects this right in practice. In 1997 the Government amended a law regulating demonstrations in Asuncion, which further restricted the areas where demonstrations may take place; however, it expanded slightly the hours in which they may be held. Union groups were the most vocal opponents of the modifications. The law requires that organizers notify the Asuncion police 24 hours before any planned rally in the downtown area. The police may ban a protest but must provide written notification of such a ban within 12 hours of receipt of the organizers' request. The law permits a police ban only if another party already has given notice of plans for a similar rally at the same place and time. In addition, the law prohibits public meetings or demonstrations in front of the presidential palace and outside military or police barracks. This law does not apply to religious processions.

On December 17, the authorities arrested 32 Oviedo supporters as they inaugurated a new branch office of the Colorado Party. They were held without charges for 24 hours and then released. When pressed by journalists for a reason for the arrests, the prosecutor claimed that the persons were "co-conspirators" of Oviedo.

With the notable exception of the violent protests in March, political demonstrations and rallies occurred without major incidents. Labor unions continued to demonstrate for better working conditions and peasant organizations closed roads on a number of occasions to bring attention to the needs of the rural population. While police kept order, demonstrations were not hindered.

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

c. *Freedom of Religion.*—The Constitution provides for freedom of conscience for all persons, and the Government respects this right in practice. Roman Catholicism is the predominant religion, but there is no official religion and all persons are free to worship as they choose. Foreign and local missionaries proselytize freely. All religious groups must be registered with the Ministry of Education and Culture, but the Government imposes no controls on these groups.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—All citizens may travel within the country with virtually no restrictions, and there are no restrictions on foreign travel or emigration. However, in March the Government temporarily closed its borders and the international airport in Asuncion during the search for suspects following the assassination of Vice President Argana.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. There are no established provisions to grant asylum or refugee status; the Immigration Department determines each request on a case-by-case basis in consultation with the Ministries of Foreign Relations and the Interior and the nongovernmental Committee of Churches (which investigates claims to refugee status). The issue of the provision of first asylum has never arisen.

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

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

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

There are three major political parties and a number of smaller ones. The opposition's power had increased as a result of the changes brought about by the 1992 Constitution and the subsequent election of a civilian president and an opposition-controlled Congress. However, the Colorado Party swept the 1998 general elections, and the opposition lost control of both chambers of Congress.

The succession of Luis Gonzalez Macchi to the presidency, following the resignation of President Raul Cubas in March, was in large part attributable to the actions of civil society, which, for the first time in recent history, took to the streets to seek a peaceful change of government following the assassination of the Vice President. The Government that emerged received the support of all major political parties, and President Gonzalez Macchi formed a government of national unity by giving selected ministries to the former opposition. However, by the end of the year, the coalition faced a crisis and the Liberal Party threatened to withdraw from the Government. Political opposition factions that supported former General Oviedo protested the decision to allow Gonzalez Macchi to finish Cubas' term.

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

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

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

Several human rights groups operate, including the Committee of Churches (an interdenominational group that monitors human rights, investigates refugee claims, and provides legal assistance), Tekojoja (a group dedicated to the protection of children's rights), and SERPAJ (a group that defends conscientious objectors and provides legal assistance to those with grievances arising from military service). On July 22, 32 NGO's, civil organizations, and trade unions officially formed the Paraguayan Human Rights Coordinator (CODEHUPY). The Government did not restrict the activities of any human rights group; however, it has a mixed record in cooperating with or responding to recommendations.

The 1992 Constitution calls for the Congress to name a human rights ombudsman through whom citizens can press claims against the State; however, the Congress has yet to do so, nor has it set up any alternative interim mechanism to serve this purpose until an ombudsman eventually is appointed. The IACHR criticized the failure to name an ombudsman during its July visit.

The Director General of Human Rights, located in the Ministry of Justice and Labor, chairs the National Commission on Human Rights. The commission sponsors seminars to promote human rights awareness. The Director General's office has ac-

cess to congressional, executive, and judicial authorities. It does not have subpoena or prosecutorial powers but may forward information concerning human rights abuses to the Attorney General for action. It also serves as a clearinghouse for information on human rights and has trained thousands of educators in human rights law.

The office of the Attorney General's Special Adviser on Human Rights has been extremely active in pursuing justice against human rights abusers from the Stroessner regime. Although the position has little real authority, the adviser is a key spokesman for the human rights community and the rights of the disenfranchised and uses his position to identify and publicize human rights abuses by the Government.

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

Although the Constitution and other laws prohibit discrimination, certain groups faced significant discrimination in practice.

Women.—The most pervasive violations of women's rights involved sexual and domestic violence, which is both widespread and vastly underreported. Spousal abuse is common. While the new Penal Code criminalizes spousal abuse, it stipulates that the abuse must be habitual before being recognized as criminal, and then it is punishable only by a fine. Thousands of women are treated annually for injuries sustained in violent domestic situations. According to women's rights activists, official complaints rarely are filed, or when filed soon are withdrawn due to spousal reconciliation or family pressure. The Secretariat of Women's Affairs chairs a national committee, made up of other government agencies and NGO's, which has developed a national plan to prevent and punish violence against women. Pursuant to the plan, an office of care and orientation receives reports on violence against women and coordinates responses with the National Police, primary health care units, the Attorney General's office, and NGO's. The Secretariat also conducts training courses for the police, health care workers, prosecutors, and others.

Violence against women has been targeted as a key area of concern by several NGO's and the Secretariat of Women's Affairs. According to a 1995–96 national poll on reproductive health, 14 percent of women reported that they were physically abused at some point in their lives. Most observers believe that this number understates the reality. In Asuncion alone, observers believe close to 5,000 cases of violence against women go unreported each year. Almost 30 percent of the women who responded that they had been abused physically but did not report the abuse said that they had believed that they could resolve the situation themselves. Approximately 20 percent had feared reprisals from their attacker. About 25 percent of all violent crimes take place in the home, with the vast majority directed against women. Almost 20 percent of women with less than 2 years of education reported being abused; roughly 10 percent of women report being hit by their spouses. Women's rights and advocacy groups succeeded in widening the debate about violence against women. The Women's November 25th Collective operates a reception center where female victims of violence can receive legal, psychological, and educational assistance. No shelters for battered and abused women are available outside the capital of Asuncion.

In July an IACHR report stated that in 1998 one case of rape was reported to the press every 3 days. During the first 4 months of the year, there was one case of rape reported each day. There are no specialized police units to handle complaints involving rape.

The law prohibits sexual exploitation of women; however, the authorities do not enforce it effectively. Prostitution by adults is not illegal, and exploitation of women, especially teenage prostitutes, remains a serious problem. Law enforcement officials regularly stage raids on houses of prostitution, and there were cases of arrests and closures of brothels where minors were involved in prostitution.

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

Women have much higher illiteracy rates than men. In addition, maternal mortality rates are high, at 192 per 100,000 live births, and as many as 65 percent of such deaths are related to poor medical care. Several groups work to improve conditions for women. One is Women for Democracy, which is active in civic and electoral education. Other groups include Sumando, an NGO that promotes educational reform policy and voter participation in elections; and SEFEM, which highlights such

issues as women and public policy, women and social policy, participation of women in local development, and women in the Americas.

Children.—The Constitution protects children's rights and stipulates that parents and the State should care for, feed, educate, and support children. The population is very young, with 41 percent under the age of 15, and 60 percent under age 20. Boys and girls are entitled to equal treatment in education and health care. The educational system does not provide adequately for the educational needs of the population. The Government recently made elementary school education compulsory through the seventh grade and plans to extend it through grade nine; however, it lacks the resources to implement these changes in practice. Statistics from the Ministry of Education and Culture indicate that some 35,000 children leave school each year, with only 60 percent of children finishing the sixth grade. In rural areas that figure can be as low as 3 percent, and female access to education is markedly lower than in urban areas.

Abuse of children is a problem. According to the United Nations Children's Fund (UNICEF), 1 in 3 children (some 462,000) between the ages of 7 and 17 work, many in unsafe labor conditions. Recent studies indicate that 42 percent of these children began working by the age of 8. According to a study by a local NGO, between 3,700 and 6,000 children and adolescents work in the streets of Asuncion. Many of these children suffer from malnutrition, lack of access to education, and disease. The typical workday extends from before 7:00 a.m., uninterrupted, until 5:00 p.m. The employers of some of the estimated 11,500 young girls working as domestic servants or nannies deny them access to education and mistreat them. Employers sometimes file false charges of robbery against those who seek to leave domestic jobs and turn them over to the police. Children age 14 and older are treated as adults for purposes of arrest and sentencing. The Labor Code requires that domestic workers be paid at least 40 percent of the minimum wage, and allows them to work up to a 12-hour day. It is common practice for families who cannot afford to raise a given child to send him or her to relatives or colleagues, where the child may be expected to work in exchange for room, board, and access to education. Sometimes these children are abused by those charged with providing for them.

Sexual exploitation is a problem, and of all the females who report being exploited sexually, 58.5 percent are 16 years old or younger (see Section 6.f.). According to the Attorney General's office, there are approximately 200 complaints per month regarding mistreatment and sexual abuse of minors. The Government has taken effective steps to combat the problem of baby trafficking (see Section 6.f.).

The Government has ordered military officers responsible for recruiting to ensure that all conscripts meet the legally mandated age of 18 for military service. However, only 16 percent of those serving in 1999 met that requirement, and over 35 percent were age 15 or younger. There were frequent allegations that military recruiters forced underage youths to join units. The military took no significant disciplinary action against those responsible for underage recruits. Human rights groups and some military personnel confirm that poor families knowingly send underage children to the armed forces for the economic benefits.

People with Disabilities.—The Constitution provides for equal opportunity for the disabled and mandates that the State provide them with health care, education, recreation, and professional training. It further requires that the state formulate a policy for the treatment, rehabilitation, and integration into society of the disabled. However, the Congress has never enacted legislation to establish such programs. Many persons with disabilities face significant discrimination in employment; others are unable to seek employment because of a lack of accessible public transportation. The law does not mandate accessibility for the disabled, and the vast majority of the nation's buildings, both public and private, are inaccessible to the disabled.

Indigenous People.—The Constitution provides indigenous people with the right to participate in the economic, social, political, and cultural life of the nation. Nevertheless, the indigenous population, estimated at 75,000 to 100,000, is unassimilated and neglected. Low wage levels, long work hours, infrequent payment (or nonpayment) of wages, job insecurity, lack of access to social security benefits, and racial discrimination are common. Weak organization and lack of financial resources limit access by indigenous people to the political and economic system. Indigenous groups relied primarily upon parliamentary commissions to promote their particular interests. The Constitution also protects the property interests of indigenous people, but these rights still are not codified fully. The Constitution provides that Public Ministry officials may represent indigenous people in matters involving the protection of life and property.

A lack of access to sufficient land hinders the ability of indigenous groups to progress economically and maintain their cultural identity. This is made worse by insufficient police and judicial protection from persons encroaching on their land.

The Government's National Indigenous Institute (INDI) has the authority to purchase land on behalf of indigenous communities and to expropriate private property under certain conditions to establish tribal homelands. However, there have been significant allegations of wrongdoing within INDI, and in 1997 a congressional human rights committee requested an accounting of INDI's land purchases and transfers. During the year, allegations of poor performance because of corruption continued, a previous INDI director was arrested for embezzlement, and three different persons served as director. Many indigenous people find it difficult to travel to the capital to solicit land titles or process the required documentation associated with land ownership.

Significant problems facing the indigenous population are lack of education, malnutrition, lack of medical care, and economic displacement resulting from other groups' development and modernization. Scarce resources and limited government attention resulted in little progress in dealing with these problems.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution allows both private and public sector workers (with the exception of the armed forces and the police) to form and join unions without government interference. The Constitution contains several provisions that protect fundamental worker rights, including an antidiscrimination clause, provisions for employment tenure, severance pay for unjustified firings, collective bargaining, and the right to strike. Approximately 121,000, or 15 percent, of workers are organized in approximately 1,600 unions.

In general, unions are independent of the Government and political parties. One of the nation's three labor centrals, the Confederation of Paraguayan Workers (CPT), traditionally was aligned closely with the ruling Colorado Party, but these ties appear to be loosening. In March the largest labor union, the Central Worker's Party (CUT) was involved in the political demonstrations in front of Congress after the assassination of Vice President Argana. The CUT called for an indefinite work stoppage, accusing then-President Cubas and former General Oviedo of ordering the assassination. Union members were among those protesters shot and injured during the violent demonstrations.

All unions must be registered with the Ministry of Justice and Labor. The registration process is cumbersome and can take several months. Employers who wish to oppose the formation of a union can delay union recognition further by filing a writ opposing it. However, virtually all unions that request recognition eventually receive it. The Constitution provides for the right to strike, bans binding arbitration, and prohibits retribution against strikers and leaders carrying out routine union business, a prohibition often violated by employers. Voluntary arbitration decisions are enforceable by the courts, but this mechanism still is employed rarely. Senior Labor Ministry officials are available to mediate disputes.

The International Labor Organization (ILO) Committee of Experts has noted deficiencies in the application of certain conventions ratified by the Government. These include conventions dealing with minimum wage fixing machinery, abolition of forced labor, minimum age of employment, freedom of association, equal remuneration, and employment policy.

There were numerous strikes by members of all three worker centrals and smaller unions. Many of these were related to the firing of union officials, management violations of a collective contract, management efforts to prevent the free association of workers, or demands for benefits such as payment of the minimum wage or contributions to the social security system.

Unions are free to form and join federations or confederations and affiliate with and participate in international labor bodies.

b. *The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining. The number of negotiated collective contracts continued to grow; at year's end, there were close to 100. However, they were still the exception rather than the norm in labor-management relations and typically reaffirmed minimum standards established by law. When wages are not set in free negotiations between unions and employers, they are made a condition of individual offers of employment.

The Constitution prohibits antiunion discrimination; however, the firing and harassment of some union organizers and leaders in the private sector continued. Union organizers sometimes are incarcerated for their role in leading demonstrations. For example, in 1998 the authorities jailed six union members accused of leading bus drivers in a demonstration. Fired union leaders can seek redress in the courts, but the labor tribunals have been slow to respond to complaints and typically favored business in disputes. The courts are not required to order the reinstatement of workers fired for union activities. As in previous years, in some cases where judges ordered the reinstatement of discharged workers, the employers disregarded

the court order with impunity. There are a number of cases in which trade union leaders, fired as much as 5 years earlier, have not yet received a decision from the courts.

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

There are no export processing zones.

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

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Director General for the Protection of Minors in the Ministry of Justice and Labor is responsible for enforcing child labor laws. The law prohibits forced or bonded labor by children, and generally is enforced effectively; however, there were allegations of forced conscription of underage youths (see Sections 5 and 6.c.). Minors between 15 and 18 years of age may be employed only with parental authorization and cannot be employed in dangerous or unhealthy conditions. Children between 12 and 15 years of age may be employed only in family enterprises, apprenticeships, or in agriculture. The Labor Code prohibits work by children under 12 years of age, and all children are required to attend elementary school through the seventh grade. However, in practice many thousands of children, many of them younger than 12 years of age, may be found in urban areas engaged in informal employment such as selling newspapers and sundries, shining shoes, and cleaning car windows. According to UNICEF, one in three children between the ages of 7 and 17 work, many in unsafe conditions (see Section 5). In rural areas, it is not unusual for children as young as 10 years of age to work beside their parents in the field. Local human rights groups do not regard families harvesting the crop together as an abuse of child labor.

e. *Acceptable Conditions of Work.*—The executive, through the Ministry of Justice and Labor, has established a private sector minimum wage sufficient to maintain a minimally decent standard of living for a worker and family. Theoretically, the minimum salary is adjusted whenever annual inflation exceeds 10 percent and was approximately $179 (591,444 guaranies) per month at year's end. However, the Ministry is unable to enforce the minimum wage, and most analysts agree that 50 to 70 percent of workers earn less than the decreed minimum.

The Labor Code allows for a standard legal workweek of 48 hours (42 hours for night work), with 1 day of rest. The law also provides for an annual bonus of 1 month's salary and a minimum of 6 vacation days a year. The law requires overtime payment for hours in excess of the standard, but many employers violate these provisions. There are no prohibitions on excessive compulsory overtime. Workers in the transport sector routinely stage strikes to demand that their employers comply with the Labor Code's provisions on working hours, overtime, and minimum wage payments.

The Labor Code also stipulates conditions of safety, hygiene, and comfort. The Ministry of Justice and Labor and the Ministry of Health did not enforce these provisions effectively, due in part to a lack of inspectors and other resources. In 1997 the Ministry sponsored the reconvening of a tripartite group of government, labor, and employers in an effort to update the labor inspection manual, which was severely outdated. In addition to updating the labor manual, the program expanded transparency in the labor inspection process.

Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their continued employment, but they may not do so until such conditions are recognized formally by the Ministries of Justice and Labor and Health. Although there are laws intended to protect workers who file complaints about such conditions, many employers reportedly took disciplinary action against them.

f. *Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons, but the Constitution proscribes slavery, personal servitude, and trafficking in persons. The Penal Code contains provisions prohibiting compelling persons to travel to or from the country for purposes of prostitution, compelling a minor under 18 years of age to serve as a prostitute, and pandering for a prostitute. There were

unconfirmed reports in Brazil of trafficking in women and girls from Paraguay for purposes of prostitution. Other than that, there were no reports of trafficking of persons in, to, or from the country.

The Government has taken effective steps to combat the problem of baby trafficking. The Penal Code criminalizes the act of compelling a child's parent or legal guardian to give up a child for adoption or relocation to another family. In 1995 the Government enacted a moratorium on international adoptions, but in September 1997 began to allow them again on a case-by-case basis depending on the nationality of the prospective parents.

PERU

Peru is a multiparty republic with a dominant executive branch that often uses its control of the legislature and the judiciary to the detriment of the democratic process. President Alberto Fujimori won a second 5-year term in 1995, at which time his party also won a controlling majority in the unicameral Congress. The Constitutional Tribunal has not functioned effectively since 1997, when Congress removed three of its members for opposing an interpretation of a law that permitted President Fujimori to run for a third consecutive term. On December 27, Fujimori announced his candidacy to seek another term; on December 31, the National Elections Board (JNE) rejected 18 challenges to his candidacy, ruling that he was eligible to run. The Constitution provides for an independent judiciary; however, in practice the judicial system is inefficient, often subject to corruption, and easily controlled by the executive branch.

The police and military share responsibility for internal security; the National Intelligence Service (SIN) also plays a role in anticrime efforts. The capture or death of several remaining terrorist leaders marked continuing progress in eliminating the once great threat posed by the Sendero Luminoso (Shining Path) and Tupac Amaru Revolutionary Movement (MRTA) terrorist groups. The Government further reduced the extent of its emergency zones, which cover about 6 percent of the country and 5 percent of the population. Within these zones, certain constitutional protections are suspended. In the rest of the country, civilian authorities generally maintain effective control of the security forces. Nevertheless, the security forces remained responsible for serious human rights abuses, although fewer than in the previous year.

The Government has implemented major economic reforms, transforming a heavily regulated economy into a dynamic, market-oriented one. The Government has eliminated controls on capital flows, prices, and trade. It has privatized most state enterprises but did not meet its target of selling those remaining by the end of 1999. Inflation remained in the single digits, and growth was expected to reach 3 percent, up from 0.3 percent in 1998. Per capita gross domestic product is estimated at $2,500. Major exports include copper and other minerals, fishmeal, and textiles. The unemployment rate is estimated at 9.5 percent; underemployment remains around 45 percent. More than one-half of the economically active population work in the informal sector. The poor constituted 50 percent of the population in 1997, and some 15 percent of the population live in extreme poverty.

The Government's human rights record was poor in several areas; abuses decreased in several areas, including abuses of the person, but serious problems remained, including protection of civil and political rights. The security forces were responsible for several extrajudicial killings and one disappearance. Security forces tortured, beat, and otherwise abused persons, and impunity remained a problem. Lack of accountability within the armed forces, particularly regarding counterterrorist operations, continued to be a problem. Overall prison conditions remained poor and were extremely harsh in maximum security facilities. Arbitrary arrest and detention, prolonged pretrial detention, lack of due process, and lengthy trial delays continued to be problems. The general inefficiency of the judicial system persisted, and it remained subject to executive influence. On July 8, the Government announced its withdrawal from the jurisdiction of the Inter-American Court of Human Rights after the Court determined that the Government had failed to provide due process in the case of four Chileans convicted by a military tribunal of treason. The Court ruled on September 28 that the Government could not withdraw without renouncing the American Convention on Human Rights, and the Government stated that it would not comply with future Inter-American Court decisions, although it did comply in several pending cases. The Government inhibits freedom of speech and of the press. Efforts to ensure a compliant, uncritical press continued; journalists faced increased harassment and intimidation and practiced a great de-

gree of self-censorship. There are some limits on freedom of assembly and some limits on freedom of movement in the emergency zones. Questions remain about the openness and fairness of the electoral process. In November-December a team of pre-election observers from the National Democratic Institute for International Affairs and the Carter Center concluded that there were serious problems in the election environment, including the harassment of the press and intending candidates, inadequate opposition access to the media, and use of government resources to promote the current Government. The authorities at times hindered the operations of human rights monitors. Violence and discrimination against women were widespread. Violence against children and discrimination against the disabled, indigenous people, and racial and ethnic minorities remained problems. Labor advocates argue that labor laws and practices restrict collective bargaining rights. Child labor remained a serious problem.

The office of the Defender of the People, or Human Rights Ombudsman, opened several new offices throughout the country. The ad hoc Pardons Commission continued to take applications from individuals claiming to have been jailed unjustly for terrorism or treason. The newly created Terrorism Division of the Supreme Court traveled to Ayacucho and dismissed 158 longstanding arrest warrants on terrorism charges.

Police suspect that vigilante actions resulted in numerous beatings and other abuse, including the killing of at least one person.

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

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There we no reports of politically motivated extrajudicial killings; however, there were five confirmed cases of extrajudicial killings.

In January guards in the Yanamilla prison in Ayacucho beat inmate Pablo Pascual Espinoza to death after they reportedly found him drinking an alcoholic beverage. The authorities brought charges against two guards, Marco Espinoza Rivera and Marcial Pirez Yopla, and tried them under the 1998 antitorture law. The court sentenced Espinoza to 12 years in prison and acquitted Pirez. The Supreme Court reviewed the cases and increased Espinoza's sentence to 15 years and ordered the lower court to undertake a judicial review of Pirez's case and sentence.

In February two army officers were involved in the shooting of Demetrio Esteban Valencia in the city of Aucayacu. Esteban and Rosas Diego Espiritu were reportedly drinking beer in a local establishment when two unidentified men dressed in black entered, one of whom had drawn a pistol. Esteban reportedly attempted to disarm the man carrying the pistol and was shot and killed by an army lieutenant from a Tingo Maria unit. An investigation of the army personnel involved found both army officers innocent of wrongdoing because they were defending themselves.

In September army lieutenant Edi Paredes Alegre allegedly shot and killed Juan Espinoza Rodriguez, who was returning late at night to his home in Pachitea, Huanuco. Espinoza's family filed a complaint of homicide to the Pachitea prosecutor, who brought formal charges against Paredes. By year's end, proceedings had begun against Paredes in a Pachita court.

In November Tambo de Mora penitentiary inmate Esteban Minan Castro died after guards reportedly used tear gas to subdue him and put into solitary confinement after he had allegedly violated prison rules. Prison inmates told members of the Ombudsman's office that Minan had not committed any offenses and was healthy prior to being put into solitary quarters. The prison doctor testified that prison warden Alberto Gonzales Teves ordered him to send the body to a city hospital and to report that the inmate had been alive before leaving the prison. An NGO filed a formal complaint of torture and homicide against several prison officials, including Teves. By year's end, the case remained in the initial stage of investigation.

In April Teobaldo Jaime Palacios Sanchez, an 18-year-old military recruit, died after military personnel allegedly beat him. He was admitted to the hospital and diagnosed with an acute respiratory infection and died on April 21. According to family members, Palacios died from mistreatment after he tried to escape the military installation. In addition, the family claims that Palacios' corpse had hematomas on different parts of his body. With legal support from an NGO, the family requested that the Public Ministry conduct an investigation of the cause of his death. The Human Rights Ombudsman also heard the family's complaint, and military offi-

cials undertook an investigation and awarded financial compensation to the victim's family. At year's end, the investigation continued.

Human Rights Watch reported that nine soldiers and recruits died between January and April at military bases under unexplained or questionable circumstances (see Section 1.c.). Local human rights NGO's were unable to verify this information.

There continued to be reports that the security forces conscripted persons, using beatings and mistreatment that led in some cases to murder or suicide (see Section 1.f.).

For example, in March 19-year-old Juan Salazar Cayetano died as a result of possible medical neglect during his mandatory military service. After Salazar left the military in December 1998 and was diagnosed with abdominal cancer, he claimed that his military superiors ignored his complaints of severe pain and responded by frequently beating him in the stomach. According to the Ministry of Health, Salazar died of a lung tumor.

There continued to be a public perception that the armed forces operate with impunity in the war against terrorism.

There were also reports of unexplained deaths of persons who were in police custody. In April police detained Adan Tito Mariluz Dolores for drinking in public and fighting with Willian Inga Mendoza (also known as "Puma") in Tingo Maria. According to a police report, police held both men for approximately 4 hours, after which Tito fled the police station still handcuffed. He was found in a nearby riverbed 10 days later. An internal investigation against policemen Alferez Jose Chaves Core, Carlos Dias Calizaya, and Mario Coa Delgado recommended administrative disciplinary measures. Police have been unable to locate Willian Inga Mendoza to solicit his testimony. By year's end, the prosecutor had not completed his initial investigation of the incident.

In June National Police officials detained Mario Clemente Guillen Mendez in the city of Chincha and held him in a local police station. When his wife arrived to inquire about the reason for her husband's arrest, police instructed her to return the next morning. When she did return, police informed her that her husband had confessed and hanged himself. Medical authorities from a nearby town performed an autopsy, concluding that the cause of death was asphyxiation. The autopsy also noted pancreatic hemorrhages. By year's end, the Chincha criminal court had brought charges of torture against policemen Edwin Alfredo Saravia Torres, Marco Antonio Carrasco, and Julian de la Cruz Huyarote.

In July police detained Rony Machaca Flores in Juliaca, Puno, for reportedly insulting another citizen. National Police lieutenant Rolnad Bastidas ordered Machaca's detention for intent to commit murder. Later that evening police found Machaca dead in his cell after allegedly hanging himself. At year's end, the Human Rights Ombudsman's office and the National Prosecutor were reviewing the case.

In December police detained Jose Antonio Palacios Garcia in Ica for not carrying proper identification. Two hours later police found Palacios dead in his cell. Family members claim that the police informed them that Palacios killed himself. Police later stated that he died while trying to escape. After an initial police investigation, the provincial prosecutor filed formal charges against Jorge Luis Gallegos Cornejo for the crime of aggravated homicide. Several other officers were charged with abuse of authority related to the death. By year's end, Gallegos Cornejo had been detained and judicial proceedings against him had begun.

In August 1998 a court placed Felix Rojas Daza and Zozimo Campos Gamboa, the two police officers arrested for the 1998 extrajudicial killing of Willy Llerena Macedo, on 1-year's probation for failure to do their duty but acquitted them of Llerena's murder.

In January the police officer charged with the December 1998 death of Carlos Orrellano Mallqui asked to have his case transferred to the military justice system. The police in Coris, Aija province, Ancash, had detained Arrellano Mallqui on suspicion of theft. On December 11, 1998, the police took him to a local hospital; he had been shot in the head and suffered injuries consistent with having been beaten in the face, hands, knees, and testicles. Orrellano Mallqui died in the hospital 2 days later. On April 8, the provincial prosecutor asked for an extension to complete his investigation; by the end of the year, the Supreme Court had yet to decide whether the case should be held in civil or military courts.

No progress has been made in the investigation of the four soldiers suspected of robbing and killing Genaro Julca Bula and Alberto Aponte in 1998. In November the departmental court in Ayacucho acquitted policeman Raymundo Gutierrez Rivero, the defendant in the 1998 case of torture that led to the death of Lucas Huaman Cruz. Despite convincing evidence to the contrary, the court apparently accepted the defense's assertion that Huaman's family, rather than Gutierrez, had tortured and beaten him to death. Attorneys representing the Huaman family and the

Attorney General's office petitioned to have the acquittal annulled and the case retried before the Supreme Court. By year's end, their request was still pending.

There were no developments in the case of Mariela Barreto, a military intelligence (SIE) agent whose dismembered and decapitated body was found in March 1997. The Human Rights Ombudsman's office interviewed former SIE agent Luisa Margarita Zanatta Muedas in 1998, but did not uncover additional evidence or take further action on the case since then. President Fujimori promised an exhaustive investigation into the matter in 1998, but neither the Public Ministry nor the police uncovered a motive or identified likely suspects.

In May published photographs appeared to show former Second Lieutenant Ricardo Telmo Hurtado Hurtado presiding at a public function in uniform with the rank of major. Hurtado commanded the army unit responsible for the 1985 Accomarca massacre, in which more than 60 persons were killed, many of them women and children. Although Hurtado admitted executing 25 to 30 peasants whom he believed were terrorists, the court ultimately convicted him only of "abuse of authority" and disobedience and acquitted all the other defendants. In 1993 the Supreme Military Council sentenced him to prison for 7 years for abuse of authority. Available evidence suggests that the army never officially dismissed Hurtado, despite the fact that the Military Code states that any conviction that entails a sentence of 2 or more years' imprisonment must result in the officer's immediate discharge. During the 8 years from the massacre to his final appeal in 1993, the army promoted Hurtado from second lieutenant to captain. Nonetheless, at year's end, the armed forces had not provided coherent answers regarding Hurtado's promotions or his standing in the army beyond maintaining that he was released from prison under the 1995 general amnesty.

Police suspect that vigilante action resulted in at least one killing. For example, in September the tortured and strangled body of Guillermo Coa Mansanilla was found in one of Lima's poorer neighborhoods with a note that read, "This is what happens to rapists" (see Section 1.c.).

Sendero Luminoso terrorists killed 51 persons, including 34 civilians. According to information gathered by the Legal Defense Institute, the MRTA was responsible for nine deaths.

b. *Disappearance*.—There was one report of a disappearance attributed to the security forces. On March 20, the police detained 19-year-old Walter Munarriz Escobar on questionable theft charges, took him into custody, and beat him at the Licay police station in Angaraes, Huancavelica. Munarriz was never seen again. In April the provisional prosecutor brought formal charges against and ordered the detention of National Police captain Roberto Gastiaburu Nakada, Ensin Claudio Gutierrez Valasquez, and Adolfo Angeles Ramos. The prosecutor subsequently charged policemen Gunter Cuaresma Ramos and Percey Salvatierra Laura. By year's end, Gastiaburu and Angeles reportedly remained in reclusion in the San Fermin penal facilities in Huancavelica. Gutierrez Velasquez was under orders to appear in court. A penal court was still considering a counter motion filed by the policemen who accused the magistrate of being partial against them.

In May the Government paid full compensation, as ordered by the Inter-American Court of Human Rights, to the family of Neira Alegria, who disappeared in 1986. At year's end, the Government still had not paid $245,000 in compensation to the family of Ernesto Rafael Castillo Paez, who disappeared after the police forcibly detained him in 1990, despite the Court's 1997 ruling that the Government had violated Castillo Paez's right to life, liberty, and personal integrity. The Court also had ordered the Government to punish those responsible and to return the victim's remains to his family; however, the Government had not done either by year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Constitution and the law prohibit torture and inhuman or humiliating treatment; however, in practice torture and brutal treatment of detainees by the security forces continued to occur. The Human Rights Ombudsman and NGO's believe that torture and the brutal mistreatment of detainees by the security forces continue to be widespread. Torture most often takes place during the period immediately following arrest and in the emergency zones. The incidence of torture is high during police detention in part because families are prohibited from visiting suspects while they are held incommunicado, and attorneys have only limited access to them (see Section 1.d.).

Such abuse is particularly common in police cells operated by the National Counterterrorism Directorate (DINCOTE) and in detention facilities on military bases where terrorism and treason suspects normally are held. Psychological torture and abuse, which result from the harsh conditions in which detainees are held, are more characteristic of the prisons. In emergency zones, which cover about 6 percent

of the country's territory and 5 percent of its population, certain constitutional protections are suspended.

The Human Rights Ombudsman and NGO's reported more than a dozen cases of aggravated torture by security forces.

In February Fabian Astete Fuente filed a complaint against police in the department of Tacna for allegedly detaining and beating him after intervening in an argument Astete was having with his wife. Local authorities dismissed his charges of abuse of authority against the police officers.

On March 5, police in Huamanga, Ayacucho, detained 16-year-old Huber Mendez Barzola while carrying out an antigang operation. Although detained on suspicion of terrorism, the police later charged him with illegal possession of a gun, a metal chain weapon, and belonging to a criminal gang. Mendez alleged that, once in the police station, he was stripped naked, beaten, and sodomized with the metal chain weapon. On March 18, a judge opened an investigation into the alleged torture and ordered the detention of policemen Oscar Italo Flores Montanez and Carlos Palacios Soto. The two officers were charged with committing torture. William Saenz, another police officer, was charged with violating the public trust. In November the court found Palacios Soto and Flores Montanez guilty of torture, sentenced them each to 6 years in prison and fined them about $650 (2,000 soles). William Saenz was sentenced to 4 years in jail and fined about $150 (500 soles). At year's end, the cases were before the Supreme Court for final review.

In March the National Police in Lima arrested and detained Pedro Tinta Vera on charges of aggravated terrorism. In his statement to the Human Rights Ombudsman's office, Tinta said that authorities had held him incommunicado for a month and tried to make him confess. Tinta accused policemen Domingo Arnaldo Gil, Guillermo Osorio, and Ricardo Loli of repeatedly beating him all over his body, hoisting him by his arms bound behind his back, and leaving his broken arm untreated for 10 days. In October the provincial prosecutor formally charged the three policemen with the crime of torture and a judge ordered their arrest. By year's end, the case had not concluded.

In April the parents of 18-year-old Antero Espinoza Alzamora filed a complaint that the police in the department of Piura had detained their son without judicial order and held him on arbitrary charges. The family alleged that police repeatedly beat and otherwise mistreated Espinoza. By year's end, the local prosecutor was still investigating these charges.

In June police in Huamachuco allegedly detained brothers Catalino Daga Ruiz and Bernardo Daga Ruiz on suspicion of robbery. The two men claim that police beat them and then took them to a cemetery and buried both of them up to their necks. The police then allegedly took the men back to the police station where they beat them again. By year's end both men filed a formal complaint of torture and illegal entry, and the case remained in pretrial proceedings.

Investigations and judicial proceedings on charges of torture or abuse of authority against members of the National Police continued in several of the following cases: Jesus Natividad Roman Portocarrero, arrested in Piura in March; Mario Jimenez Roque, arrested in Pasco in April; Julio Armando Uribe, arrested in Moquergua in July; Moises Pacco Mayhua, arrested in Puno in August; and Victor Valle Cabello, detained in Pasco in September.

In December 1998, personnel from the Aguaytia Naval Base, located in the Amazon basin, detained and assaulted Miguel Andahua. After several days, they turned him over to police with a signed confession that he was a terrorist and a medical report attributing his numerous injuries to an automobile accident. In addition to severe beatings and electric shocks, naval personnel allegedly sodomized Andahua repeatedly with a wooden baton. Police released Andahua and absolved him of any terrorist links. A special prosecutor charged several naval officials under the antitorture law. However, the court issued an arrest warrant against Julio Spencer Guido Davalos, on a much lesser charge of committing bodily harm. Notwithstanding the warrant, the Aguaytia Naval Base and naval authorities refused to cooperate with civil authorities and Guido remained at large. In October the Supreme Court ruled that the civil courts had jurisdiction. The authorities arrested Guido, charged him with violating the 1998 antitorture statute, and released him for the duration of the civil proceedings, which were still underway at year's end.

In addition to beatings, common methods of torture and other inhuman or degrading treatment included electric shock, water torture, asphyxiation, and the hanging of victims by a rope attached to hands tied behind the back, and, in the case of female detainees, rape. Common forms of psychological torture included sleep deprivation and death threats against both detainees and their families. Interrogators frequently blindfolded their victims during torture to prevent them from identifying their abusers. The Government did take action during the year to investigate and

prosecute security force personnel charged with torture; however, impunity persisted to some degree. During the year several officers were charged under the 1998 antitorture law. However, of the several sentences handed down under the 1998 torture law, most have been overturned on appeal.

There were continued reports of beatings and mistreatment on army bases of youths who volunteered or were conscripted for military service (see Section 1.f.). For example, 18-year-old recruits Jaime Palacios Sanchez and Elvis Lopez Tuya were caught while trying to escape from Fort Coloma in Tumbes. A group of soldiers allegedly held them naked for 2 days and later beat them; Palacios Sanchez died as a result of the beating (see Section 1.a.).

In April Carlos Yauri began his military service in Tumbes and received a full medical clearance. However, in August an army medical examination indicated that Yauri was suffering from mental illness, even though he had originally been admitted to the base hospital for tuberculosis. Army medical personnel also reportedly failed to note that the recruit had suffered massive blows to the head. With the support of a local NGO, the Huaraz province prosecutor investigated and requested that the military prosecutor expedite an investigation into the case. At year's end, army officials had not acted on this request.

In November 1998, Julio Asencios Vargas, a military recruit serving in an army unit in Huaraz was allegedly beaten with a rifle butt and lost an eardrum. The army conducted an administrative investigation and found Sergeant Robert Figueroa Sarmiento guilty of aggravated assault. The army also provided a financial settlement to the victim.

The police used a water cannon and tear gas to disperse protesters in June (see Section 2.b.).

No progress was made in the case of the 1998 beating and torture of Pablo Waldir Cerron Gonzalez by policeman Elmer Perez Arnao. In October a penal court acquitted a policeman in the 1998 case of torture that led to the death of Lucas Huaman Cruz (see Section 1.a.). In the same month, the Supreme Court began a review of the case. In November the Supreme Court prosecutor filed a motion to nullify the Ayacucho court's decision; at year's end, the Supreme Court had decided to hear arguments on the case.

In the 1997 case of Leonor La Rosa, a military intelligence officer who was beaten and tortured by four of her colleagues (and who now resides in Sweden), the Supreme Council of Military Justice awarded La Rosa approximately $1,500 (5,250 soles) as an indemnity. La Rosa's attorney considered the amount seriously inadequate, since she is a paraplegic as a result of the torture. The Inter-American Court of Human Rights was reviewing La Rosa's case when the Government announced its withdrawal from the Court's jurisdiction (see Section 4). By year's end, it remained unclear whether the Government would comply with the Court's decision.

In response to terrorism in the 1980's and early 1990's, many communities organized self-defense committees. Terrorism is no longer a serious threat in most areas and self-defense committees seek to deter crime. Committees patrol their communities nightly and regularly apprehend criminals in the act. Committee members sometimes administer vigilante justice before turning the suspect over to police.

There continued to be credible reports that Sendero Luminoso was also responsible for acts of torture, including cases that resulted in death (see Section 1.a.).

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

Overcrowding and inadequate infrastructure continued to hamper efforts to improve the living conditions of prison inmates. At Lima's Lurigancho men's prison, the country's largest, more than 6,000 prisoners live in a facility built for 1,500. Inmates have only intermittent access to running water; bathing facilities are inadequate; kitchen facilities are unhygienic; and prisoners sleep in hallways and common areas due to lack of cell space. Illegal drugs are abundant in many prisons,

and tuberculosis and AIDS are reportedly at near-epidemic levels. Detainees held temporarily while awaiting arraignment at Lima's Palace of Justice are not allowed outside for fresh air and have restricted access to bathrooms.

In November the Human Rights Ombudsman published a report on prison conditions and administration, which highlighted many serious shortcomings, including a shortage of trained medical personnel, spotty legal representation for prisoners, and insufficient numbers of social workers. The Ombudsman's staff visited 44 of the country's 86 prisons, which account for 80 percent of the country's total prison population of approximately 28,000 inmates. The Government employs 50 lawyers to service the prison system; since 65 percent of the prisoners have been charged but not convicted, the penal system's legal resources fell far short of demand. The system employs 81 social workers and 84 psychologists, which the Ombudsman judged to be woefully inadequate. Medical staff for the entire penal system consisted of 44 doctors and 80 nurses. In 47 of the 86 prison facilities, there were no health care services; of the remaining facilities, 20 were staffed by doctors and nurses, 18 with only nurses, and 4 with only doctors. The Ombudsman noted that the operating philosophy in the prison system is one of punishment rather than rehabilitation. Roughly half of all prisoners performed some form of work, and only 28 percent participate in some kind of educational activity.

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

There were a number of protests and hunger strikes in various prisons, including the high security prisons at the Callao Naval Station and Yanamayo. In September MRTA prisoners at Callao staged a hunger strike to protest their isolation; the strike lasted 30 days.

The Government permits prison visits by independent human rights monitors, including the ICRC. However, representatives of the Human Rights Ombudsman were not granted access to the military prisons (see Section 4). During the year, the ICRC performed 748 jail visits, interviewed 1,253 inmates, and visited seven prisoners in custody at the maximum security naval base facility in Callao every 2 months.

d. *Arbitrary Arrest, Detention, or Exile*.—Arbitrary arrest and detention remain problems. The Constitution, Criminal Code, and antiterrorist statutes delineate the arrest and detention process. The Constitution requires a written judicial warrant for an arrest unless the perpetrator of a crime is caught in the act. However, the Organic Law of the National Police permits the police to detain a person for any investigative purpose. Although the authorities must arraign arrested persons within 24 hours, they often violate this requirement. In cases of terrorism, drug trafficking, or espionage, arraignment must take place within 30 days. Military authorities must turn over persons they detain to the civilian police within 24 hours; in remote areas of the country this must be accomplished as soon as practicable. However, the military often disregards this requirement.

The Government suspends certain constitutional protections in the emergency zones where, for example, security forces do not need an arrest warrant in order to detain a suspect. Police may detain terrorism and treason suspects for a maximum of 15 days, and hold them incommunicado for the first 10 days. Treason suspects, who are handed over automatically to military jurisdiction, may be held incommunicado for an additional 30 days. The authorities prohibit families from visiting suspects being held incommunicado, and attorneys have access to them only during the preparation and giving of sworn statements to the prosecutor.

By year's end, the Government took action on the recommendations the Human Rights Ombudsman made in 1998 to resolve the cases of an estimated 5,228 individuals still subject to detention orders, many of whom were forced against their will to participate in terrorist activities during the internal conflict or were accused falsely of links with terrorist groups. A group from the special terrorism division of the Superior Court went to Ayacucho and dismissed 179 of the standing arrest warrants. In 1998 the Ombudsman had called on the Government to rescind all out-

standing detention orders that were more than 5 years old and to cancel all orders that did not comply with legal specifications.

The Ombudsman also had asked that the ad hoc Pardons Commission be authorized to evaluate any remaining cases and to recommend that the President revoke those detention orders where insufficient evidence existed that the individuals in question either committed terrorist acts or were associated with terrorist groups. By year's end, 3,225 of the 3,878 persons accused of these crimes have applied for clemency, and 535 have received the Commission's recommendation for pardon. Since 1998 there have been 48 recommendations for new pardons pending before the President. During the year, he pardoned 23 persons convicted of terrorism, bringing the total of terrorism or treason convicts pardoned and released to 481 (see Section 1.e.) Detainees have the right to a prompt judicial determination of the legality of their detention and adjudication of habeas corpus petitions. However, according to human rights attorneys, judges continued to deny most requests for such hearings. In Lima and Callao, detainee petitions for habeas corpus are restricted severely, because under a 1998 executive branch decree issued as part of the war on crime, only 2 judges are able to hear such petitioners, instead of the 40 to 50 in previous years, thereby significantly delaying justice. Judges rarely allow the unconditional release of suspected terrorists, even if there is insufficient evidence to bring a case against them, despite 1993 amendments to antiterrorism laws that gave lower court and superior court judges the power to do so. As a result, accused terrorists sometimes must wait until their cases have been reviewed and dismissed by the Supreme Court before they are freed. This process can last more than a year.

As of November, figures from the National Penitentiary Institute (INPE) showed that 65 percent of a total prison population of 28,081 had been sentenced. Over 50 percent of the prison population remained in Lima; of these prisoners, 74 percent remained unsentenced. In 1998 the Catholic Bishops' Social Action Commission (CEAS) called for implementation of a system that would allow detainees to post bail, so that first-time offenders would not have to wait in jail for their trials. According to the INPE, the elapsed time between arrest and trial in civil, criminal, and terrorism cases averages between 26 and 36 months. Those tried by military courts on treason charges generally do not have to wait more than 40 days for their trial; however, since trial procedures in military courts are largely devoid of due process protections, the speed with which trials are concluded offers little benefit to the defendants involved. Once trials have concluded, prisoners continue to have to wait long periods before receiving copies of their sentences.

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

In November 1997, the authorities charged eight human rights lawyers with terrorism and treason for having defended Sendero Luminoso terrorists in military courts. This group included Sendero Luminoso founder Abimael Guzman's defense attorney Luis Ramon Landaure. The military courts absolved all eight defendants of treason and sent them to be tried for terrorism in the civilian courts. The authorities arrested them in May, but a court acquitted them in September of the terrorism charges.

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

e. *Denial of Fair Public Trial*.—The Constitution provides for an independent judiciary; however, in practice the judiciary is inefficient, subject to corruption, and easily controlled by the executive branch and the private sector. As a result, public confidence in the judiciary remains low. In 1993 the Government created an executive commission of the judicial branch and an executive commission of the Public Ministry for a 5-year period, ostensibly to carry out judicial reform. The commissions consist of individuals the President appointed, and who regularly rule in favor of the Government, compromising the independence of the judicial system. In December 1998, both commissions were extended until December 2000. The judicial reform process has produced some successes, including administrative, technical, and organizational improvements such as computerization of files and improved work areas for judges and magistrates. Reforms also established quicker and less expensive procedures and better salaries for judges. The new Extrajudicial Conciliation Law, which originally was to have made conciliation a mandatory first step in most civil cases by January 2000, is scheduled to make conciliation obligatory beginning January 14, 2001. Before that date, the executive could start the implementation of the law in Lima, Arequipa, and Trujillo.

However, little has been done to restore the judiciary's independence from the executive, and these administrative and procedural improvements have been over-

shadowed by the lack of a fully functioning Constitutional Tribunal; the curtailment of the authority of the National Judiciary Council to investigate, discipline, and remove judges; the continuing large number of provisional judges in the court system; and the transfer of jurisdiction of sensitive cases to courts more inclined to rule in the Government's favor.

Of the country's 1,686 civilian judges, only 20 to 30 percent have permanent appointments and have been selected independently. The remainder, including 21 of the 36 superior judges of the Supreme Court, have provisional or temporary status. Critics charge that, since these judges lack tenure, they are more susceptible to outside pressures. The Government's reliance on untenured, provisional, and temporary judges was demonstrated when the executive commission of the judicial branch created two specialized chambers of the Supreme Court. These chambers, staffed by provisional and temporary judges, assumed control over tax, customs, and narcotics crimes previously under the jurisdiction of the tenured judges of the Lima superior court. This enabled the Government to supervise closely such cases as that of Baruch Ivcher (see Section 2.d.), his family and associates, and of Jaime Mur (a fraud case dismissed in 1998) to ensure decisions favorable to the Government. Critics also point to occasions when judges or prosecutors who ruled against the Government's interests have been transferred and replaced by new judges who immediately overruled the previous decisions (see Section 2.a.).

There is a three-tier court structure that consists of lower and superior courts and a Supreme Court of 33 judges. The Constitutional Tribunal rules on the constitutionality of congressional legislation and government actions; the National Judiciary Council tests, nominates, confirms, evaluates, and disciplines judges and prosecutors; and the Judicial Academy trains judges and prosecutors. The Government has in recent years taken action to limit the independence of the Constitutional Tribunal. By year's end, Congress still had not taken any steps to replace the three judges ousted from the Constitutional Tribunal after they voted against application of a law allowing President Fujimori a third term. This effectively paralyzed the court's ability to rule on any constitutional issues for lack of a quorum (see Section 3).

The justice system generally is based on the Napoleonic Code. In civilian courts criminal cases move through three distinct phases. First, in a lower court a Public Ministry prosecutor investigates cases and submits an opinion to the examining judge, who determines whether there is sufficient evidence to issue an indictment. If there is, the judge conducts all necessary investigations and prepares and delivers a case report to the superior court prosecutor. Second, the superior court prosecutor reviews the lower court decision to determine if formal charges should be brought and renders an advisory opinion to another superior court, where a three-judge panel holds an oral trial. All criminal case convictions in civilian courts must proceed to a third phase, where the Supreme Court hears appeals and confirms or rejects the previous sentences. All defendants have the right to be present at their trial. Defendants also have the right to counsel. However, a public defender system exists in name only; the judicial system often fails to provide indigent defendants with qualified attorneys.

Under the military justice system, judges in the lower courts have the power to sentence and are required to pass judgment within 10 days of a trial's opening. Defendants may then appeal their sentences to the Superior Military Council, which has 10 days to make its decision. A final appeal may be made to the Supreme Council of Military Justice, which must issue its ruling within 5 days. At the superior military council and supreme council levels, a significant number of judges are active-duty line officers with little or no professional legal training.

Human rights groups and legal experts strongly criticize the power of the military courts to try civilians in cases of treason or aggravated terrorism and the powerlessness of the civilian judicial system to review military court decisions. In 1997 Gustavo Adolfo Cesti Hurtado, an insurance broker who had retired from military service 13 years earlier, was arrested, prosecuted, convicted, and sentenced to prison by the military justice system in a complicated case involving, in part, alleged insurance fraud in a military purchase of helicopters. When a civilian court approved a habeas corpus petition and ordered the military court to release Cesti, the military jurisdiction not only refused to do so but also charged the civilian judges with usurpation of power and sought to have them reassigned. The case was brought before the Inter-American Court of Human Rights, which rejected a government motion to dismiss it, and ruled in September that the Government had violated the American Convention on Human Rights and ordered that the habeas corpus petition be honored and that the reparations stage be initiated in order to compensate the victim. In November the authorities released Cesti from military prison; however, at year's

end, Cesti's legal status remained unresolved, pending a request from the Government to the Inter-American Court for further clarification of its ruling.

In 1998 President Fujimori issued a series of decrees that classified acts of extreme violence such as criminal gang activity, homicide, kidnaping, and the use of explosives as aggravated terrorism, to be tried automatically by the military courts in accelerated proceedings with possible maximum penalties of life imprisonment. The Government also created the National Intelligence Directorate for Social Peace and Safety, which increased further the anticrime role of the National Intelligence Service.

While simple terrorism cases are tried in civilian courts, cases of aggravated terrorism and treason are tried only before military courts. Human rights groups and legal experts also charge that the vaguely worded definitions of certain crimes in the antiterrorism statutes often lead military judges to issue sentences disproportionate to the crimes committed. Moreover, defendants in treason cases who are found not guilty by a military court may be remanded to a civilian court for a second trial on terrorism charges based on the same facts. In December the Congress passed legislation which classified cases of aggravated terrorism as "special terrorism" and assigned jurisdiction over such crimes to the civilian courts. Additionally, in the case of American citizen Lori Berenson, who was tried by a military tribunal without due process rights that would have been afforded her in a civilian court, the Prime Minister indicated in a December 14 television interview that the Government had not foreclosed the possibility of a civilian trial if it were warranted by previously unconsidered evidence.

Proceedings in these military courts—and those for terrorism in civilian courts—do not meet internationally accepted standards of openness, fairness, and due process. Military courts hold treason trials in secret, although such secrecy is not legally required. Defense attorneys in treason trials are not permitted adequate access to the files containing the State's evidence against their clients, nor are they allowed to question police or military witnesses either before or during the trial. Some military judges have sentenced defendants without even having notified their lawyers that the trials had begun. Since 1992 military courts tried 1,897 persons charged with treason or aggravated terrorism. Of these cases, the courts handed down 409 life sentences, imposed 1,032 sentences between 10 and 35 years in prison, remitted 408 cases to civilian courts for trial on terrorism charges, and absolved 48 persons. Since May 1998, the military courts tried 283 civilians for violent crime classified under a 1998 law as aggravated terrorism. Of these, the courts imposed 66 life sentences, remitted 62 cases to civilian courts, and absolved 20 persons; the remainder received sentences from 6 to 25 years in prison.

In July the military captured Sendero Luminoso leader Oscar Ramirez Durand (also known as "Feliciano") and tried him in secrecy in August at the Callao Naval Prison on charges of aggravated terrorism. On November 18, the court sentenced him to life in prison.

The Constitutional Tribunal remains unable to rule on the constitutionality of legislation and government actions for lack of a quorum, since the 1997 impeachment and conviction of three justices who voted against the application of a law that allowed President Fujimori to run for a third term in office. The Government ignored an IACHR recommendation that the three justices be reinstated. The case is pending before the Inter-American Court of Human Rights, although the Government's unilateral withdrawal from the Court's "contentious jurisdiction" (i.e., when a member government accepts its rulings as mandatory) raises questions as to whether it would comply with an adverse ruling.

The National Judiciary Council (NJC), established by the 1993 Constitution has lost many of its original functions. A March 1998 law transferred the power to investigate and dismiss Supreme Court judges and prosecutors from the formerly independent NJC to the executive commissions of the judicial branch and the Public Ministry, respectively, both of which are controlled by strong allies of President Fujimori. Critics point to this action as a further example of executive branch control of the judiciary. A September 1998 law partially restored the NJC's powers, while leaving the Public Ministry in charge of determining whom the NJC could investigate. In June the President of the NJC resigned over differences with his colleagues after he argued for a more active NJC role. His resignation also protested the Government's unilateral withdrawal from the Inter-American Court's contentious jurisdiction.

The NJC also has the power to nominate new judges and magistrates. However, it is unable to fulfill this mandate until the first class graduates from the new National Judicial Academy in July 2000. The Academy continued its in-service training program for judges and magistrates, which consists of a few hours of classes each week during the first year, and practical training during the second. The Academy's

training program, originally scheduled to last 6 months but later extended to 2 years, was strongly criticized as further prolonging reliance on provisional and temporary officials.

On June 1, the Inter-American Court of Human Rights ruled against the Government in the case of four Chileans who were convicted of treason by a military tribunal and sentenced to life in prison. The Court found that the military had denied the defendants' due process provided for under the American Convention on Human Rights. The Court ruled that a civilian court should have had jurisdiction; that military authorities held the suspects too long in pretrial detention; and that defense attorneys lacked access to witnesses and evidence and did not have sufficient time to review the case. The Court directed the Government to provide the four with new, civilian trials.

Immediately following the Court's decision, the executive branch announced that it would not comply with the ruling and made clear its intention not to hold new trials for the Chilean defendants. Subsequently, the Supreme Court delegated to the Supreme Military Council the final decision regarding enforcement of the Court's decision. The Council ruled that it could not grant the Chileans new civilian trials because laws passed after signing the Convention required military trials in cases of treason and aggravated terrorism. President Fujimori and his Cabinet promptly endorsed the Council's decision not to comply with the Court decision. Despite protests from the opposition and the legal and human rights communities in July, the Congress passed a law that called for the Government's immediate withdrawal from the Court's contentious jurisdiction.

On September 28, the Court ruled that the Government could not withdraw immediately from the Court's contentious jurisdiction, and stated that it would continue to process pending cases. The Government responded that it considered itself outside the Court's contentious jurisdiction. Public and official statements by government officials raised questions regarding the extent to which the Government would comply with pending and future Inter-American Court decisions. This decision effectively restricted citizens' constitutional rights to seek redress in the hemisphere's preeminent international tribunal.

In the civilian jurisdiction, a specialized terrorism division of the Superior Court began trying cases in 1998. The division is based in Lima, but its judges travel to the provinces as needed. During the year, judges from this court traveled to Ayacucho to hear the cases of 158 individuals with old warrants outstanding for terrorism charges. Of these, judges found 24 persons innocent and ordered the suspension of all 158 warrants. In December 21 additional individuals with old warrants were also found innocent by this specialized Superior Court, bringing the total to 179 warrants dismissed. Human rights NGO's and the Human Rights Ombudsman noted that this action addressed the concerns of those who considered themselves innocent but feared coming forward for an abbreviated and unfair trial. However, over 5,000 warrants still remain in effect.

In 1996 Congress established the ad hoc Pardons Commission, which consisted of the Human Rights Ombudsman as chairman, the Minister of Justice, and President Fujimori's representative, Father Hubert Lanssiers. The Commission's mandate was to consider applications of those who believed themselves to be unjustly accused of terrorism or treason. At year's end, 3,056 of a total of 3,878 persons accused of these crimes had applied for clemency, and 535 had received the Commission's recommendation for pardon. The Commission terminated its activities on December 31; on December 15 the President signed a law assigning the Commission's functions to the Justice Ministry's National Human Rights Council.

Of the 48 recommendations for new pardons that have been pending before President Fujimori since 1998, 11 received pardons in December. During the year, he pardoned 7 detainees, bringing the total of terrorism or treason convicts pardoned and released to 481. Of this total, military courts had convicted 23 persons of terrorism; civilian courts convicted the remaining 458. Human rights organizations independently brought the cases of prisoners they believed to have been charged wrongly with terrorism or treason to the courts. The courts declared innocent and freed some 414 prisoners, bringing the total of all prisoners incarcerated and either pardoned or exonerated to 2,295.

In May the Human Rights Ombudsman recommended legislation for monetary compensation of innocent persons released through the Pardon Commission's program. At year's end, the Congressional Committee on Justice was evaluating this proposal but had not issued its recommendations.

There were no reports of political prisoners. Sendero Luminoso and MRTA members charged with terrorism are not considered to be political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution requires security forces to have a written judicial warrant to enter a

private dwelling; however, this requirement is suspended in the emergency zones, where security forces routinely conduct searches without warrants.

The Human Rights Ombudsman and human rights NGO's continued to receive complaints about incidents of forced conscription of young men, including minors, by security forces as part of the constitutionally mandated system of compulsory 2-year military service, although the number declined from last year. There continued to be reports of beatings, mistreatment, and severe injury leading in some cases to murder or suicide (see Section 1.a. and 1.b.). In a country where well-placed contacts and even bribes were used by middle-class families in order to avoid military service, forced conscription tended to target uneducated youth in remote areas. Although the Ombudsman repeatedly has raised the issue with the military authorities, they continue to deny that forced conscription is an official policy. The Human Rights Ombudsman established a nationwide, toll-free telephone line for use by any citizen who may have been recruited forcibly or wished to report such an incident. Despite November 1998 legislation reiterating the prohibition against forced recruitment, there were 106 cases of forced conscription reported during 1999. Of these 106 cases, 75 percent resulted from the military's improper application of conscription laws to young men who presented themselves voluntarily for military service and should not have been assigned to military units because they had either not completed high school or were not yet 18-year-olds. Roughly 25 percent of the complaints received involved allegations of forced conscription, which occurred principally in Ayacucho and Huancayo. The Ombudsman intervened in 95 percent of such cases.

In September President Fujimori signed a law that makes military service voluntary and prohibits the practice of forced conscription, although registration remains obligatory. Among other provisions, the law limits the training period to 30 days and forgives penalties against those who have not complied with the mandatory service. Under certain circumstances the President may decree the reestablishment of mandatory service. These provisions of the law go into effect in January 2000. The Office of the Human Rights Ombudsman plans to monitor implementation to ensure that the military adheres to the law, since past efforts to prohibit forced conscription did not prevent it.

The Constitution provides citizens with the right to private communication, but the media, politicians, some government officials, and private individuals continued to report that the Government violated this right. In April 1998, representatives of the Ombudsman's Office traveled abroad to interview former military intelligence agent Luisa Margarita Zanatta Muedas, who had fled the country in 1998, after allegedly providing information regarding SIE wiretapping operations. They recommended that President Fujimori pardon Zanatta; that the Public Ministry investigate the wiretapping; and that Congress broaden the investigation conducted by its committee on defense. By year's end, the Government had not acted on these recommendations.

In November the IACHR heard the wiretapping case filed by opposition Congresswoman Anel Townsend and 13 journalists. They charged that the Government had violated their constitutional right to privacy and sought civil damages. The Constitutional Tribunal dismissed the charges in 1998. Having exhausted their domestic resources, the journalists took their case to the IACHR. By year's end, the IACHR had not yet reported on the matter. The Congressional Committee on Defense, Intelligence, and Internal Order, chaired by one of President Fujimori's loyalists, conducted a summary investigation of the charges. The investigation not only exonerated the intelligence services and security forces, but concluded that the aggrieved journalists had wiretapped themselves and recommended that they be charged with having fabricated and disseminated false information that tainted the honor of the military.

Opposition politicians reported credible incidents of wiretapping and surveillance. Although high-level government officials denied government involvement in any of these incidents, there was little effort to investigate the allegations. On December 5, opposition presidential candidate Luis Castaneda Lossio called a press conference to describe his capture and detention of David Pinedo Torres, whom he alleged had admitting being a SIN agent under orders to conduct surveillance of Castaneda. However, Pinedo denied Castaneda's account and charged that Castaneda had kidnaped him and interfered with Pinedo's performance of his official duties as a policeman.

Reports of forced conscription by the MRTA (most of whose surviving members are jailed) and the greatly weakened Sendero Luminoso terrorist groups diminished significantly. However, Sendero Luminoso continued to coerce indigenous people to join its ranks (see Section 5).

In August the Human Rights Ombudsman updated its 1998 report on forced or coerced sterilization of women in public hospitals and family planning clinics. Alle-

gations first arose in October 1997 that a number of health workers in public hospitals and family planning clinics had induced female patients to opt for sterilization by promising them food or another type of good or service or by not providing them with complete information about available alternatives. The Ombudsman recommended that all clients of family planning programs be provided with complete information about all the alternatives available to them, that no client be pressured into using any particular contraceptive method, and that if sterilization were chosen, the patient be afforded a 72-hour waiting period during which to consider that option, prior to a final decision. The Ministry of Health accepted the Ombudsman's report and already has implemented many of his recommendations. Since only 10,000 men have been sterilized under the Ministry of Health's family planning program, compared with 130,000 women, the Ombudsman recommended that the Ministry integrate men fully into its family planning program, thereby disseminating reproductive and contraceptive information more equitably across gender boundaries. During the year, the Ombudsman's office received 23 additional complaints of abuses committed by family planning personal, raising the overall total to 177 between June 1997 and December 1999. The Ombudsman's office continues to investigate these cases.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, in practice, the Government inhibits the full exercise of these freedoms. The broadcast media and portions of the print media continued to practice a great degree of self-censorship in order to avoid provoking government retribution. Many in the press regard the Fujimori administration's harassment of the media as a key tactic for winning the President's reelection in April 2000.

While the press represents a wide spectrum of opinion, ranging from left-leaning opposition views to those favoring the Government, the 1997 loss by television owner Baruch Ivcher of his station, the 1998 dismissal of antigovernment journalist Cesar Hildebrandt, and the 1999 closing of the financially stricken opposition daily tabloid Referendum demonstrate the limits of press freedom.

In the greater Lima area alone, there are 22 daily newspapers, 9 television stations, 65 radio stations, and 3 news channels on 2 commercial cable systems. The Government owns one daily newspaper, one television network, and two radio stations, none of which has a particularly large audience.

International press groups and the Organization of American States (OAS) reported press harassment and accused the Government's intelligence services of being responsible for some of it. In a statement issued on October 12, OAS Special Rapporteur for Freedom of Expression Santiago Canton discussed these accusations, criticized the use of judicial proceedings to harass journalists, and cited cases of death threats aimed at journalists. In January Freedom House classified Peru as "not free" in terms of press freedom, and ranked Peru as the worst country in Latin America for press freedom apart from Cuba. The Committee to Protect Journalists named President Fujimori one of the world's "Top Ten Enemies of the Press."

Tensions continued during the year between the Government and the segment of the media that was very critical of certain government policies and actions, and whose investigative reporting has generated wide public criticism of alleged government wrongdoing. Government intelligence agents allegedly continued to orchestrate a campaign of spurious attacks by the tabloid press against the political opposition and independent journalists and newspapers. The six tabloids that carried such attacks had almost identical headlines and text, and the text also appeared on the Internet, making it appear as though a single entity were orchestrating the entire campaign of intimidation and defamation. In October a group of journalists and other workers from the yellow press tabloid "El Chato" resigned from the jobs alleging they had not received their salaries. In addition, they claimed that the paper's owner, Rafael Documet, had received payments of $6,000 per day over the last 10 months from Augusto Bresani, a public relations advisor who allegedly works for the government, to print headlines critical of opposition candidates and government critics. Among others, targets of the tabloid press include journalists Gustavo Mohme, Angel Paez, and Fernando Rospigliosi. Many investigative reporters admit that they or their editors held back stories critical of the Government to avoid the risk of retaliation. In addition, investigative reporters and their families were targets of telephoned death threats and other harassment.

According to the NGO Transparencia, the Government spent $62.6 million on advertising, making it the country's largest advertiser by a large margin. The Ministry of the Presidency spent $24.5 million on advertising, or 31 percent of the total. Of the total amount, 75 percent of the funds were spent on television ads. Most television stations are heavily in debt, and low economic growth greatly reduced rev-

enue from advertising purchased by commercial clients. The resulting economic dependence leaves them susceptible to government pressure. Most media observers agree that the broadcast media (with the prominent exception of one cable news channel), on which most citizens rely for news, refrained from any critical reporting on the Government during the year.

According to several credible NGO's, television stations slanted their views and coverage in favor of President Fujimori at the expense of other presidential pre-candidates. One opposition candidate claimed that three private television stations refused to broadcast one of his paid political advertisements.

Television station representatives subsequently replied that their station do not have a policy against selling television airtime to opposition candidates, but they cannot be expected to displace prime time programming to run 5- to 10-minute political advertisements. Opposition party representatives then claimed that private television stations refused to run even 30-second advertisements. The Government's electoral law does not explicitly regulate political advertising on privately owned television stations (see Section 3).

In December 1998, the privately owned Channel 13 canceled the public affairs program of antigovernment journalist Cesar Hildebrandt, and in August dropped its nightly newscast, which also had been frequently critical of the Government. In May journalist Nicholas Lucar resigned from Channel 4's popular Sunday public affairs program (Revista Dominical) after the station broadcast an interview with National Intelligence Service adviser Vladimiro Montesinos in which, according to Lucar, Montesinos dictated the questions and retaped his own answers. Channel 4 then canceled the program entirely. In related cases, Channel 13 reporter Rosana Cueva broadcast a tape of purported conversations in which Montesinos told Channel 4 executive Jose Francisco Crousillat how to report favorably on the Government. In both cases, journalists claimed that the Government had pressured the stations to slant their coverage, although the station owners denied it.

The opposition press alleged that the Government used financial pressure to force the opposition tabloid Referendum out of business on October 2 (Referendum's principal editors worked for Baruch Ivcher at Channel 2). According to the newspaper's editors, SUNAT, the tax authority, demanded that Referendum stop publishing in exchange for rescheduling the tax debt of its parent company. Referendum closed the day before it was to publish an article alleging the existence of a SIN plan to murder human rights lawyer Heriberto Benitez, and while it was investigating other stories critical of the Government. In November journalist Cesar Hildebrant began publishing the staunch antigovernment daily newspaper Liberacion.

The campaign against Baruch Ivcher and his former Channel 2 employees also continued, although the Government reissued Ivcher a passport and the Prime Minister identified Ivcher as a Peruvian citizen in October. In June a judge sentenced former Channel 2 station manager Julio Sotelo to 4 years in prison for having signed a document transferring shares of the station from Ivcher to his daughters. In an April press conference, Ivcher presented supposedly secret documents from 1997 showing that the SIN and the SIE had planned harassment against the press. The daily newspaper La Republica later printed the text of the documents.

In April an organization calling itself the Association in Defense of Truth (APRODEV) launched an Internet web site that posts the tabloids' articles and additional dubious information about independent journalists and opposition figures. APRODEV's representative in Peru is Hector Ricardo Faisal, an Argentine citizen, and former military officer. In May 1998, the Argentine Government asked the Government to extradite Faisal, but the Supreme Court rejected the extradition request in June 1998. Journalists brought a case against APRODEV, claiming that its web site was libelous and asking the court to force APRODEV to close it. The judges initially assigned to the case issued preliminary rulings in favor of this request, but then were removed from the case. When a new judge was appointed to handle the case, he reversed the initial decisions and ruled that the APRODEV site was not libelous because it simply reprinted information authored and published by other sources. The journalists filed and lost an appeal of this ruling.

Independent press associations also alleged that journalists were subjected to harassment, including death threats. On August 25, several journalists, along with opposition Congresswoman Anel Townsend, formed an association called Prense Libre (Free Press) to promote freedom of expression. Within 2 weeks of the association's founding, the Supreme Military Tribunal brought a case against it for allegedly using false documents to support a story on SIE actions to gather information on potential opposition presidential candidates. In November the Public Ministry opened an investigation of Prensa Libre journalist Guillermo Gonzales for his role in Prensa Libre's activities. Public Ministry officials questioned him but did not formally charge Gonzales or his colleagues. Also in November, the IACHR issued a

statement cautioning the Government from further actions against journalists. By year's end, this case remained open, and the possibility of arrest and formal charges served as an implied threat against journalistic integrity.

According to the National Journalists Association (ANP) and the Institute of Journalism and Society's journalist protection system (La Red), there were many cases of media harassment in the provinces by government institutions (the National Police and the military), and by local political and commercial organizations. The ANP reported 127 cases of harassment in during the year—of these, 64 percent were in the provinces, 76 percent were violent, and 54 percent were directed at radio stations. In the same period, La Red received 101 reports of harassment, 98 of them from the provinces, where journalists have less support and visibility than in Lima. A total of 64 percent of the threats were against radio reporters, reflecting the influence of provincial radio stations.

Most of these incidents took the form of threats of violence, judicial proceedings, and charges of defamation, and came from local police, military officials, politicians, and businessmen. The incidents resulted in fines against journalists or media outlets, or in rulings to stop publishing or broadcasting. In one case, a judge sentenced the news director of Huancayo radio station Radio Senorial to 2 years' probation and forbade him from working as a journalist for 2 years for defamation after reporting the results of an audit that revealed management irregularities by two Huancayo city officials. In another case, a reporter for La Republica in the city of Jaen received death threats in September for having investigated and revealed the identity of a previously unknown member of the Colina group who participated in the 1997 La Cantuta murders of eight college students.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the authorities generally respect this right in practice, except in the designated emergency zones where it is suspended. The law does not require a permit to organize a public demonstration, but the organizers have to inform the political authority (Prefecto) about the kind of demonstration and where the demonstration will take place. Permission may be denied only for reasons of public safety or health. Municipal authorities usually granted permission for demonstrations in all nonemergency zones.

There were five major protests over the year, but only three were conducted nationally. On April 28, over 3,000 protesters representing labor unions, student organizations, and opposition political parties demonstrated against Congress's removal of three Constitutional Tribunal judges (see Section 3). Over 100 police were deployed; they used a powerful water cannon and tear gas to disperse the marchers. The police briefly detained an undetermined number of protesters who were throwing rocks and attempting to destroy private property.

In July labor groups and social groups held demonstrations in downtown Lima and in other major cities to protest various Government policies as well as President Fujimori's eligibility to seek reelection to a third term. Police were deployed but no violent confrontations or arrests were reported.

In December a group of about 2,000 students, labor representatives, and opposition party members marched in protest of President Fujimori's official announcement that he would seek a third term in office. Labor union organizers reported that progovernment groups shouted insults and threw objects at protesters who were facing off with riot police. Photographs of antigovernment protesters displayed them wielding large sticks, which protest organizers claimed they had taken up in self-defense in a standoff with riot police. Some pushing and shoving occurred, but the police commander's order to retreat prevented a larger confrontation. Protesters reportedly attempted, but failed, to gain access to a Government building.

In 1998 the Human Rights Ombudsman, acting in response to violent confrontations between protesters and the National Police, began a dialog between protest groups and police on basic rules of conduct. Monitors from the Ombudsman's office served as official observers to ensure adherence to these rules by police and protesters alike. The Ombudsman's office reported that these measures have reduced significantly tensions and the level of arbitrary arrests, while diminishing the risk of damage to public and private property. According to the Ombudsman, with some exceptions, groups were able to express their opinions publicly, while the National Police maintained order in a lawful manner.

The Constitution provides for freedom of association, and the authorities generally respect this right in practice.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice. Although the Constitution establishes the separation of church and state, it also acknowledges the Catholic Church as "an important element in the historical, cultural, and moral develop-

ment" of the nation. The preferential status accorded to Roman Catholicism in public life can be seen in the special treatment and tangible benefits the Church receives from the State, including remuneration to certain clergy and church personnel, and tax exemptions on clergy salaries and real estate holdings. Teaching about Roman Catholicism in primary and secondary schools is mandatory. Conversion to other religions is permitted, and missionaries are allowed to enter the country and proselytize.

This preferential treatment continued throughout the year. In September Congress passed legislation that required the military to hire only Catholic clergy and made Catholicism the only recognized religion of military personnel. Prior to 1977, religious courses in public and private primary and secondary schools were interdenominational. Since 1977 public primary and secondary schools have offered only teaching about Catholicism, although some non-Catholic private schools provided non-Catholic religion courses.

In April 1998, the Government issued an executive order that established basic Catholic religion courses for all public and private primary school students. Traditionally, school authorities appointed religious education teachers upon individual recommendations by the presiding bishop of the local diocese. In November the Education Ministry issued a directive to implement a September 1998 decree which made it mandatory for religion teachers to have the approval of the presiding bishop.

Although teaching about Roman Catholicism has not been required in the public school system since the education reforms of the 1970's, most schools devoted 1 hour a week to such study. School authorities appoint religious education teachers, upon individual recommendations by the presiding bishop of the local diocese. Parents who do not wish their children to participate in the prescribed religion classes must submit a written request for an exemption to the school principal. Non-Catholics who wish their children to receive a religious education in their own particular faith are usually free to organize such classes, during the weekly hour allotted by the school for religious education, but must supply their own teacher. The Freedom of Conscience Institute (PROLIBCO), a recently established NGO that favors the strict separation of church and state and opposes the preferential treatment accorded to the Catholic religion, opposes the requirement for Catholic teaching in the school curriculum and claims that the alternatives made available to non-Catholic parents violate the constitutional protection of the privacy and confidentiality of one's convictions and beliefs.

PROLIBCO and other religious groups have challenged mandatory teaching of Roman Catholicism, and their case is pending before the Constitutional Tribunal. The case alleges that the mandatory catechism requirement violates the rights of non-Catholic students to practice their personal religious convictions. They also have challenged the practice in which parents must ask school directors for permission to excuse their children from mandatory religion courses and then pay for their own teacher during the 1 hour per week of religious study. Apart from its pending court case, PROLIBCO has alleged discrimination against non-Catholic groups who must pay import duties and a sales tax on Bibles brought into the country.

Sendero Luminoso rejects religion and in the past has threatened and intimidated religious workers.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of free movement; however, this right is suspended in the emergency zones, which cover about 6 percent of the country's territory and where the security forces may detain travelers at any time. The military generally does not hinder travel in these zones; however, military commanders often limited the freedom of human rights monitors to investigate abuses in the emergency zones (see Section 4). Passengers on public transportation and drivers in private vehicles may be checked at control points throughout the country.

Although there are no political or legal constraints on foreign travel or emigration, the authorities legally can restrict persons with pending criminal and, in some cases, civil charges against them from leaving the country. Repatriates, both voluntary and involuntary, are not treated differently from other citizens.

The Constitution prohibits the revocation of citizenship. However, according to the Nationality Law of January 1996 naturalized Peruvians can lose their citizenship for, among other reasons, committing crimes against the State, national defense, and public security, as well as for reasons that "affect the public interest and the national interest." Critics believe that it was the Nationality Law that provided the Government with the legal basis for its 1997 invalidation of the citizenship through naturalization of Israeli-born Baruch Ivcher, who consequently lost control of his property, including the Channel 2 television station which had aired stories of government abuse (see Section 2.a.). However, the Government claimed that its deci-

sion was based upon irregularities in Ivcher's original naturalization petition 13 years earlier. Although the Government issued Ivcher a new Peruvian passport in October, private legal proceedings continued against him, his family, and former associates.

Sendero Luminoso occasionally interrupts the free movement of persons by setting up roadblocks in sections of the Upper Huallaga Valley.

Political violence in the 1980's and early 1990's resulted in the internal displacement of hundreds of thousands of persons from their original homes, and massive rural-to-urban migration. Most families migrated to Lima or to one of several other department capitals. This movement created problems which, for the most part, remain unsolved, despite the Government's and NGO's continued efforts to address them. The government-sponsored Program for the Repopulation and Development of Emergency Zones (PAR) estimates the total number of displaced persons at approximately 600,000; an NGO coalition estimates the total at approximately 450,000. Apart from the rural-to-urban migration, there was substantial rural-to-rural migration. At the same time, persons whose homes were destroyed and whose lives were disrupted resisted the encroachment of terrorist groups by forming civilian self-defense committees and thereby managed to remain in their home communities.

There is also a large population of indigenous Ashaninkas in the central jungle region who face a terrorist threat. In addition, oil exploration companies have in the past encroached upon their lands without consulting them (see Section 5).

With the decrease in terrorist violence since 1995, many displaced persons began to return to their rural homes. The PAR, which provides a number of basic services to accelerate returnee self-sufficiency, has assisted 18,000 persons to return and estimates that another 300,000 have returned on their own. NGO's differ on the total number of returnees and estimate generally that less than 100,000 have returned to their communities of origin. However, NGO's and the PAR agree that only 15 to 20 percent of returnees leave after resettling in their original communities, due to dissatisfaction with the arrangements that awaited them in their home communities. An even higher percentage of returnees have yet to reestablish themselves permanently and instead travel back and forth between their original and their displacement homes.

The PAR tends to concentrate on infrastructure development in the communities to which displaced persons are destined to return, building roads, bridges, utility lines, schools, health centers, and the like. The PAR also provides returnees with an initial supply of agricultural tools, seeds, food, medicines, blankets, and kitchen utensils. The NGO's, on the other hand, focus on the training of the returnees in self-advocacy and on the development of vocational skills. The PAR provides no direct financial assistance to those displaced persons who chose not to return to their original communities.

According to the Ministry for the Promotion of Women and Human Development (PROMUDEH), since 1995 the PAR has supported the return of over 19,000 persons to repopulate 210 localities in the departments of Ayacucho, Huancavelica, and Junin. Since 1995 the Government has invested almost $5.5 million to build 1,913 classrooms; $1.3 million on health facilities; $3.8 million on sanitation; $6.6 million to build 12,000 residences; and $2.6 million on local community facilities. The Government also spent $900,000 on programs to educate and train women participating in the repopulation programs and provided 947 job training courses. Additionally, to provide documentation to displaced persons, the Government registered 764,907 persons since 1997, spending roughly $7.3 million on its Registry of Provisional Identity Program.

A special problem related to the displaced persons is the lack of basic documentation, such as birth certificates and voter registration cards. The many displaced persons who lack birth certificates or other basic documentation to establish their identity and place of origin can register with a special office within the PAR. This office in turn provides applicants with documentation that can be used both to request PAR assistance to return to their communities of origin and to apply for a national identity card. The Government conducted a national registration drive throughout the country to provide displaced individuals with identity documents and to register them to vote in the April 2000 national elections.

Another unresolved problem is the question of the legal status of the approximately 5,000 displaced persons who also fall into the category of "requisitoriados"—persons who were forced to join terrorist groups or were falsely accused of associating with such groups and continue to have outstanding detention orders issued against them (see Sections 1.d. and 1.e.). Although there are insufficient judicial resources to deal with the caseload and many persons continue to have outstanding detention orders issued against them, the Government began to address this problem. During the year, a specialized terrorism division of the Superior Court heard

the cases of 158 individuals in Cusco, found 24 innocent, and ordered the suspension of all 158 warrants. In December the court found innocent an additional 21 persons, bringing the total of dismissed warrants to 179. Most of these individuals speak only Quechua, a fact that increases their vulnerability and reduces even further their capacity for economic and social integration into urban areas.

Sendero Luminoso continued to coerce indigenous people to join its ranks during the year, which resulted in further internal displacement (see Section 5).

The law includes provision for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees in granting asylum and refugee status and recognizes the Catholic Migration Commission as the official provider of technical assistance to refugees and applicants for asylum. The Commission also advises citizens who fear persecution at home and seek asylum abroad. The Government recognized 7 persons as new refugees: 5 Colombians, 1 Cuban, and 1 Bulgarian; there were a total of 758 refugees in the country. Refugees are allowed to live and work without restrictions and can apply for naturalization. The status of refugees is reviewed annually.

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

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

The Constitution provides for the right of citizens to change their government, although the law bars groups that advocate the violent overthrow of the Government from participating in the political process. Voting is by secret ballot and mandatory for all citizens between the ages of 18 and 70. However, members of the armed forces and the police, as well as felons, are ineligible to vote.

The controversy over President Fujimori's eligibility to seek reelection continued throughout the year. The undermining of the Constitutional Tribunal by congressional action was particularly significant in setting the stage for Fujimori's run for a third term. As many as 1.4 million signatures were gathered in a petition drive for a referendum on whether or not the law permitting Fujimori to run for a third consecutive term should be repealed. However, the National Elections Board (JNE) ruled that according to a 1996 law, the referendum could be held only if 48 members of Congress favored it, thereby reversing its earlier decision permitting the signature drive to proceed without congressional approval. In August 1998, the referendum effectively was killed when only 45 members voted for it. Thus the right to a referendum, which is established in the Constitution, was abrogated by JNE and legislative action with no opportunity for judicial review.

The Constitution stipulates that the President can be elected to a term of 5 years, and that he or she may be reelected for one additional successive term. On December 27, President Fujimori announced his candidacy for a third term in 2000; on December 31, the JNE dismissed on technical grounds 18 objections by opposition figures, political parties, and other civic groups who argued that a third term would be unconstitutional. In December the Human Rights Ombudsman stated publicly that the JNE's decision did not correspond to constitutional law, but because the Constitution vested the JNE with the final decision on electoral matters, citizens had to respect the JNE's decision as representing the final legal recourse.

In accordance with the 1993 Constitution, President Fujimori ran for a second 5-year term in 1995 and was reelected over 12 other candidates, receiving 65 percent of the vote. Voters also elected the 120 members of the unicameral Congress under a proportional representation system; at year's end 72 seats were held by members of Fujimori's Cambio 90/Nueva Mayoria with allied political movements, and the remaining 48 members representing 11 parties. Under the 1997 Elections Law, each of the participating political parties must prepare a list of ranked candidates from which the 120 members of the unicameral legislature are elected by direct ballot.

Challenges to the constitutionality of a third successive term rested largely on a series of controversial actions taken by the executive controlled Congress. In 1996 the congressional majority, addressing the constitutional provision limiting presidents to no more than two consecutive terms in office, passed a law (The Law of Authentic Interpretation) interpreting President Fujimori's 1995 victory as his first under the new Constitution, thereby opening the way for him to run for a third consecutive term in 2000. The Administration and Congress' attempt to permit Fujimori to seek a third term created a constitutional crisis. In 1997 Congress voted to remove three members of the Constitutional Tribunal who voted against the application of the Law of Authentic Interpretation to Fujimori, and the Tribunal effectively ceased to function, unable to rule on any constitutional issues for lack of a quorum (see Section 1.e.). The three members of the Constitutional Tribunal filed

a complaint with the IACHR, which the Commission found admissible. In 1998 the Commission called on the Government to reinstate the three judges on the Tribunal and formally gave the Government 60 days in which to comply with its recommendations.

Several legal actions undertaken by certain courts and by Congress affected the candidacies and campaigns of potential presidential contenders. On August 6, Congress passed a law prohibiting candidacies for certain offices such as president or congress of anyone who had served in high office and had been charged with a crime against the State. In effect this law presumes the guilt of anyone charged but not convicted of a crime and removes the right to compete for office.

In 1997 Congress appointed a subcommittee to investigate infiltration by the intelligence service of the voter registration agency, incompetence in contract administration, and massive embezzlement of funds. When the subcommittee produced a critical report in 1998, the Director of the National Voter Registration Bureau and a number of his senior staff fled the country. There were no reports of SIN infiltration of electoral institutions during the year.

There were numerous allegations of government-linked harassment of potential opposition presidential candidates in August and September. On August 25, members of the Prensa Libre presented documents purporting to show involvement by the SIN in a press campaign defaming presidential candidates Alberto Andrade and Luis Castaneda (see Section 2.a.). The Director of Military Intelligence (DINTE) requested that the Military Supreme Council initiate an investigation, and the Council concluded that the journalists' documents had misrepresented material facts. The prosecutor also concluded that the journalists were responsible for crimes against the public and ordered the JNE and the Public Ministry to investigate the journalists on these charges. At year's end, the Public Ministry's investigation remained open.

Lima Mayor and Somos Peru ("We are Peru") party leader Alberto Andrade filed a complaint in August against six local daily tabloid newspapers on the grounds that they had conducted for several months a systematic defamation campaign against him. Andrade requested a judicial investigation. The courts remanded the case to the Public Ministry and ordered the district prosecutor's office to proceed with an investigation. However, the owners of the six dailies petitioned the Superior Public Law Court and won an injunction blocking the investigation. The court further prohibited Andrade's attorney from continuing any legal action.

In December SUNAT, the national tax collection agency, reportedly conducted an audit of pre-presidential candidate Andrade's Lima-based business; government spokesmen asserted that the audit was routine.

On December 5, Solidarity National Party leader Luis Castaneda Lossio announced a "citizens arrest" of a National Police member who was allegedly surveilling him and his family on behalf of the SIN. Castaneda turned the man over to police and filed a harassment charge. Denying the policeman was an intelligence agent surveilling the presidential candidate, the National Police filed a formal complaint against Castaneda for kidnapping and interference with the policeman's official duties. Both sides subsequently dropped their formal complaints.

On December 13, Prensa Libre published documents purporting to show that an alleged SIN agent, Corina Manyari, had infiltrated Castaneda Lossio's National Solidarity Party to spy on his campaign. Manyari told reporters she had joined Castaneda Lossio's campaign in 1999 as the head of youth activities and had left in September after being sexually harassed by a party director. On December 14, President Fujimori told the press that the government would oppose any infiltration of opposition parties, and he pledged to investigate allegations of these types of activities. By year's end, the Government had not indicated whether it would undertake an investigation.

Opposition members claimed difficulties in buying airtime from privately owned television stations. According to Transparencia, television stations slanted their views and coverage in favor of President Fujimori at the expense of other pre-presidential candidates. One opposition candidate claimed that three private television stations refused to broadcast one of his paid political advertisements. The electoral law does not regulate political advertising on privately owned television stations (see Section 2.a.).

In December a seven-member delegation from the National Democratic Institute for International Affairs and the Carter Center reported "serious flaws" in the country's preelectoral environment. The delegation observed that political parties and candidates continued to actively organize, although the opposition parties continued to emphasize their participation was not an acceptance of the process as fair or legitimate, especially regarding the constitutionality of President Fujimori's reelection bid. The mission found that credible nonpartisan domestic election observations

were underway. It identified as problems the constitutional interpretation regarding standing for reelection; violations of press freedoms; use of state resources for electoral advantage; and declining public confidence in the electoral process. The delegation also called on the Government to return to the Inter-American Court and to fill the vacancies on the Constitutional Tribunal.

The Constitution establishes three bodies to administer elections: the National Board of Elections; the Office of Electoral Processes (ONPE); and the National Registry of Identification and Civil Affairs (RENIEC). The JNE sets the legal parameters and rules on election-related disputes and challenges. The ONPE administers the elections, and the RENIEC issues election identity documents.

Women and some minorities participate actively in government and politics, although they are underrepresented. There are 13 women in the 120-seat Congress. One of 15 cabinet ministers and several vice ministers are women, as are 3 of the 33 judges of the Supreme Court. The 1998 municipal elections were held under a new law that mandated that all party candidate lists for congressional and municipal elections include at least 25 percent of each sex. Under these guidelines, women were elected to 24 percent of municipal offices, up from 8 percent in 1998. In conjunction with the 2000 election campaign, four women's organizations undertook nationwide programs to identify female candidates and promote women's interests, increase the number of female voters, prepare a woman's political agenda, and train women who were elected to office.

Citizens of Asian descent hold numerous leadership positions in government; President Fujimori is of Japanese descent and a recent president of the Council of Ministers was of Chinese descent. Several members of Congress have mixed ancestry, and a recent Vice President was a Quechua speaker, as was a recent Minister of Transportation and Communications. However, it is rare for indigenous people, who make up more than one-third of the population, to reach the highest leadership ranks in the public sector. The Afro-Peruvian minority, unofficially estimated at 3 to 5 percent of the total population, is not represented at all in the leadership of any branch of the Government.

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

In general, the Government permitted numerous NGO's dedicated to monitoring and advancing human rights to operate freely. The ICRC is usually able to visit prisoners, including those held for terrorism-related offenses at the maximum security Naval Prison at Callao.

Military commanders often did not grant access to local and international human rights monitors to investigate abuses in the emergency zones and on military bases. Early in the year, officials from the Ombudsman's office were not granted access to the Sixth Region military compound.

Government, military, judicial, and police officials, as well as some members of Congress, publicly accused NGO's and the IACHR of being overprotective of criminals and terrorists to the detriment of their victims. There was one report of Government surveillance of an NGO's office. Dialog between the NGO human rights community and civilian authorities improved slightly, although communication between the human rights community (both official and nongovernmental) and the military ranged from strained to nonexistent.

Most human rights NGO's are independent, thorough, and generally objective. The National Coordinator for Human Rights (Coordinadora), established in 1985, provides an umbrella organization for 60 human rights NGO's. The Coordinadora does not politicize its positions on human rights issues, although its constituent members may do so in their own names. A number of other human rights groups associated with the Catholic Church or with government institutions operate on the fringes of the Coordinadora.

The Office of the Human Rights Ombudsman, created in 1993 and headed by Jorge Santistevan de Noriega, continues to grow steadily in stature and reputation and opened two additional decentralized offices in Iquitos and Huancayo. It receives funds from the Government and foreign governments and is considered one of the most independent and effective forces in the country for bringing citizens justice. The Ombudsman enjoys investigative independence and the ability to inform the public of his conclusions and recommendations. However, he has no enforcement mechanism other than moral suasion. The Ombudsman's achievements include: Reports and recommendations for strengthening democracy and the rule of law; the work of the Pardons Commission, which he chaired (see Section 1.e.); recommendations regarding alleged abuses in the Government's family planning program (see Section 1.f.); the influence on Congress to enact legislative protection for women against discrimination (see Section 5); a legal analysis of the country's obligations

under, and the benefits of the Inter-American Court system; a study of the military recruitment system and recommendations for a voluntary military; and a study on decentralization of administrative and political power.

The Human Rights Ombudsman has a legal mandate to supervise prison facilities defined as "penitentiary centers." However, Ombudsman representatives continued to have problems in gaining access to the military prison in Callao. In September Ombudsman officials requested access to this prison to investigate a hunger strike. Although the military authorities did not reject the request explicitly, they referred the issue to military officials in Lima. By the time the strike had ended, authorities had not acted on the request. However, officials did permit several unscheduled ICRC visits to the Callao facility during the hunger strike. In July Ombudsman officials visited Socabaya prison in Arequipa in response to a prisoner strike. The Minister of Justice subsequently criticized the Ombudsman's office for taking what he believed was an antigovernment stance.

Following its 1998 visit, the IACHR fact-finding mission delivered its conclusions and recommendations to the Government. Although the Government welcomed the Commission's recognition of action taken, such as the creation of the Human Rights Ombudsman's office and the abolition of faceless judges, it rejected the Commission's criticism and recommendations for change. In particular, the Commission had called on the Government to restore the power of the Constitutional Tribunal to rule on constitutional issues by reinstating the three dismissed justices. Following several months of commission-government discussions, the Government announced that it would not comply with this recommendation. The Commission forwarded the case to the Inter-American Court on Human Rights.

On July 8, the Government announced its decision to withdraw from the contentious jurisdiction of the Inter-American Court of Human Rights after that Court determined that the Government had failed to provide due process in the case of four Chileans convicted of treason by a military tribunal (see Section 1.e.).

There were no reports of Sendero Luminoso hampering the work of human rights monitors.

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

The Constitution provides for equal rights for all citizens, and specifically prohibits discrimination based on ethnic origin, race, sex, language, religion, opinion, or economic condition. Nevertheless, discrimination against women, the disabled, indigenous people, and racial and ethnic minorities continued, although progress is being made in a number of areas.

Women.—Violence against women, including rape, spousal abuse, and sexual, physical, and mental abuse of women and girls, continued to be a chronic problem. Such abuses are aggravated by insensitivity on the part of law enforcement and judicial authorities toward the female victims of abuse. The National Institute of Statistics estimated in October that 37 percent of adult women living in Lima and Callao are abused annually. One NGO estimates that there are 25,000 annual cases of physical and mental abuse against women. In 1998 Lima's Police Station for Women received 3,089 complaints of domestic violence; in 1999 it expected to receive as many as 5,000 complaints. Nationwide in 1998 there were 27,935 complaints of domestic abuse (77 percent for violence and 23 percent for psychological abuse). Human rights organizations continue to believe that a large number of domestic violence cases remain unreported. Moreover, although official figures for the number of arrests and convictions in abuse cases are unavailable, NGO sources contend that even the vast majority of reported cases do not result in formal charges due to fear of retaliation from the accused spouse, or because of the cost involved in pursuing a complaint.

Legislation addressed the problem of domestic violence in 1993, and 1997 changes in a law simplified the procedures for reporting cases of domestic violence, made the process less expensive, and broadened the judicial remedies available. The 1997 law gave judges and prosecutors the authority to prevent the convicted spouse or parent from returning to the family's home. The law also expanded the number of persons authorized to file complaints of domestic violence to include the victims' relatives and unrelated persons living in the home. Whereas previously victims of domestic violence had to have a specialist in legal medicine certify their injuries, and had to pay for the report, the new law eliminated the required fee and stipulated that the report may be prepared by any health professional.

In March PROMUDEH created the Women's Emergency Program to call attention to the legal, psychological, and medical problems facing women and children who were victims of violence. The program received approximately 8,600 cases between March and November.

According to the Human Rights Ombudsman's office, many women continued to complain that police officers react indifferently to charges of domestic violence, even though the new law clearly requires all police stations to receive such complaints. In 1998 the Ministry of Women's Advancement and Human Development, with NGO assistance, initiated a national program to educate police about domestic violence and to train officers in all police stations in processing domestic violence cases. The Ministry also opened facilities, staffed entirely by women, that bring together in one place representatives of all government institutions—police, prosecutors, counselors, and public welfare agents—to which abused women might have recourse.

According to the Human Rights Ombudsman, many rape victims continue to complain that court-appointed medical examiners inappropriately delved into their past sexual histories. They also accused judges of looking more favorably on rape victims who were virgins prior to the rape and of believing that a woman who was raped must have enticed her attacker. In 1997 Congress repealed a statute whereby convicted rapists could be absolved of their crime if they married their victim.

In May Congress responded to an appeal from the Human Rights Ombudsman and amended the Criminal Code to provide greater protection to victims of sexual violence. The Ombudsman sought elimination of the provision in the code that affords rapists and other sexual predators the opportunity to avoid prosecution if they reach a private settlement with their victims. In addition, the Ombudsman favored rescinding the provision that specifies that, in cases of sexual abuse of victims over 14 years of age, only victims themselves may file a complaint. Many victims are afraid of personally filing a complaint of sexual abuse, particularly in cases where the perpetrators are police officers.

In August the Human Rights Ombudsman published an updated report on forced or coerced sterilization of women in public hospitals and family planning clinics, and the Government took action on some of its recommendations during the year (see Section 1.f.).

The Constitution provides for equality between men and women, and the 1995 amendments to the Employment Promotion Law, as well as other laws relative to marriage, divorce, and property rights, prohibit discrimination against women. In 1997 Congress prohibited racial and sexual discrimination in employment advertisements or announcements of educational training opportunities. Legislation in 1997 also repealed the old disqualification of unmarried or childless individuals for judgeships in the family courts. This legislation was intended to broaden employment opportunities for single women. In 1998 Congress stripped health-care professionals in police hospitals of their police rank and accorded them civilian status only. Since over 80 percent of such professionals are women, the Human Rights Ombudsman challenged the constitutionality of the new law and its implementing regulations, on grounds of discrimination. The Superior Court of Lima ruled against the Ombudsman, who then appealed the case to the Supreme Court, which had not reached a decision at year's end. In October the Congress passed legislation protecting pregnant women against arbitrary firing.

Traditional assumptions and misconceptions often impede access by women to leadership roles in both the public and private sectors. Because of societal prejudice and discrimination, women historically have suffered disproportionately from the country's pervasive poverty and unemployment. "Mibanco," a program supported by the Government and a consortium of NGO's, represents an effort to improve women's ability to generate income through providing credit to small businesses started by enterprising women. More than 60 percent of its clients are women. As of September, Mibanco's loan portfolio represented $13.3 million (approximately 46.5 million soles), with a total of 37,600 clients being served through 17 branches.

Children.—The Government provides free, compulsory education through secondary school. However, roughly 6 percent of children between the ages of 6 and 12, and 17 percent of adolescents between the ages of 12 and 17, either never have attended school or have abandoned their education. Among children and adolescents who live in poverty or extreme poverty, the corresponding figures are 16 percent and 43 percent, respectively. School nonattendance is highest in rural and jungle areas and affects girls more than boys. In 1998 Congress amended the Child and Adolescent Code to provide pregnant school-age girls with the right to begin or continue attending school, which reversed the previous policy at some schools.

The Children's Bureau of the Ministry of Women's Advancement and Human Development coordinates child- and adolescent-related policies and programs throughout the Government. In the nongovernmental sector, the National Initiative on the Rights of the Child is the largest NGO of its kind and coordinates the work of 27 groups concerned with the problems of children across the nation.

At the grassroots level, 1,010 Children's Rights and Welfare Protection Offices receive and resolve complaints ranging from physical and sexual abuse to child support, abandonment, and undetermined guardianship. Provincial or district governments operate some 55 percent of these offices, while schools, churches, and NGO's run the remaining 45 percent. Law students staff most of the units; only the offices in the wealthiest districts of the country have professionally trained lawyers, psychologists, and social workers. When these offices cannot resolve cases, officials typically refer them to the local prosecutors' offices of the Public Ministry. During 1997 these offices received a total of 41,077 complaints. Of this total, 15,962 concerned lack of child support and 8,288 involved violence against children. In December 1998, Congress enacted new legislation stipulating that settlements adjudicated by these offices are binding legally and have the same force as judgments entered by a court of law.

Violence against children and the sexual abuse of children continued to be serious problems. It is estimated that only 10 to 20 percent of mistreatment and abuse are reported, since many persons believe that such problems belong within the family and should be resolved privately. Nonetheless, in Lima alone, at least 400 rapes of minors are reported annually. In 1996 there were 219,000 orphans in the country, of whom 25,000 were orphaned for reasons related to political violence. There were continuing reports of beatings and other mistreatment of adolescents on army bases, in connection with the conscription of youths for military service (see Section 1.f.).

According to the 1993 Census, 69.6 percent of children 6 to 17 years old lived in poverty. Of these, roughly half live in rural areas. Of all children and adolescents under 17 years of age, 20 percent live in extreme poverty. In 1996 the infant mortality rate was 43 per 1,000. However, this figure masks wide regional disparities: 30 per 1,000 in urban areas, compared with 62 per 1,000 in rural areas. Twenty-six percent of children under age 5, and 48 percent of children ages 6 to 9, suffered from chronic malnutrition. In those homes where the mother has a low level of education, as many as 50 percent of the children suffer from chronic malnutrition and 114 per 1,000 die from preventable causes before they reach age 5.

Street crime committed by children and adolescents is extremely high, including robbery, physical assault, and vandalism, often carried out by gangs. According to a 1998 congressional commission study that investigated the causes of crime, such gangs carry out 75 percent of all acts of vandalism, 29 percent of assaults, and 23 percent of robberies. The majority of these crimes are committed under the influence of drugs and alcohol, and their underlying causes are unemployment, nonattendance at school, and difficult family relationships.

In 1998 the Government enacted a series of measures to reduce street crime, including prosecuting 16- to 18-year-old criminal gang members in military courts and sentencing those convicted to no less than 25 years in adult prisons. Human rights groups concerned with the protection and welfare of children and adolescents called on the Government to repeal such measures.

As many as 1.2 million children work to help support their families. Of this total, some 500,000 are under the age of 14, while 700,000 are between the ages of 15 and 17 (see Section 6.d.).

Although laws exist that prohibit sexual abuse of minors and police enforced such laws, there continued to be reports that minors and young adults work in the sex trade.

People with Disabilities.—The Constitution provides that severely disabled persons have "the right to have their dignity respected and to be provided by law with protection, care, rehabilitation, and security." In 1998 new comprehensive legislation established the National Council for the Integration of People with Disabilities and specified the rights, allowances, programs, and services that should be provided for the disabled. The statute prohibits discrimination, mandates that public spaces be barrier-free and that buildings be architecturally accessible, and provides for the appointment of a specialist in disability rights in the office of the Human Rights Ombudsman. Nevertheless, in practice, the Government devotes little attention and resources to the disabled, and they remain economically and socially marginalized.

The Government does not allocate sufficient funds to make genuine integration of the disabled into the economy actually possible. According to the National Coordinator of the Association of Disabled People, the Government allocated approximately $250,000 (1 million soles) to integrate the disabled into the economy. Although the new legislation prohibits discrimination in the workplace, it is vague regarding the source of funds to pay for the human assistance, technological support, and environmental adaptations that often are necessary to enable disabled workers to be productive. As a result, disabled individuals and the private agencies serving them generally must rely on public charity and on funding from international organizations.

The 1993 census counted 288,526 disabled persons, or 1.3 percent of the population; however, the Ministry of Health and the Pan American Health Organization believe that the vast majority of disabled persons either do not wish to acknowledge their disability to census takers or do not know what constitutes a disability, and that the actual number of disabled persons could be as high as 3 million, or 13.8 percent of the population. The Government, in conjunction with the country's hospitals, plans to implement a national register of disabled persons; however, it had not yet done so by year's end.

Since the privatization of the social security and national health insurance systems, it has been difficult for many disabled persons to obtain coverage because insurance carriers typically believe that a severe disability necessarily increases a person's vulnerability to accidents and illnesses.

Although construction regulations have long mandated barrier-free access by persons with physical disabilities to public service buildings, no effort has been made to implement this provision. Nor do accommodations exist, such as accessible polling stations, interpreters for the deaf in government service offices, and Braille or recorded versions of the Constitution, which would permit the disabled to participate in the basic processes of democracy and citizenship.

According to officials of the Institute for Social Security, less than 1 percent of severely disabled citizens actually work. Among those who do, many have been channeled into a restricted number of occupations traditionally assumed to be "suitable" for the disabled, such as telephone switchboard operation and massage, in the case of the blind. Some private companies have initiated programs to hire and train the disabled, and a private foundation provides small loans to the disabled for the purpose of starting their own businesses. Nevertheless, in general, disabled persons continued to face discrimination by potential employers. For example, the basic statute governing the policies and procedures of the judicial branch specifically prohibits the blind from serving as judges or prosecutors, a discriminatory provision that the National Judiciary Council has interpreted to apply to all persons with disabilities. In 1998, SEDAPAL, Lima's water utility, dismissed all its blind switchboard operators, ostensibly as part of a nondiscriminatory, across-the-board cost-cutting measure. However, the chief advocate for the disabled in Congress reported that all the blind operators immediately were replaced by younger, sighted recruits. The disabled only recently have begun to organize and demand equal rights and opportunities as a minority.

Indigenous People.—The Constitution prohibits discrimination based on race and provides for the right of all citizens to speak their native language. Nevertheless, the large indigenous population still faces pervasive discrimination and social prejudice. Many factors impede the ability of indigenous people to participate in, and facilitate their deliberate exclusion from, decision-making directly affecting their lands, culture, traditions, and the allocation of natural resources. According to indigenous rights groups, the provisions in the 1993 Constitution and in subsequent implementing legislation regarding the treatment of native lands are less explicit about their inalienability and unmarketability than were earlier constitutional and statutory protections. Pervasive discrimination and social prejudice intensify feelings of inferiority and second-class citizenship. Many indigenous people lack such basic documents as a birth certificate or a voter's registration card that normally would identify them as full citizens and enable them to play an active part in society.

Peruvians of Indian descent who live in the Andean highlands speak Aymara and Quechua, which are recognized as official languages. They are also ethnically distinct from the diverse indigenous groups that live on the eastern side of the Andes and in the tropical lowlands adjacent to the Amazon basin. A 1998 regulation stipulating that all school teachers must have a professional teaching certification initially caused fears that uncertified indigenous teachers would lose their jobs, and that the continued use of Aymara and Quechua as languages of instruction, as well as the very survival of indigenous cultures, had been put in jeopardy; however, due to the unwillingness of many certified teachers to work in rural areas, uncertified Aymara- and Quechua-speaking teachers continue on the job.

The native population of the Peruvian Amazon, which the Government estimates at a little under 200,000 and organizations representing the native communities estimate at between 200,000 and 300,000, faces pervasive discrimination and social prejudice. In accordance with local culture and traditions, most of the native communities have a spiritual relationship with their land, and the concept of land as a marketable commodity is alien to them. Nevertheless, according to the Director of the Human Rights Ombudsman's Native Communities Program, the only right still statutorily set aside for this native population with respect to its land is that of "unassignability," which prevents the title to such lands from being reassigned

to some nonindigenous tenant, simply because that tenant happens to have lived on those lands for a substantial amount of time. On the other hand, the marketing and outright sale of the lands are no longer prohibited.

Many other factors also contribute to the marginalization of indigenous people in society. Poor transportation and communications infrastructure in the highlands and in the Amazon jungle region makes political mobilization and organization difficult. The geographic isolation of much of the indigenous population and the centralization of government action in Lima further limit the access and participation of indigenous people in society.

In many jungle areas, encroachment on native lands comes from a variety of sources—colonists and coca growers in search of livelihood and profit, terrorists in search of new bases of operation, and business interests in search of exploitable natural resources. For example, there are approximately 25 oil exploration fields and numerous gold mining operations on indigenous lands in the Amazon region. The 45,000 Aguaruna and the 5,000 Huambisa people, who inhabit the frontier area where the 1995 Peru-Ecuador border conflict took place, are just 2 of many indigenous groups that complain about intolerable living conditions and inaccessible public services. In the same region, along the Pastaza River, the 4,700 Achuar people live in 36 communities, only 12 of which have title to their land. In addition, the Achuar are fighting what they fear may be a losing battle against an incursion by oil exploration and drilling interests, as well as against a government-sponsored influx of colonists. Title to land does not include mineral or other subsoil rights; this condition leads to conflicts between mining interests and indigenous communities. Such encroachment often can damage the environment and negatively affect the health of the native people. About 20 indigenous groups in the Amazon Basin have requested communal reserves to hunt wild game, which is allowed under the law, but the Government has not approved this request.

The two principal NGO's that represent the interests of the native population of the Peruvian Amazon are the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDESEP) and the Confederation of Amazonian Nationalities of Peru (CONAP). Both organizations joined the Permanent Conference of Indigenous Peoples, an umbrella body designed to coordinate the activities and unify the voice of the country's indigenous population. Both AIDESEP and CONAP are critical of the 1995 land law, which permits Amazonian land to be bought and sold if no one is living on it or otherwise making use of it. However, CONAP believes that mining and other development operations are inevitable and, therefore, wants native communities to share appropriately the benefits of that development. AIDESEP remains opposed to territorial encroachments by government, commercial, and other interests.

Although indigenous rights advocates protest the low priority assigned by the Government to the socioeconomic condition of indigenous people and the lack of consultation regarding matters affecting their welfare, the Human Rights Ombudsman believes that the Government's attitude has changed. The Government's Indigenous Affairs Commission, formed in November 1998, is working to fulfill its mandate to coordinate all available state services to meet the needs of indigenous people better. The Commission, which is chaired by the Ministry of Women's Advancement and Human Development, has among its members officials from a variety of relevant ministries as well as four representatives of the Indian peasant population in the highland and coastal areas and the native population of the Amazon jungle. While Congress created its own Indigenous Affairs Committee in May, it had not yet begun to function as of year's end.

Sendero Luminoso continued to be a leading violator of the rights of indigenous people. Isolated primarily along the Ene River in Junin department, Sendero Luminoso continued to coerce indigenous Ashaninkas to join its ranks. This practice resulted in further internal displacement in this region.

National/Racial/Ethnic Minorities.—The population includes several racial minorities, the largest of which are persons of Asian and African descent. Afro-Peruvians, who tend to be concentrated along the coast, often face discrimination and social prejudice, and they are among the poorest groups in the country.

Afro-Peruvians generally do not hold leadership positions in government, business, or the military. Both the navy and the air force are widely believed to follow unstated policies that exclude blacks from the officer corps. The law prohibits employment advertisements in the newspapers from specifying the color of the candidates sought, but employers often find discreet ways to relegate blacks to low-paying service jobs.

In 1998 Congress passed legislation that prohibits various forms of discrimination by retail establishments against prospective customers. The law passed due to strong support from the Commission on Consumer Protection of the National Insti-

tute for the Defense of Free Market Competition and the Protection of Intellectual Property (INDECOPI), whose order to nightclubs not to exclude black patrons had been overturned by a district court. However, the new legislation has not deterred significantly discriminatory practices.

According to two organizations specializing in the rights of persons of African descent, police continue to detain persons of African descent on suspicion of having committed crimes, on the basis of their skin color. Similarly, police rarely act on complaints of crimes against Afro-Peruvians. Afro-Peruvians are portrayed unflatteringly by the entertainment industry as individuals of questionable character.

Although Peruvians of Asian descent historically have suffered discrimination, their social standing has improved markedly during the past decade, as the country has sought to emulate Asia's earlier economic growth and as the Asian community achieved financial success. Besides President Fujimori, who is of Japanese descent, many other Peruvians of Asian descent hold leadership positions in business and government.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and the law provide for the right of association, but worker rights advocates claim that provisions are overly restrictive. About 5 percent of the total work force of 8.5 million belong to organized labor unions. More than half of all workers participate in the informal sector of the economy. Workers are not required to seek authorization prior to forming a trade union, nor can employers legally condition employment on union membership or nonmembership. However, groups including the International Confederation of Free Trade Unions (ICFTU) continue to assert that laws promulgated by the Fujimori administration in 1992, as well as provisions included in the 1993 Constitution, fail to protect the rights of workers to form unions. Labor rights advocates claim that many workers are reluctant to organize due to fear of dismissal.

Unions represent a cross section of political opinion. Although some unions traditionally have been associated with political groups, the law prohibits unions from engaging in explicitly political, religious, or profit-making activities. The several union leaders who ran unsuccessfully for Congress in 1995 all did so in their own names, without official union sponsorship. Nevertheless, it is believed that some union activists who run for public office receive unofficial backing from their unions.

In 1995 and 1996, Congress passed legislation amending the 1992 Employment Promotion Law, which all the main union confederations publicly criticized for restricting the rights of workers, including the freedom to bargain collectively. Unions also complained that the new legislation eliminated the right of dismissed workers to compulsory reinstatement, if it was proven that they had been dismissed unjustly. In practice, the legislation continued to have a negative impact on the right of association by making it easier for companies to fire workers involved in union activities.

On April 28, the Peruvian General Workers' Union (CGTP) and other labor groups called a general strike throughout the country. According to press accounts, the strike drew support from some 400,000 public transport drivers and workers from other sectors. This included some civil service workers, health providers, and construction workers, as well as support from a broad range of religious and social organizations and opposition politicians. The strike reportedly paralyzed commercial and other activities in the country's largest cities. It culminated in protest marches around the country, including a large gathering of up to 20,000 persons in downtown Lima. The Government responded by posting a heavy police presence throughout the country to maintain order.

Confrontations in Lima between protesters and police occurred in several different instances, in some cases reportedly provoked by protesters who burned tires, threw rocks, and tried to destroy public and private property. The office of the Human Rights Ombudsman reported that 75 individuals were arrested following sporadic incidents of violence, and only 7 were held for over 2 days. The Ombudsman's office also reported one episode in which police used tear gas to break up a group of protesters in route to downtown Lima who had done nothing provocative.

In June medical workers undertook a 2-day strike to protest low wages and working conditions after negotiations between their union and the Ministry of Health broke down.

There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the ICFTU, the international trade secretariats, and regional bodies.

b. *The Right to Organize and Bargain Collectively.*—The Constitution recognizes the right of public and private sector workers to organize and bargain collectively. However, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations promulgated prior to adoption of the 1993 Constitution provide that workers may form unions on the basis of their occupation, employer affiliation, or geographic territory. The regulations prohibit temporary, probationary, apprentice, and management employees from union membership.

According to the regulations, union officials must be active members of their union, but the number of individuals each union may designate as "official" is limited, as is the amount of time officials may devote to union business on company time. No legal provisions exist requiring employers to reinstate workers who are found to have been fired unjustly for union activities.

To become an official collective bargaining representative, a union must represent at least 20 workers. Representatives may participate in collective bargaining negotiations and establish negotiating timetables. Management negotiating teams cannot exceed the size of union teams, and both sides are permitted to have attorneys and technical experts present as advisers.

Proposals for a strike require secret ballot approval of a majority of all workers in a company, whether union members or not. A second vote must be taken, if petitioned by at least 20 percent of the workers. However, labor rights advocates complain that many temporary workers are reluctant to participate even in secret ballots, due to fear of employer retaliation. The labor movement continued to criticize provisions in the new amendments to the Employment Promotion Law, which make it easier for employers to dismiss employees and thereby to impede the right of workers to bargain collectively. However, there are no legal restrictions preventing unions from negotiating for higher levels of worker protection than the baseline standards provided for by law.

Labor regulations permit companies unilaterally to propose temporary changes in work schedules, conditions, and wages, and to suspend collective bargaining agreements for up to 90 days, if obliged to do so by worsening economic circumstances or other unexpected negative developments, provided they give their employees at least 15 days' notice of such changes. However, worker rights advocates allege that, in practice, few employers respected this provision. If workers reject an employer's proposed changes, the Ministry of Labor is required to resolve the dispute based on criteria of "reasonableness" and "economic necessity." Whether the changes proposed by employers in such instances are upheld in full or in part, employers are required to adopt all possible measures, such as the authorization of extra vacation time, in order to minimize the negative economic impact on their employees.

Although a conciliation and arbitration system exists to resolve management and labor disputes, union officials complain that their proportionate share of the costs of arbitration often exceeds their resources. In addition, union officials claim that, as the law prohibits temporary workers from participating in union organizing elections, more and more companies have resorted to hiring workers on temporary, personal services contracts as a means of preventing increases in union strength. Although the new legislation restricts the number of temporary workers hired to 20 percent of a company's work force, worker rights advocates alleged that this quota rarely was respected. Employers denied that they are biased against unions, arguing that the labor stability provisions of the legislation have made long-term commitments to workers too expensive.

Special regulations aimed at giving employers in export processing and duty free zones a freer hand in the application of the new legislation provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand. As a result, workers in such zones have difficulty in unionizing, although worker rights advocates admit these zones are few in number and do not contribute substantively to labor's unionizing difficulties.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor. There were no reports during the year of this practice in remote Andean mountain and Amazonian jungle regions. The Constitution does not prohibit specifically forced or bonded labor by children. There were occasional allegations of such labor in the informal gold mines of Madre de Dios department in recent years. However, information obtained during the year indicates that the practice is no longer a problem.

In response to a 1994 complaint filed with the International Labor Organization (ILO), the Government acknowledged that forced labor existed and adopted measures to address the problem. The Government had not policed this practice adequately, partly because of inadequate funding for what was regarded as a low priority, and partly because of the geographical remoteness of the informal gold mining region. NGO's and other labor observers in Lima and Madre de Dios believe that

the recruitment system known as "enganche" ceased. This system was practiced over the last several years in the early 1990's in Puno, Juliaca, Sicuani, and Cuzco, and provided free transportation to the mines. Workers were allegedly required to work for at least 90 days before being paid.

In general, gold mining workers lack proper medical care, are forced to work long hours for as little as $2.50 (12 soles) plus meals for a 12-hour day. Some employers hold their workers' pay for long periods of time, although there were no reports during the year of workers being deprived of their pay altogether. There were reports of beatings and rapes in some mining camps. The mine owners have failed in the past to comply with the legal provisions that apply to juvenile workers.

In 1999 the Ministry of Energy and Mines reported for a second consecutive year that the number of registered dredging companies fell, while informal operations continued. NGO sources and the ILO report that mechanization largely has replaced manual labor, and in 1999 the Ministry of Labor inspection programs helped deter illegal child labor in this region. The ILO and NGO's agree that child labor remained a problem nationwide and especially in the informal sector, but there were no reports of forced child labor during the year. Available information suggests that other forms of forced labor were not a problem during the year.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Child and Adolescent Code of 1992 governs child and adolescent labor practices. The legal minimum age for employment is 14. However, children between the ages of 12 and 14 may work in certain jobs to help support their families if they obtain special permission from the Ministry of Labor and certify that they are also attending school. In certain sectors of the economy, higher minimums are in force: 14 in agricultural work; 15 in industrial, commercial, or mining work; and 16 in the fishing industry. Certain types of employment are prohibited, such as work underground; work that involves the lifting and carrying of heavy weights; work where the child or adolescent is responsible for the safety of others; night work; or any work that jeopardizes the health of children and adolescents, puts at risk their physical, mental, and emotional development, or prevents their regular attendance at school.

The Constitution provides for compulsory, free education through secondary school. Nevertheless, largely because of widespread poverty, approximately one-third of all school age children and adolescents work during daytime hours rather than attend classes, and only a few of them attend classes at night.

Many children are pressed to help support their families from a very early age by working in the informal economy, which escapes government supervision of wages and working conditions. Other children and adolescents work either in formally established enterprises, or as unpaid workers at home, or in the sex trade (see Section 5).

Adolescent workers must be authorized to work and must be registered unless they are employed as domestic workers or as unpaid family workers. Adolescents only may work a certain number of hours each day: 4 hours for ages 12 through 14, and 6 hours for ages 15 through 17. Adolescent employment must be remunerated in accordance with the principle of equal pay for equal work. In practice, the stipulations and prohibitions stated in the Child and Adolescent Code are violated routinely, especially in the informal sector where government standards very rarely are enforced. Child and adolescent laborers work long hours in the agricultural sector. Many other children are reportedly employed in dangerous occupations or in high-risk environments, such as gold mining, garbage collection, loading and unloading produce in markets, and brick making, or work in stone quarries and fireworks factories, among others.

In recent years, government surveys variously have estimated the number of child and adolescent workers at anywhere from 500,000 to 1.9 million. A 1996 government study found that 8 percent of the work force is between the ages of 6 and 14 (see Section 5). Child and adolescent labor tends to be seasonal, with the highest survey statistics being reported during school vacation periods. The Constitution does not prohibit specifically forced or bonded labor by children, although there are laws which prohibit this practice.

e. *Acceptable Conditions of Work.*—The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal."

In 1997 the Government raised the statutory minimum wage to $104 (345 soles) a month, which is not considered sufficient to provide a decent standard of living for a worker and family. That year the Government estimated the poverty line to be about $45 (157 soles) a month per person. According to some estimates, as much as half the work force earns the minimum wage or below.

The Constitution also provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. In addition, it prohibits discrimination in the workplace.

While occupational health and safety standards exist, the Government lacks the resources to monitor firms or enforce compliance. Labor advocates continued to argue that the Government dedicated insufficient resources to enforce existing legislation. However, the Ministry of Labor employs a force of 100 inspectors to carry out ongoing unannounced visits throughout the country. When firms are found to be in violation of the law, the Government sanctions them with fines or, in some case, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually is determined by agreement between the employer and the individual involved. In 1992 the Government introduced reforms that eliminated the need to prove an employer's culpability in order to obtain compensation for work-related injuries. No provisions exist in law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment. The Ministry of Labor continued to receive worker complaints and intervened in hundreds of cases.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. In November the Government adopted legislation that criminalized alien smuggling, which is defined as promoting, executing, or assisting in the illegal entry or exit of persons from the country. Prostitution is legal, but the law prohibits and sanctions activities of those who would obtain benefits from prostitution, such as pimping. Laws prohibiting kidnaping, sexual abuse of minors, and illegal employment are enforced and could be used to sanction traffickers in persons. Available information suggests that illegal trafficking in persons in, to, or from the country is not a significant problem.

SAINT KITTS AND NEVIS

Saint Kitts and Nevis is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The Constitution provides the smaller island of Nevis considerable self-government, as well as the right to secede from the Federation in accordance with certain enumerated procedures. The Government comprises a prime minister, a cabinet, and a bicameral legislative assembly. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. After national elections in June 1995, Dr. Denzil Douglas of the St. Kitts and Nevis Labour Party became Prime Minister and formed a government with 7 of 11 seats in the legislature. The judiciary is independent.

Security forces consist of a small police force, which includes a 50-person Special Services Unit that receives some light infantry training, a coast guard, and a small, newly formed defense force. The forces are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The mixed economy is based on sugar cane, tourism, and light industry. Most commercial enterprises are privately owned, but the sugar industry and 85 percent of arable land are owned by a state corporation. In November Hurricane Lenny caused $7.2 million in additional damage to the economy, which had been devastated by Hurricane Georges in 1998, which caused an estimated $445 million in damage. The 1998–99 tourist season suffered significant losses, since 85 percent of the houses and buildings were damaged. The hurricanes also damaged an estimated 50 percent of the sugar industry. Per capita gross domestic product was about $7,080 in 1998.

The Government generally respected citizens' human rights; however, there were problems in a few areas. Poor prison conditions, apparent intimidation of witnesses and jurors, government restrictions on opposition access to government-controlled media, and violence against women were the principal problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Law enforcement authorities abide by the constitutional prohibitions against the use of torture or other forms of inhuman or degrading treatment or punishment. However, there are occasional instances of excessive use of force by the police. The police force conducts its own internal investigation when complaints are made against

members. There was one reported incident of excessive physical force against civilians by a police officer, involving abuse of a suspect. The police conducted an internal investigation of this case, but the case finally was dropped due to lack of sufficient evidence.

Prison conditions are poor. Prisoners suffer from severe overcrowding and poor food, and security is lax. These conditions have contributed to riots in the past, although none has occurred since 1994. The prison, built in 1840, was designed to accommodate 60 inmates but houses approximately 127 prisoners.

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government respects this provision in practice. The law requires that persons detained be charged within 48 hours or be released. If charged, the police must bring a detainee before a court within 72 hours. Family members, attorneys, and clergy are permitted to visit detainees regularly.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the judiciary is highly regarded. However, intimidation of witnesses and potential intimidation of jurors in high-profile, drug-related cases threatened this traditional independence. The Government is exploring the possibility of a program to protect witnesses, judges, and jurors through the Caribbean Community (Caricom).

The court system comprises one high court and four magistrate's courts at the local level, with the right of appeal to the Eastern Caribbean Court of Appeal. Final appeal may be made to the Privy Council in the United Kingdom. There are no military or political courts. Free legal assistance is available for indigent defendants in capital cases only.

The Constitution provides that every person accused of a crime must receive a fair, speedy, and public trial, and these requirements generally are observed. In the latter part of the year, approximately 26 persons were being held on "remand" (detention pending trial or further court action).

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no reports of arbitrary government or police interference in the private lives of individuals. The law requires judicially issued warrants to search private homes.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and, for the most part, the authorities respected these provisions in practice. The Government owns the only radio and television station on St. Kitts. A Trinidadian company manages it; however, the Government appoints three of its five board members. There is a religious television station and a privately owned radio station on Nevis.

St. Kitts and Nevis does not have a daily newspaper; each of the major political parties publishes a weekly or biweekly newspaper. A third weekly newspaper is nonpartisan. The papers are free to criticize the Government and do so regularly and vigorously. International news publications are readily available.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly. Political parties organized demonstrations, rallies, and public meetings during the 1995 election campaign without significant government interference. Many meetings sponsored by the Nevis Island administration and opposition parties were held in Nevis to discuss the secession question.

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

c. *Freedom of Religion.*—The Constitution provides for the free exercise of religion, and religious practices are not restricted. All groups are free to maintain links with coreligionists in other countries.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not restrict travel within or departure from the country. However, following Hurricane Georges in September 1998, the Government declared a state of emergency and instituted a curfew to avoid looting during the period of electrical power loss.

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens are free to change their government by peaceful means. A vigorous multiparty political system exists in which political parties are free to conduct their activities. Periodic elections are held in which all citizens 18 years of age and older may register and vote by secret ballot. According to the Constitution, the next general elections must take place by June 2000.

The Legislative Assembly has 11 elected seats; 8 for St. Kitts and 3 for Nevis. The Government holds 7 of the 11 seats; opposition parties hold the other 4. In the June 1995 elections, Dr. Douglas' St. Kitts and Nevis Labour Party won seven of eight seats at stake in St. Kitts with 60 percent of the popular vote, and Douglas became Prime Minister. The People's Action Movement (PAM), the former ruling party, took only one seat, but received 40 percent of the vote. The Concerned Citizens Movement won two of the three Nevis seats; the Nevis Reformation Party won the remaining one. The island of Nevis has considerable self-government and its own legislature.

In accordance with its rights under the Constitution, the Nevis Island Assembly in 1996 initiated steps towards secession from the Federation, the most recent being a referendum in August 1998. However, the referendum failed to secure the two-thirds majority required for secession. Prior to the referendum, a Caricom-initiated Constitutional Review Commission submitted a report that recommended an alternative political structure—a presidential system with separate elected legislatures for Saint Kitts and for Nevis. These recommendations are under review by both islands. All parties involved adhered to constitutional procedures, and no acts of violence were reported in connection with the secession question.

Although the Constitution prohibits discrimination on grounds of political opinion or affiliation, the opposition PAM alleges widespread employment discrimination by the St. Kitts and Nevis Labour Party against public sector employment of persons perceived to be opposition supporters. PAM alleges that the ruling party dismissed or demoted many PAM supporters from their jobs in order to replace them with its own supporters. The Government acknowledged that it had withheld pension benefits from opposition members of Parliament voted out of office and entitled to such benefits. However, all pension benefits have since been paid with the exception of those of the former Minister of Women's Affairs.

There are no impediments in law or in practice to the participation of women in leadership roles in government or political parties. There are no women in the Cabinet. However, 2 of 3 senators are women, 1 of 2 magistrates is a woman, the court registrar is a woman, and 5 of 9 permanent secretaries are women.

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

While there are no governmental restrictions, no local human rights groups have been formed. There were no requests for investigations or visits by international human rights groups.

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

The Constitution prohibits discrimination on grounds of race, place of origin, birth out of wedlock, political opinion or affiliation, color, sex, or creed, and the Government generally respects these provisions in practice.

Women.—According to a government official, violence against women is a problem, but many women are reluctant to file complaints or pursue them in the courts. Despite this reluctance, there were publicly reported cases of both domestic violence and rape, and a few convictions. There is no domestic violence legislation.

The role of women in society is not restricted by law but is circumscribed by culture and tradition. There is no overt societal discrimination against women in employment, although sectoral analyses suggest that women do not yet occupy as many senior positions as men. The Bureau of Women's Affairs, under the Ministry of Health and Women's Affairs, is active in promoting change in the areas of domestic violence, poverty, institutional mechanisms to advance the status of women, health, and leadership positions for women. Since 1997 the Bureau has also been active in training the police and school guidance counselors on issues of domestic violence, sexual crimes, and child abuse.

Children.—The Government is committed to children's rights and welfare and has incorporated most of the provisions of the U.N. Convention on the Rights of the Child into domestic legislation.

People with Disabilities.—Although there is no legislation to protect the disabled or to mandate accessibility for them, the Government and the Constitution prohibit discrimination in employment, education, and other state services.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of all workers to form and belong to trade unions. The law permits the police, civil service, and other organizations to have associations which serve as unions. The major labor union, the St. Kitts Trades and Labour Union, is affiliated with the St. Kitts and Nevis Labour Party and is active in all sectors of the economy. There is also an independent teachers' union, a union representing dockworkers in the capital city, and two taxi drivers' associations.

The right to strike, while not specified by law, is well established and respected in practice. There were no major strikes during the year.

Unions are free to form federations or confederations and to affiliate with international organizations. The islands' unions maintain a variety of international ties.

b. *The Right to Organize and Bargain Collectively.*—Labor unions are free to organize and to negotiate for better wages and benefits for union members. The law prohibits antiunion discrimination but does not require employers found guilty to rehire employees fired due to antiunion discrimination. However, the employer must pay lost wages and arrange for severance pay. There is no legislation governing the organization and representation of workers, and employers are not legally bound to recognize a union, but in practice employers do so if a majority of workers polled wish to organize. Collective bargaining takes place on a workplace by workplace basis, not industrywide. A Labor Commission mediates all types of disputes between labor and management on an ad hoc basis. However, in practice few disputes actually go to the Commission for resolution. If neither the Commission nor the Ministry of Labor can resolve the dispute, legislation allows for a case to be brought before a civil court.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and forced labor, and they do not occur in practice. While neither the Constitution nor law specifically addresses bonded labor, it has not been a problem in practice.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The 1966 Employment of Children Ordinance outlaws slavery, servitude, and forced labor, and prescribes the minimum legal working age, which is 14 years. The Labor Ministry relies heavily on school truant officers and the community affairs division to monitor compliance, which they do effectively. The law mandates compulsory education up to the age of 16. Although the law does not specifically address bonded labor (see Section 6.c.), it has not been a problem in practice.

e. *Acceptable Conditions of Work.*—A 1984 law, updated in 1994, establishes minimum wage rates for various categories of workers, such as domestic servants, retail employees, casino workers, and skilled workers. The minimum wage varies from $56.18 (EC$ 150) per week for full-time domestic workers to $74.91 (EC$ 200) per week for skilled workers. These provide an adequate, though Spartan, living for a wage earner and family; many workers supplement wages by keeping small animals such as goats and chickens. The Labor Commission undertakes regular wage inspections and special investigations when it receives complaints; it requires employers found in violation to pay back wages.

The law provides for a 40- to 44-hour workweek, but the common practice is 40 hours in 5 days. Although not required by law, workers receive at least one 24-hour rest period per week. The law provides that workers receive a minimum annual vacation of 14 working days. While there are no specific health and safety regulations, the Factories Law provides general health and safety guidance to Labor Ministry inspectors. The Labor Commission settles disputes over safety conditions. Workers have the right to report unsafe work environments without jeopardy to continued employment; inspectors then investigate such claims.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons.

Recent press reports indicate that the country's economic citizenship program, which allows individuals to purchase passports through investments ranging from $200,000 (EC$540,000) to $285,000 (EC$770,000), has facilitated the illegal immigration of persons from China and other countries to North America. Criminal organizations reportedly provide funds to such individuals to pay these fees, and the persons later are trafficked to Canada and the United States, where they work under conditions similar to bonded labor until their debt is repaid.

SAINT LUCIA

Saint Lucia is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. The Government comprises a prime minister, a cabinet, and a bicameral legislative assembly. A Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. In general elections in 1997, the Saint Lucia Labour Party (SLP) defeated the incumbent United Workers Party (UWP), gaining 16 of 17 seats in the House of Assembly. Dr. Kenny Anthony of the SLP assumed the prime ministership from the UWP's Dr. Vaughan Lewis, who had taken over from long-serving UWP Prime Minister John Compton in March 1996. The judiciary is independent.

The Royal Saint Lucia Police is the only security force and includes a small unit called the Special Services Unit (which has some paramilitary training) and a coast guard unit. They are controlled by and responsive to the Government. There were occasional allegations of abuse by the police.

The economy is based on tourism and on the export of bananas, which represent the principal sources of foreign exchange earnings. Saint Lucia is diversifying its economy into other types of agriculture, light manufacturing, and construction. Unemployment, estimated at 22 percent in late 1998, remains a source of potential instability. Per capita gross domestic product was about $3,000 in 1997.

The Government generally respected citizens' human rights; however, there were a few problems. Occasional credible allegations of physical abuse of suspects or prisoners by the police, very poor prison conditions, long delays in trials, domestic violence against women, and child abuse were the major problems.

RESPECT FOR HUMAN RIGHTS

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

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

On June 18, in the village of Micoud, police shot and killed a suspected marijuana dealer in an exchange of gunfire. Police officers also were injured in the exchange. In commenting on the incident, one local newspaper questioned whether the police had used excessive force in seeking to apprehend the marijuana dealer.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits torture, and there were no reports of such abuse. However, one newspaper reported that on July 15 police officers severely beat a detainee being held on charges of breaking and entering, and burglary. The individual allegedly broke into and stole items from a police officer's home. According to the medical report, injuries included a black eye due to fist blows, pains in a finger due to twisting, pains in the thorax and scrotum due to blows, and head pains due to kicks.

Prison conditions are very poor. The island's only prison, built in the 1800's to house a maximum of 101 prisoners, was subject to severe overcrowding with over 340 inmates. The prison's conditions, overcrowding, and lengthy trial delays led to a prison riot in June 1997; prisoners set fires that destroyed over half of the antiquated prison. The inmates asserted that the fires were part of a protest for improved prison conditions. Following the fires, the authorities transferred about 250 inmates to a factory shell outside the capital and stationed the paramilitary Special Services Unit at the prison. The prison has since been repaired, the majority of prisoners have been returned to the prison, and the Special Services Unit has ceased guarding the prison.

Following the riots, the Government invited Penal Reform International (PRI), a London-based nongovernmental organization (NGO), to conduct a study of the prison and make recommendations. Its recommendations included the release of prisoners awaiting trial for minor offenses and the introduction of noncustodial alternatives as a sentencing option. As a result of the PRI report, the authorities selected a new superintendent of prisons who took over in February 1998, established a permanent Complaints Board comprised of prominent citizens to meet every month to hear prisoners' complaints, hired 24 new prison officials, and made some limited improvements to the facility. Despite these measures, inmates made another attempt to burn down the main prison facility in September 1998, but caused only limited damage. According to the superintendent, both the 1997 and the 1998 incidents of unrest occurred prior to the start of a new session of the High Court when prisoners on "remand" (detention pending trial or further court action) discovered that their cases were not on the published list of cases to be heard. There are 101 prisoners on remand who have been denied bail and are awaiting trial.

The Government also started the groundwork for a new $17 million (EC$50 million) prison facility near Dennery in the eastern part of the island. The projected completion date for the new prison is September 2000.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Government adheres to the constitutional provisions that prohibit arbitrary arrest or imprisonment and require a court hearing within 72 hours after detention. However, the authorities frequently have held prisoners for years on remand after charging them (there is no constitutional requirement for a speedy trial). At the time of the 1997 prison riot, about 160 of the prisoners were on remand. One extreme case involved a prisoner put on remand in 1993, who finally was tried and convicted in June 1998. In addition, two foreign nationals, a Ghanaian and a Nigerian, have been held on remand since 1996. These individuals are being detained for immigration violations, pending resolution of who will pay the expense of their deportations.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

There are two levels of courts: Courts of summary jurisdiction (magistrate's courts) and the High Court. Both levels have civil and criminal authority. The lower courts accept civil claims up to about $1,850 (EC$5,000) in value and criminal cases generally classified as "petty." The High Court has unlimited authority in both civil and criminal cases. All cases can be appealed to the Eastern Caribbean Court of Appeal. Cases may be appealed to the Privy Council in London as the final court of appeal.

The Constitution requires public trials before an independent and impartial court and, in cases involving capital punishment, provision of legal counsel for those who cannot afford a defense attorney. In criminal cases not involving capital punishment, defendants must obtain their own legal counsel. Defendants are entitled to select their own legal counsel, are presumed innocent until proven guilty in court, and have the right of appeal. The authorities observe both constitutional and statutory requirements for fair public trials.

However, the court system continued to face a serious backlog of cases. In the latter part of 1998, the magistrate's courts had a backlog of over 6,000 cases. Previously, the Government had invited a team of justices from Australia to conduct a study and to make recommendations for reducing the backlog. The team issued a report (the Bauer report) in 1998. At year's end, the Government still was reviewing the report's recommendations.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects this right in practice.

There are five privately owned newspapers, two privately owned radio stations, and one partially government-funded radio station. They carry a wide spectrum of political opinion and are often critical of the Government. The radio stations have discussion and call-in programs that allow persons to express their views. The two local television stations are also privately owned and cover a wide range of views. In addition there is subscription cable television service, which provides programming from a variety of sources.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. The law requires permits for public meetings and demonstrations if they are to be held in public places, such as on streets or sidewalks or in parks. The police routinely grant such permits; the rare refusal generally stems from the failure of organizers to request the permit in a timely manner, normally 48 hours before the event.

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

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

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

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise. There were no reports of the forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens have the right to change their government and exercised that right in 1997 when the SLP defeated the UWP, which had governed with only one interruption since 1964. The SLP won 16 of 17 seats, campaigning on a platform of job creation and economic diversification and appealing explicitly to women and younger voters. In response to concerns about the size of the SLP's parliamentary majority, Prime Minister Anthony publicly emphasized that the Government would make efforts to reach out to the opposition to ensure that the country's democratic traditions were not undermined by the small size of the parliamentary opposition. The 1996 merger of smaller parties—the Concerned Citizens' Movement, the Saint Lucia Freedom Party, and the Citizens' Democratic Party—into the SLP left the country with only two major political parties. The Governor General, who had been affiliated with the UWP, stepped down following the elections. He was replaced by Pearlette Louisy.

Under the Constitution, general elections must be held at least every 5 years by secret ballot, but may be held earlier at the discretion of the government in power. Two members of the Senate are independent, appointed by the Governor General.

There are no legal impediments to participation by women and minorities in government and politics; however, women and minorities are underrepresented. Two of the 13 members of the Cabinet are women, as is the Governor General.

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

The Government generally does not restrict international or nongovernmental investigations of alleged violations of human rights. In some cases it has requested international organizations to investigate possible abuses.

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

Government policy is nondiscriminatory in the areas of housing, jobs, education, and opportunity for advancement. There are no legal restrictions on the role of women or minorities.

Women.—There is increased awareness of the seriousness of violence against women. The Government does not prosecute crimes of violence against women unless the victim presses charges. If the victim chooses for any reason not to press charges, the Government cannot bring a case. Charges must be brought under the ordinary Civil Code. In 1997 the Government established a family court to hear cases of domestic violence and crimes against women and children.

The police force conducts some training for police officers responsible for investigating rape and other crimes against women, but there is no special unit that handles crimes against women. Police and courts enforce laws to protect women against abuse, although police are hesitant to intervene in domestic disputes, and many victims are reluctant to report cases of domestic violence and rape or to press charges.

The 1994 Domestic Violence Act allows a judge to issue a protection order prohibiting an abuser from entering or remaining in the place where the victim is. It also allows the judge to order that an abuser's name be removed from housing leases or rental agreements, with the effect that the abuser would no longer have the right to live in the same residence as the victim.

The Saint Lucia Crisis Center for women was established in 1988 in Castries, the capital; a second opened in the southern town of Vieux Fort in January. These centers monitor cases of physical and emotional abuse and help clients deal with such problems as incest, nonpayment of child support, alcohol and drug abuse, homelessness, custody, and visitation rights. The Crisis Center has publicized the plight of battered women and has protested the rare deaths of women who were victims of domestic violence. The organizers also are working to establish a shelter for battered women and homeless girls, but no progress had been made at year's end. The Crisis Center reports that the number of new cases declined since the establishment of the family court because women can seek help in two places. Some secondary schools address the problems of sexual harassment and battering in their curriculum topics.

Women's affairs come under the jurisdiction of the Ministry of Health, Human Services, Family Affairs, and Women. The Minister is responsible for protecting

women's rights in domestic violence cases and preventing discrimination against women, including ensuring equal treatment in employment.

Children.—Since independence, successive governments have given high priority to improving educational opportunities and health care for the nation's children. Education is free and compulsory from age 5 through 15. However, only about one-third of primary school children continue on to secondary schools, and the drop-out rate from primary to secondary school is higher for boys than for girls. Government clinics provide prenatal care, immunization, child health care, and health education services throughout the island.

A broad legal framework exists for the protection of children through the Criminal Code, the Children and Young Persons Act, the Family Court Act, the Domestic Violence Act, and the Attachment of Earnings Act. Although the Government adopted a national plan of action in November 1991 for the survival, protection, and development of children, it has not fulfilled this program by implementing effective programs. The Saint Lucia Crisis Center reports that the incidence of child abuse remains high.

People with Disabilities.—No specific legislation protects the rights of the disabled, nor mandates provision of access to buildings or government services for them. There is no rehabilitation facility for the physically disabled, although the Health Ministry operates a community-based rehabilitation program in residents' homes. There are schools for the deaf and for the blind up to the secondary level. There is also a school for the mentally retarded.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution specifies the right of workers to form or belong to trade unions under the broader rubric of the right of association. Most public sector employees are unionized; about 20 percent of the total work force is unionized. Unions are independent of government and are free to choose their own representatives in often vigorously contested elections. There are no restrictions on the formation of national labor federations. In 1994 several of the major unions formed an umbrella grouping called the Industrial Solidarity Pact.

Strikes in both the public and private sectors are legal, but there are many avenues through collective bargaining agreements and government procedures that may preclude a strike. The law prohibits members of the police and fire departments from striking. Other "essential services" workers—water and sewer authority workers, electric utility workers, nurses, and doctors—must give 30 days' notice before striking.

Unions are free to affiliate with international organizations, and some have done so.

b. *The Right to Organize and Bargain Collectively.*—Unions have the legal right to engage in collective bargaining, and they fully exercise this right. Union representatives have reported attempts by the Government and other employers to undermine this process.

The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints. It also requires that employers reinstate workers fired for union activities.

Labor law is applicable in the export processing zones (EPZ's), and there are no administrative or legal impediments to union organizing or collective bargaining in those zones. However, in practice many firms resist union efforts to organize in the EPZ's, even to the point of closing operations.

c. *Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, and it is not known to occur. While there is no specific prohibition of forced or bonded labor by children, there were no reports of such practices.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—While the Children and Young Persons Act permits a minimum legal working age of 14 years, education legally is required through age 15. Ministry of Labor officials are responsible for enforcing the law. There were no reports of violations of child labor laws. The Government does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Wages Regulations (Clerks) Orders, in effect since 1985, set out minimum wage rates only for clerks. These office workers receive a legislated minimum wage of about $300 (EC$800) per month. The minimum wage is not sufficient to provide a decent standard of living for a worker and family, but some categories of workers receive more than the legal minimum for clerks, which is used only as a guide for setting pay for other professions.

There is no legislated workweek, although the common practice is to work 40 hours in 5 days. Special legislation covers hours which shop assistants, agricultural workers, domestics, and young people in industrial establishments may work.

Occupational health and safety regulations are relatively well developed. The Labor Ministry periodically inspects health and safety conditions at places of employment under the Employees' Occupational Safety and Health Act of 1985. The Ministry enforces the act through threat of closure of the business if it discovers violations and the violator does not correct them. Workers are free to leave a dangerous workplace situation without jeopardy to continued employment.

f. *Trafficking in Persons.*—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked in, to, or from the country.

SAINT VINCENT AND THE GRENADINES

St. Vincent and the Grenadines is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. The Governor General, appointed by the British monarch, is the titular head of state, with largely ceremonial powers. Prime Minister Sir James F. Mitchell and his New Democratic Party (NDP) were returned to power for an unprecedented fourth term by a slim margin in free and fair elections held in June 1998. The judiciary is independent.

The Royal St. Vincent Police, the only security force in the country, includes a coast guard and a small Special Services Unit with some paramilitary training. The force is controlled by and responsive to the Government, but police continued to commit some human rights abuses.

St. Vincent has a market-based economy. Much of the labor force is engaged in agriculture. Bananas are the leading export and a major source of foreign exchange earnings. However, the banana industry is declining, and the growing tourism sector is becoming the leading earner of foreign exchange. Unemployment is estimated to be 20 percent, and the 1998 per capita gross domestic product was approximately $2,400.

The Government generally respected citizens' human rights; however, there were problems in a few areas. The principal human rights problems continued to include occasional instances of excessive use of force by police, the Government's failure to punish adequately those responsible for such abuses, poor prison conditions, and an overburdened court system. Violence against women and abuse of children also were problems.

RESPECT FOR HUMAN RIGHTS

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

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

On December 14, a police antidrug patrol shot and killed Junior Harry, who they said was fleeing while the patrol conducted a search for narcotics in buildings near the town of Barrouallie. A police spokesman said that Harry was armed with a shotgun. At year's end, the authorities had not yet scheduled the inquest to establish whether police used excessive force, which is the normal procedure in such a case.

There was one death in custody under circumstances involving criminal negligence (see Section 1.c.).

In June 1998, the police shot and killed a man who had been arrested, when he attempted to flee the police station in handcuffs. The authorities initially arrested and charged the officer responsible for the shooting death with murder, but they later reduced the charge to manslaughter. The officer was released on bail, and a magistrate acquitted him at the preliminary inquiry early in the year.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other forms of cruel, inhuman, or degrading treatment or punishment. However, regional human rights groups have noted that a high percentage of convictions are based on confessions. One human rights group believes that some of these confessions resulted from unwarranted police practices, including the use of physical force during detention, illegal search and seizure, and failure properly to inform those arrested of their rights.

There is no independent review board to monitor police activity and to hear public complaints about police misconduct. Human rights advocates recommend such a board to protect the rights of citizens who complain about police misconduct.

On June 25, one individual died of injuries sustained while in police custody. The police detained the person in the police station at about 5:00 p.m. that day. Later

the same evening, they took the detainee to the local hospital where he was pronounced dead as a result of severe head injuries. On August 12, a coroner's inquest investigating the death found the death to have been due to criminal negligence. The authorities suspended the six police officers implicated in the abuse, and the acting director of public prosecutions filed charges against the officers for manslaughter due to gross criminal negligence. In December the magistrate conducting the preliminary inquiry dismissed the cases against the police officers. The magistrate recognized that the death was due to negligence, but stated that he was unable to apportion the blame among the six officers.

Prison conditions are poor. Antiquated and overcrowded prisons, with over 350 inmates in a prison designed for 75, result in serious health and safety problems. An inmate who wishes to speak with his lawyer must do so by written correspondence, and the authorities sometimes monitor and censor such correspondence. In July prisoners rioted and seized control of the prison to protest poor conditions and treatment. The riot ended peacefully within 24 hours. To resolve the prison disturbances, the Government acceded to some demands set by the prisoners, such as improved food, shorter lock-down periods, and more attentive medical care. However, conditions did not change significantly in the prison and less violent incidents of prisoner protest continued.

Conditions are also inadequate for juvenile offenders. There is a small facility for delinquent boys, but it is seriously inadequate and generally is used for those already convicted through the criminal system. Although separate legal statutes exist for youthful offenders, there are no separate magistrates or prosecutors to handle such cases.

In 1998 the High Court ruled against the Superintendent of Prisons for having ordered corporal punishment with a "cat-o-nine tails" against an inmate, characterizing the flogging as torture. In July 1998, the Eastern Caribbean Court of Appeal dismissed the Government's appeal of this decision and ordered the High Court to determine an amount of compensation for the prisoner. In October the High Court judge awarded compensation to the prisoner of about $85,000 (EC$225,000).

The Government permits prison visits by independent human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for persons detained for criminal offenses to receive a fair hearing within a reasonable time by an impartial court. Although there are only two official magistrates, the registrar of the High Court and the presiding judge of the family court effectively serve as magistrates when called upon to do so. While this practice reduced the backlog, complaints remain regarding police practices in bringing cases to court. Some defense attorneys claim that this has caused 6- to 12-month delays in preliminary inquiries for serious crimes.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent and impartial court, and the judiciary is independent in practice.

The judiciary consists of lower courts and a High Court, with appeal to the Eastern Caribbean Court of Appeal and final appeal to the Privy Council in the United Kingdom. There are three magistrates, plus one magistrate who serves only the family court.

The Constitution provides for public trials. The court appoints attorneys for indigent defendants only when the defendant is charged with a capital offense. Defendants are presumed innocent until proven guilty and may appeal verdicts and penalties. There is a large backlog of pending cases, particularly for criminal cases, because of delaying tactics by lawyers as well as the overburdened judicial system.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary search and seizure or other government intrusions into the private life of individual citizens, and there were no reports of such abuses.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects this right in practice.

There are two major newspapers and numerous smaller, partisan publications; all are privately owned, and most are openly critical of the Government's policies. There were no reports of government censorship or interference with the operation of the press. However, individual journalists believe that government advertising, a significant source of revenue, sometimes is withheld from newspapers that publish articles that are less than favorable to the Government.

The lone television station in St. Vincent is privately owned and operates without government interference. Satellite dishes are popular among those who can afford them. There is also a cable system with mainly North American programming that

has about 300 subscribers. The Government controls programming for the government-owned radio station.

The Government does not restrict academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

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

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

No formal government policy toward refugee or asylum requests exists. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of anyone having a valid claim to refugee status; however, government practice remains undefined.

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

Citizens have the right to change their government through regularly scheduled free and fair elections. St. Vincent has a long history of multiparty parliamentary democracy. During the June 1998 election, the ruling New Democratic Party won a slim 1-seat majority (8 of 15) in Parliament, despite losing the popular vote by a 55 to 45 percent margin to the opposition Unity Labour Party (ULP). Calling this outcome an "overt manifestation of rejection by the public" of Prime Minister Mitchell's Government, the ULP made claims of election fraud and demanded new elections. The Prime Minister refused the ULP demand, and instead proposed a constitutional review to consider possible amendments such as a provision for proportional representation.

There are no legal impediments to women's full participation in politics or government; however, they are underrepresented. There is only one woman in Parliament, as a member of the opposition.

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

Opposition political groups and the Vincentian press often comment on human rights matters of local concern. The St. Vincent and the Grenadines Human Rights Association (SVGHRA) monitors government and police activities, especially with respect to treatment of prisoners, publicizing any cases of abuse. The Government is generally responsive to public and private inquiries about its human rights practices.

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

The Constitution provides for equal treatment under the law regardless of race, sex, or religion, and the Government adheres to this provision.

Women.—Violence against women, particularly domestic violence, remains a major problem. The Government took legislative steps to address this problem through the Domestic Violence/Matrimonial Proceedings Act (1994) and the more accessible Domestic Violence Summary Proceedings Act (1995). Both laws provide for protective orders, as well as occupation and tenancy orders, although the former is only accessible through the High Court, whereas the latter can be obtained without the services of a lawyer in family court. Since passage of the laws, the SVGHRA has conducted numerous seminars and workshops throughout the country to familiarize citizens with their rights under these acts. Increasing numbers of women are coming forward with domestic violence complaints.

Depending on the magnitude of the offense and the age of the victim, the penalty for rape is generally 10 or more years in prison.

In 1995 the legislature amended the Child Support Law to allow for payments ordered by the courts even when notice of an appeal has been filed. Previously, fathers who had been ordered to pay child support could appeal decisions and not pay while the appeal was being heard. This resulted in a huge backlog of appeal cases and effectively reduced the number of mothers and children receiving support payments. The family court was established in 1995 in the capital city of Kingstown with one magistrate. According to the SVGHRA, because there is only one bailiff to service all the country, summonses often are not served on time for cases to be heard as scheduled in court.

The Ministry of Education, Women's Affairs, and Culture has a women's desk that assists the National Council of Women with seminars, training programs, and public relations. The minimum wage law specifies that women should receive equal pay for equal work.

Marion House, a social services agency established by the Catholic Church in 1989 and staffed by four trained counselors and three foreign volunteers, provides counseling and therapy services.

Children.—Education is not compulsory, but the Government states that it investigates cases where children are withdrawn from school before the age of 16. Although the Government has played a more prominent role in legislating health and welfare standards since independence, the infant mortality rate is still very high. One underlying cause is the large number of children born to teenage mothers.

The Domestic Violence Summary Proceedings Act provides a limited legal framework for the protection of children. Nevertheless, reports of child abuse remain high and are on the increase. The Social Welfare Office is the government agency responsible for monitoring and protecting the welfare of children. The police are the enforcement arm; the Social Welfare Office refers all reports of child abuse to the police for action.

People with Disabilities.—There is no specific legislation covering persons with disabilities, and the circumstances for disabled individuals are generally difficult. Most severely disabled people rarely leave their homes because of the poor road system and lack of affordable wheelchairs. The Government partially supports a school for the disabled which has two branches. A separate, small rehabilitation center treats about five persons daily.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides citizens the right to form unions and to organize employees, while the Trade Unions and Trade Disputes Act allows the right to strike. Employers often ignore the constitutional provisions that provide for union rights, and claim that they have a constitutional right not to recognize a trade union. However, some employers seek a good industrial relations environment and cooperate with trade unions. There were no major strikes during the year.

St. Vincent and the Grenadines joined the International Labor Organization in 1997 and assumed all its obligations for enforcement of labor standards.

Unions have the right to affiliate with international bodies.

b. *The Right to Organize and Bargain Collectively.*—There are no legal obstacles to organizing unions; however, no law requires employers to recognize a particular union as an exclusive bargaining agent. Some companies offer packages of benefits with terms of employment better than, or comparable to, what a union normally can obtain through negotiations. The law prohibits antiunion discrimination by employers. Generally effective mechanisms exist for resolving complaints. The authorities can order employers found guilty of antiunion discrimination for firing workers without cause (including for participation in union activities) to reinstate the workers or give them severance pay.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, and it is not known to occur. The Government does not specifically prohibit forced or bonded labor by children, but there were no reports that it occurred.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum working age at 16 years of age, although a worker must be 18 years of age to receive a national insurance card. The labor inspection office of the Ministry of Labor monitors and enforces this provision, and employers generally respect it in practice. The age of leaving school at the primary level is 15 years; when these pupils leave school, they are usually absorbed into the labor market disguised as apprentices. There is no known child labor except for children working on family-owned banana plantations, particularly during harvest time, or in family-owned cottage industries. The Government does not prohibit specifically forced or bonded labor by children, but there were no reports that it occurred (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The law sets minimum wages, which were last promulgated in 1989. They vary by sector and type of work and are specified for several skilled categories, including attendants, packers, cleaners, porters, watchmen, and clerks. In agriculture the wage for workers provided shelter is $0.82 (EC$2.25) per hour; skilled industrial workers earn $7.36 (EC$20) per day, and unskilled workers earn $3.68 (EC$10) per day. In many sectors the minimum wage is not sufficient to provide a decent standard of living for a worker and family, but most workers earn more than the minimum. The Wages Council, according to law, should meet every 2 years to review the minimum wage, but it has not met since 1989. However, in mid-year the Cabinet agreed to convene a new Wages Council to discuss changes to the minimum wage. At year's end, the council's meeting was postponed until March 2000.

There is no legislation concerning the length of the workweek; however, the general practice is to work 40 hours in 5 days. The law provides workers a minimum annual vacation of 2 weeks.

According to the Ministry of Labor, legislation concerning occupational safety and health is outdated. The most recent legislation, the Factories Act of 1955, has some regulations concerning only factories, but enforcement of these regulations is ineffective. Workers enjoy a reasonably safe working environment; however, the trade unions have dealt with some violations relating to safety gear, long overtime hours, and the safety of machinery. There were some reports of significant visual deficiency by visual display unit workers, and some reports of hearing impairment by power station and stone crushing employees. It was not clear under present legislation whether workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

f. *Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons. There were no reports that persons were trafficked in, to, or from the country.

SURINAME

After over a decade of predominantly military rule, Suriname installed a freely elected Parliament and inaugurated a democratically chosen president in 1991. Another free and fair election was held in May 1996, but no candidate was able to secure the two-thirds majority of the 51-member National Assembly necessary to elect a president. In accordance with the Constitution, an 836-member United People's Assembly, a broadly representative, democratically chosen body, then voted in Jules Wijdenbosch of the National Democratic Party (NDP) as President in September 1996. Wijdenbosch formed a cabinet from members of the NDP, the ethnic-Hindustani Grassroots Party for Renewal and Democracy, the ethnic-Javanese KTPI party, and several smaller political parties. Although the Constitution provides for an independent judiciary, an ongoing dispute between the previously sitting judges and a new slate Wijdenbosch appointed has damaged severely the concept of an independent judiciary. As a result, the effectiveness of the courts is even more limited in practice.

The armed forces are responsible for national security and border and immigration control and are under the control of the civilian Minister of Defense. Civilian police bear primary responsibility for the maintenance of law and order and report to the Ministry of Justice and Police. The Venetiaan government had taken steps to reform the military in 1995–96 by purging military officers and supporters of former dictator Desi Bouterse, who ruled the country in the 1980's. Although Bouterse loyalists continue to hold civilian positions of authority, their influence within the military has declined steadily. The military hierarchy has placed a growing emphasis on civilian control over the military. During large antigovernment street demonstrations in May, the military remained apolitical and rejected suggestions for military intervention. Members of the security forces continue to be responsible for some human rights abuses.

The economy depends heavily on the export of bauxite derivatives. Unregulated gold mining is an increasingly important economic activity that highlights a lack of land rights for indigenous and tribal people and has a serious environmental impact. The Government and state-owned companies employ over half the working population. Overall economic conditions deteriorated during the year. Following an inflation rate of 5 percent for most of 1997 and 22 percent in 1998, in 1999 inflation had reached an estimated annual rate of 121 percent. In addition, estimated gross domestic product declined by 1 percent in 1999. Per capita annual income was about $2,500.

The Government generally respected the human rights of its citizens; however, endemic problems still remain in some areas. There was one incident of extrajudicial killing. Police mistreat detainees, particularly during arrests; guards abuse prisoners; and local detention facilities remain overcrowded. The judiciary suffers from ineffectiveness and a huge case backlog. There was some harassment and media self-censorship, and societal discrimination against women and indigenous and tribal people persists. Violence against women is a problem. In view of the human rights record of the Bouterse regime, many of whose members participate in the current Government, human rights organizations remain concerned about the potential for a deterioration of civil liberties. The Wijdenbosch administration has not addressed calls to investigate human rights abuses by previous regimes, other than by appointing a committee in December 1997 to establish a frame-

work for an investigative commission. However, the Government did participate in an independently sponsored "Truth and Reconciliation" conference in August 1998. The preliminary meeting sought to solicit suggestions for the framework of a human rights commission and included frank discussion of human rights violations committed during the 1980's, but no concrete action followed.

RESPECT FOR HUMAN RIGHTS

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

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

In June police officers shot and killed two innocent men whom they mistook for escaped armed felons. The Government immediately admitted it was at fault and compensated the families. The families also sued the Government in civil court.

While there have been no recent reports of political killings, the Government has not addressed past abuses, and they continue to be a focus of concern. The authorities have not taken action against prison guards who allegedly beat a prisoner to death in 1993. The Government undertook no investigation into the 1982 executions by the Bouterse regime of 15 opposition leaders and the 1986 massacre of civilians at the village of Moiwana.

However, in December 1997 the Wijdenbosch administration appointed a "committee to establish the framework for a commission to investigate past human rights abuses." Human rights groups, which had been pressing since 1995 for an independent human rights commission to investigate violations committed during the 1980's, were neither informed nor consulted prior to the establishment of the committee. Moreover, the chairman of the committee was reportedly a member of Bouterse's team of legal advisers; his appointment raised questions regarding the objectivity of the group's work. Although the committee's report was presented to the President in September, the Government has not yet released its contents or recommendations.

The Organization for Justice and Peace, a nongovernmental organization (NGO), sponsored a "Truth and Reconciliation" conference in August 1998 aimed at creating an independent truth commission for the country. Representatives from both local and international human rights organizations, as well as high-level government officials including the Vice President, attended the conference. Although it was only a preliminary meeting, there was at times frank discussion of the human rights violations committed during the 1980's. However, there were no significant developments regarding these problems.

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

However, the Government took no action to investigate allegations of disappearances that occurred under previous regimes.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits inhuman treatment or punishment, but human rights groups continue to express concern about official mistreatment and have documented cases of police mistreatment of detainees, particularly during arrests, and guard abuse of prisoners. Local detention facilities remain overcrowded.

The police used tear gas to disperse at times violent demonstrations in May, and fired at least one shot that struck a demonstrator (see Section 2.b.).

Prison conditions are poor. With the completion of a new prison in 1996, there are three state prisons and several detention facilities at police stations, where arrestees are detained until they appear before a judge for trial. Human rights activists are concerned about conditions in the prisons and especially about conditions in local detention facilities. They report that the jails are overcrowded, that guards mistreat prisoners, and that medical care and living conditions are inadequate. Police officers, who are not trained in prison work, serve as the jailers at local detention facilities, a situation that human rights groups assert contributes to the abuses.

In February the human rights group Moiwana '86 issued a report that accused prison officials at two of the federal prisons of using electrical shocks to discipline prisoners. The report further asserted that different ethnic groups receive different forms and degrees of punishments. Prison officials denied the accusations, and the Government took no investigative action. Moiwana '86 did not pursue the issue further.

The completion of a new prison and renovation of existing jails have reduced somewhat the problems and improved overall health and safety conditions. However, the older jails remain seriously overcrowded, with as many as four times the number of detainees for which they were designed. In addition, these older prisons are unsanitary. At police stations, guards allow detainees no exercise and only rarely permit them to leave the cells. Detainees and human rights groups also complain

about inadequate prison meals, although families are permitted and encouraged to provide food to incarcerated relatives.

In January 1996, Moiwana '86 implemented a program to monitor the condition of prisoners. Representatives of the group report that in general they have access to prisoners and receive cooperation from prison officials on routine matters. Moiwana '86 and the police cooperated to develop a detention officer training program for police guards working at the local detention facilities. The program consists of lectures given at the state prison to both guards and to prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the authorities generally respect these provisions in practice. However, delays resulting from the split in the judiciary have caused prisoners who appeal their sentences to remain in prison until a ruling is reached on their appeal, even if they have served the full term of their original sentence. Lawyers have filed complaints, but the problem has not been resolved.

The law provides that the police may detain for investigation up to 14 days a person suspected of committing a crime for which the sentence is longer than 4 years. During the 14-day period, the law also permits incommunicado detention, which must be authorized by an assistant district attorney or a police inspector. Within the 14-day period, the police must bring the accused before a prosecutor to be formally charged. If additional time is needed to investigate the charge, a prosecutor may authorize the police to detain the suspect for an additional 30 days. Upon the expiration of the initial 44 days, a "judge of instruction" may authorize the police to hold the suspect for up to 120 additional days, in 30-day increments (for a total of 164 days), before the case is tried. The judge of instruction has the power to authorize release on bail, but that power is rarely, if ever, used.

Pretrial detainees, who constitute a large percentage of inmates, are routinely held without being brought before a judge. They are often held in overcrowded detention cells at local police stations. Of those held in police custody or detention cells, a steadily growing number had already been convicted but not placed in prisons.

In October 1997, the authorities arrested 25 men for allegedly attempting to overthrow the Government. One of the ringleaders was hospitalized for injuries sustained during his arrest. The detainees were accorded due process under the law and were given access to attorneys and family members. In August the coup plotters were sentenced formally. The presiding judge issued mostly moderate sentences of approximately 2 years' imprisonment for each person, with the exception of the leaders, who received approximately 4 years' imprisonment.

The military police continued to observe the requirement to hand over civilians arrested for committing a crime in their presence to the civil police. The military police continued to control the country's borders and airports but no longer investigated civilian crimes.

While not specifically forbidden by law or the Constitution, exile is not practiced.

e. *Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, an ongoing dispute between the previously sitting judges and a new slate that Wijdenbosch appointed has damaged severely the concept of an independent judiciary. As a result, the effectiveness of the civilian and military courts is even more limited in practice.

The judicial system consists of three lower courts and an appeals court; there is no Supreme Court. In July 1998, President Wijdenbosch named a new President of the Court of Justice and Prosecutor General without consulting with, and over the objections of, the sitting justices. Most legal authorities interpret the Constitution to require that consultation, and the members of the court refused to recognize the named President of the court or Prosecutor General. In spite of the continued objections, President Wijdenbosch named additional justices without consultation in December 1998. In May the appointed President of the Court of Justice first swore in himself and then the new justices. Both groups of justices have set their own agendas for the next series of court sessions. The 1987 Constitution calls for the establishment of an independent constitutional court. However, the Government has not taken any steps to set up such a court, and the timing of its establishment remains unclear.

The Constitution provides for the right to a fair public trial in which defendants have the right to counsel if needed. The courts assign lawyers in private practice to defend prisoners and pay them from public funds. However, the court-assigned lawyers usually only show up at the trial, if they show up at all. The courts must, and in practice do, free a detainee who is not tried within the 164-day period. In one instance, a court levied a fine against the Government for failing to release detainees as directed by the court. Trials are before a single judge, with the right of

appeal. Due to the conflict over the legitimacy of the President of the Court and the justices, there is a huge backlog in the judicial system.

Military personnel generally are not subject to civilian criminal law. A soldier accused of a crime immediately comes under military jurisdiction, and military police are responsible for all such investigations. Military prosecutions are directed by an officer on the public prosecutor's staff and take place in separate courts before two military judges and one civilian judge. The military courts follow the same rules of procedure as the civil courts. There is no appeal from the military to the civil system.

Foreign military instructors conducted human rights and military justice seminars in 1998 and 1999. These seminars provided continued opportunities for civilian government officials, private sector representatives, and military personnel to discuss human rights and the role of the military in a democracy.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy. The law requires warrants for searches, which are issued by quasi-judicial officers who supervise criminal investigations. The police obtain them in the great majority of investigations. There have been complaints of surveillance of human rights workers by members of the military police and the division of central intelligence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights; however, there were reports of intimidation and harassment.

The parliamentary and extraparliamentary opposition criticize the Government freely. Some media members continue to practice some self-censorship because of the history of intimidation and reprisals by certain elements of the former military leadership.

The Government publicly reprimanded radio stations and newspapers for their negative coverage of protest demonstrations that took place in May. Although the Government threatened to censor the press, it ultimately took no action, and there continued to be reports unfavorable to the Government.

On December 8, 1997, three men kidnaped, beat and threatened a journalist. The incident occurred on the anniversary of the 1982 murders of 15 political opponents of the Bouterse regime and appeared aimed at stifling criticism in the local press. In June 1998, a Dutch journalist, who was principally covering political and economic issues, was kidnaped, beaten, and threatened. Both incidents remain under investigation.

The two daily newspapers, three television stations, and most of the radio stations are privately owned. Two television stations and two radio stations are publicly owned. Three companies provide cable television, which includes international channels.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. However, in response to a series of public demonstrations in May, the Government announced that it intended to begin enforcing a 1930's law requiring a permit to hold a public demonstration or gathering. After the announcement, in late July the authorities detained two opposition leaders for demonstrating without a permit but quickly released them. Subsequent public marches were allowed to proceed without permits.

There was a series of generally peaceful demonstrations in May in protest of economic conditions. The demonstrations resulted in several violent confrontations, one of which involved a police officer whom demonstrators pushed through a ground floor window. Police used tear gas to disperse the crowds on two occasions. During one demonstration, a police office discharged his revolver when confronted by an advancing crowd, injuring a demonstrator with a ricocheting bullet.

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

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens may change their residence and workplaces freely and travel abroad as they wish. Political dissidents who emigrated to the Netherlands and elsewhere during the years of military rule are welcome to return. Few of them have chosen to do so, generally for economic reasons. Citizenship is not revoked for political reasons.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise in 1999. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides for this right, but in the past the military prevented its effective exercise. Although the military has twice handed over power to elected civilian governments following coups, 1996 marked the first time since independence from the Netherlands in 1975 that one elected government succeeded another in accordance with constitutional provisions. The Government is still in the process of institutionalizing democratic, constitutional rule.

The Constitution stipulates that power and authority rest with the people and provides for the right to change the government through the direct election by secret ballot of a National Assembly of 51 members every 5 years. The National Assembly then elects the President by a two-thirds vote. If the legislature is unable to do so, as was the case both in the 1991 and 1996 national elections, the Constitution provides that a national people's assembly, comprising members of parliament and regional and local officials, shall elect the President.

While the Constitution is clear on how the executive and legislative branches of government are chosen to begin their terms, it is vague about how they may be removed or replaced in midterm. Questions arose following street protests in May as to whether the President had the authority to dissolve the National Assembly and call early elections or whether the National Assembly could vote the President out of office with a simple majority no-confidence vote. With no constitutional court yet established, there exists no definitive interpretive authority to settle such disputes, creating the potential for future constitutional conflict.

The Constitution provides for the organization and functioning of political parties. Many parties and political coalitions are represented in the National Assembly.

There are historical and cultural impediments to equal participation by women in leadership positions in government and political parties. In the past, most women were expected to fulfill the roles of housewife and mother, thereby limiting opportunities to gain political experience or position. Participation by women in politics (and other fields) was generally considered inappropriate. While women have made limited gains in attaining political power in recent years, political circles remain under the influence of traditional male-dominated groups, and women are disadvantaged in seeking high public office. In 1996 voters elected six women to the National Assembly, compared with three who held seats in the previous assembly, and the Assembly appointed a woman as chairperson. The Cabinet includes one woman as Minister of Regional Development and another as Deputy Minister of Social Affairs.

Although the Constitution proscribes racial or religious discrimination, several factors limit the participation of Maroons (descendants of escaped slaves who fled to the interior to avoid recapture) and Amerindians in the political process. Most of the country's political activity takes place in the capital and a narrow belt running east and west of it along the coast. The Maroons and Amerindians are concentrated in remote areas in the interior and therefore have limited access to, and influence in, the political process. Voters elected the first Amerindians to the National Assembly in 1996. There are six Maroons and two Amerindians in the National Assembly. There are no Maroons or Amerindians in the Cabinet.

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

Human rights groups operate without government restriction, investigating and publishing their findings on human rights cases; however, government officials generally are not cooperative or responsive to their views.

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

The Constitution and laws, with the exception of ethnic marriage laws, do not differentiate among citizens on the basis of their ethnic origins, religious affiliations, or other cultural differences. In practice, however, several groups within society suffer various forms of discrimination.

Women.—Violence against women is a problem. The law does not differentiate between domestic violence and other forms of assault. The Government has not addressed specifically the problem of violence against women. According to a national women's group, victims continue to report cases of violence against women and complain of an inadequate response from the Government and society to what appears to be a trend of increasing family violence. Although the police have been reluctant

to intervene in instances of domestic violence, a national women's group noted that police attitudes have improved significantly as a result of training conducted during the year.

There are no specific laws to protect women against trafficking and sexual exploitation. There were credible reports of trafficking in women for prostitution (see Section 6.f.).

Women have the right to equal access to education, employment, and property. Nevertheless, social pressures and customs, especially in rural areas, inhibit their full exercise of these rights, particularly in the areas of marriage and inheritance. Women experience economic discrimination in access to employment and in rates of pay for the same or substantially similar work. The Government has not made specific efforts to combat economic discrimination.

The National Women's Center is a government agency devoted to women's issues; there is also a women's policy coordinator. Their effectiveness is limited severely by financial and staffing constraints. The principal concerns of women's groups are political representation, economic vulnerability, violence, and discrimination.

Children.—School attendance is free and compulsory until 12 years of age, but some school-age children do not have access to education because of a lack of transportation, facilities, or teachers. There is no difference in the treatment of girls and boys in education or health care services. Both students and parents complained about the Government's decision to double enrollment fees for public school. Children face increasing economic pressure to discontinue their education in order to work.

The Government allocates only limited resources to ensure safeguards for the human rights and welfare of children. There are continuing reports of malnutrition among poor children, but it is difficult to quantify the extent of the problem. In the capital, where most of the country's population is concentrated, there are several orphanages, and a privately funded shelter for sexually abused children opened in 1993. Elsewhere, distressed children must usually rely on the resources of their extended families.

There is no societal pattern of abuse directed against children; however, some children are sexually exploited and there were credible reports of trafficking in girls for prostitution (see Section 6.f.). The legal age of consent is 21; however, it is not strictly enforced, and the Asian Marriage law lowers the marriage age for children of Asian descent to 13 years for girls and 14 years for boys.

People with Disabilities.—There are no laws concerning disabled people and no provisions for making private or public buildings accessible to them. There are also no laws mandating that they be given equal consideration when seeking jobs or housing. However, there are some training programs for the blind and others with disabilities.

Indigenous People.—The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians and Maroons suffer a number of disadvantages and have only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. The nation's political life, educational opportunities, and jobs are concentrated in the capital and its environs, while the majority of Amerindians and Maroons live in the interior. Government services in the interior became largely unavailable and much of the infrastructure was destroyed during the 1986–91 domestic insurgencies; progress in reestablishing services and rebuilding the infrastructure has been very slow.

The Government appointed the Consultative Council for the Development of the Interior in September 1995. This Council, provided for in the 1992 peace accords that formally ended the insurgencies, includes representatives of the Maroon and Amerindian communities. The Government did not, however, consult with representatives of these communities about the granting of gold and timber concessions on indigenous and tribal lands.

Organizations representing Maroon and Amerindian communities complain that small-scale mining operations, mainly illegal Brazilian gold miners, dig trenches that cut residents off from their agricultural land and threaten to drive them away from their traditional settlements. Mercury runoff from these operations also contaminates and threatens traditional food source areas.

Maroon and Amerindian groups continue to cooperate with each other in order to exercise their rights more effectively. Two summits, or "gran krutus," bringing together Maroon and Amerindian tribal leaders, have been held, the most recent in September 1996. During these summits, indigenous leaders reiterated their demands for the right to participate in decisions concerning the use of natural resources on land they claim as their own and for greater autonomy from the Government.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution protects the right of workers to associate and to choose their representatives democratically. Nearly 60 percent of the work force is organized into unions, and most unions belong to one of the country's six major labor federations. Unions are independent of the Government but play an active role in politics. The small Labor Party has historically been a very influential force in government.

The Constitution provides for the right to strike. Civil servants have the right to strike, and strikes in both the public and private sectors are common as workers try to secure wage gains to protect their earning power from inflation.

There are no restrictions on unions' international activities. Several labor federations were accepted once again as affiliates of international trade union organizations, after having been suspended for collaboration with the military regime in the late 1980's.

b. *The Right to Organize and Bargain Collectively.*—The Constitution explicitly recognizes these rights, and the authorities respect them in practice. Collective bargaining agreements cover approximately 50 percent of the labor force. The law prohibits antiunion discrimination by employers, and there are effective mechanisms for resolving complaints of such discrimination. Employers must have prior permission from the Ministry of Labor to fire workers, except when discharging an employee for cause. The Labor Ministry individually reviews dismissals for cause; if it finds a discharge unjustified, the employee must be reinstated.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and there were no reports that it occurred. However, there were credible reports of trafficking in women and girls for prostitution (see Section 6.f.). The law prohibits forced and bonded labor by children, and such practices are not known to occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum age for employment at 14 years. However, the Ministry of Labor and the police enforce this law only sporadically. Children under 14 years of age work as street vendors, newspaper sellers, or shop assistants. Working hours for youths are not limited in comparison with the regular work force. School attendance is compulsory until 12 years of age. The law prohibits forced and bonded labor by children, and there were no reports of such practices, although trafficking of girls for prostitution does occur (see Section 6.f.).

e. *Acceptable Conditions of Work.*—There is no minimum wage legislation. In January civil servants were granted a 20 percent pay increase, with a cost of living allowance of about $21 (Sfl 30,000). Including that allowance, the lowest wage for civil servants is about $56 (Sfl 78,000) per month at the official exchange rate, or about $52 at the legal parallel market rate. This salary level makes it very difficult to provide a decent standard of living for a worker and family. Government employees, who constitute close to 50 percent of the work force of 100,000, frequently supplement their salaries with second or third jobs, often in the informal sector. The President and Council of Ministers set and approve civil service wage increases. Civil service and other wages are not keeping pace with inflation.

Work in excess of 9 hours per day or 45 hours per week on a regular basis requires special government permission, which is routinely granted. Such overtime work earns premium pay. The law requires one 24-hour rest period per week.

A 10- to 12-member inspectorate of the Occupational Health and Safety Division of the Ministry of Labor is responsible for enforcing legislated occupational safety and health regulations. Resource constraints and lack of trained personnel preclude the division from making regular inspections of industry. Accident rates in local industry do not appear to be high, and the key bauxite industry has an outstanding safety record. There is, however, no law authorizing workers to refuse to work in circumstances they deem unsafe. They must appeal to the inspectorate to declare the workplace situation unsafe.

f. *Trafficking in Persons.*—The only legislation specifically prohibiting trafficking in persons are old "white slavery laws" that are rarely enforced.

There were credible reports of trafficking in women and girls for prostitution. Women and girls from the interior are brought to the capital city and also to various gold mining locations in the interior. Several clubs in the capital are also known for recruiting women from Brazil and the Caribbean.

In addition, alien smuggling organizations use the country as an intermediate destination to smuggle Chinese nationals, including women and girls, to the United States, where frequently they are forced into bonded-labor situations.

TRINIDAD AND TOBAGO

Trinidad and Tobago, a member of the Commonwealth of Nations, is a parliamentary democracy in which there have been free and fair general elections since independence from the United Kingdom in 1962. A bicameral parliament and a prime minister govern the country. Parliament elects a president, whose office is largely ceremonial. A 12-member elected House of Assembly handles local matters on the island of Tobago. The judiciary is independent.

The Ministry of National Security controls the police service and the defense force, which are responsive to civilian authority. An independent body, the Police Service Commission, makes all personnel decisions in the police service, and the Ministry has little direct influence over changes in senior positions.

Oil and natural gas production and related downstream petrochemical industries form the basis of the market-based economy. The service sector is the largest employer, although continued industrialization has created many jobs in the construction industry. Agriculture, while contributing only 2 percent to gross domestic product, remains an important employer, both at the subsistence and commercial level. Although per capita income is over $4,700 annually, 13.1 percent unemployment contributes to a skewed income distribution, which has not improved despite economic growth of 5.6 percent. Government efforts to address this problem by further diversification into manufacturing and tourism have been only partially successful.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Nonetheless, poor prison conditions, long delays in trials, and violence against women remain problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that officials employed them.

Prison conditions at the women's prison and two of the three men's prisons meet minimum international standards. However, conditions are worse in the Port of Spain prison, which was designed for 250 inmates, but houses about 1,000. Diseases such as chicken pox, tuberculosis, AIDS, and other viruses spread easily, and prisoners generally must purchase their own medication. Overcrowding plagued the entire prison system, which housed 4,900 inmates in prisons built to accommodate 1,800. A new maximum security prison was opened in 1998 with 200 inmates. With an eventual capacity of 2,100, this prison is expected to help alleviate the problem. However, plans to have the prison fully functional by June 1 were not met.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest or detention, and the Government generally observes this prohibition.

A police officer may arrest a person either based on a warrant issued or authorized by a magistrate or without a warrant when the officer witnesses commission of the alleged offense. For less serious offenses, the authorities typically bring the accused before a magistrate within 24 hours; for indictable offenses, the accused must appear within 48 hours. At that time the magistrate reads the charge and determines whether bail is appropriate. Magistrates may deny bail to violent or repeat offenders. If for some reason the accused does not come before the magistrate, the case comes up on the magistrate's docket every 8 to 10 days until a hearing date is set. The courts notify persons of their right to an attorney and allow them access to an attorney once they are in custody and prior to any interrogation. However, the authorities do not always comply with these standards. Allegations of corruption among justices of the peace also raised concerns about compliance; the Government pledged to dismiss and prosecute any justice found to have violated these standards (see Section 1.e.).

The Minister of National Security may authorize preventive detention in order to prevent actions prejudicial to public safety, public order, or national defense, and the Minister must state the grounds for the detention. A person detained under this provision has access to counsel and may have the detention reviewed by a three-member tribunal established by the Chief Justice and chaired by an attorney. The Minister must provide the tribunal with the grounds for the detention within 7 days of the detainee's request for review, which shall be held "as soon as reasonably prac-

ticable" following receipt of the grounds. There have been no reports that the authorities abused this procedure.

The Constitution prohibits exile, and it is not used.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair judicial process. However, in September the Chief Justice warned that judicial independence was under attack by the executive branch, particularly the Attorney General, under the guise of increased accountability and improved efficiency. The Government refuted the allegations, and two independent commissions were appointed to review the issue.

The court system consists of a court of appeal, a high court, and a magistrate's court. A criminal offense is first sent to a magistrate's court for a preliminary inquiry to determine if it can be heard before a magistrate without a jury. If the magistrate determines that the offense is a serious one, it is referred to the High Court, where it is heard before a judge and jury. All civil matters are heard by the High Court. Appeals can be filed with the local court of appeal and ultimately to the Privy Council in London. There is considerable support for abolishing appeals to the Privy Council and establishing a Caribbean Court of Justice, located in Trinidad and Tobago, to serve as the final court of appeal.

The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right. All criminal defendants have the right to an attorney. In practice the courts sometimes appoint attorneys for those persons charged with indictable offenses (serious crimes) if they cannot retain one on their own behalf. The law requires a person accused of murder to have an attorney. An indigent person may refuse to accept an assigned attorney for cause and obtain a replacement.

Despite serious efforts to improve the judiciary, severe inefficiency remains in many areas. Several criminal cases were dismissed due to judicial or police inefficiency. Despite significant progress, lengthy trial delays remain a serious problem. Spurred by a desire to implement the death penalty, and in order to comply with a ruling by the Privy Council, the Cabinet established time limits for the courts to dispose of capital appeals. To accomplish this goal, the Attorney General created a case management unit to track capital appeals. The Government also allocated additional resources to help the courts deal with the extra workload. The courts remained open during the summer to clear many of the cases that had been on the books for more than 15 years.

The Government continued to take steps against corruption in the criminal justice system. Over a 2-year period, the authorities charged at least 62 persons with various offenses after a presidential commission's investigation found collusion among justices of the peace, bailiffs, and police officers in the granting and fixing of bail. The Government revoked the licenses of 25 justices of the peace. It also brought charges against 11 justices of the peace, 31 bailiffs, 3 attorneys, and 4 police officers. However, by year's end, only one of those indicted as a result of the commission's inquiry had come to trial. In that case, a court convicted one of the justices of the peace and sentenced him to 4 years' imprisonment.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects this right in practice. An independent press and a functioning democratic political system combine to ensure freedom of speech and of the press.

The three major daily newspapers freely and often criticized the Government in editorials. Widely read weekly tabloids tend to be extremely critical of the Government. All newspapers are privately owned. The two local television newscasts, one of which appears on a state-owned station, are sometimes critical of the Government but generally do not editorialize.

A Board of Film Censors is authorized to ban films that it considers to be against public order and decency or contrary to the public interest. This includes films that it believes may be controversial in matters of religion or race, or that contain seditious propaganda. In practice films rarely are banned.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government respects this right in practice. The police routinely grant the required advance permits for street marches, demonstrations, or

other outdoor public meetings. In August 1998, the Government amended the Summary Offences Act to put greater controls on the staging of public rallies. The amendments require that permits for public meetings and rallies be applied for 48 hours in advance instead of 24 hours. The fine for violation of the act was raised from about $275 (TT$2,000) to $1,375 (TT$10,000). The amendment makes it an offense to hold a public meeting without a permit under the guise of conducting an exempted religious, educational, recreational, or sports function. This new offense is punishable by imprisonment for 2 years or a fine of about $1,375 (TT$10,000). In practice, the law has not restricted unduly public meetings, demonstrations, or exempted events.

The Constitution provides for freedom of association, and the Government respects this right in practice. Registration or other governmental permission to form private associations is not required.

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

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

There is no provision for persons to claim or be classified as refugees or asylum seekers; the Ministry of National Security's Immigration Division handles any such requests on a case-by-case basis. The issue of the provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held at intervals not to exceed 5 years. Elections for the 12-member Tobago House of Assembly are held every 4 years. The Constitution extends the right to vote to citizens as well as to legal residents at least 18 years of age who are citizens of other Commonwealth countries.

In the November 1995 general elections, the former opposition United National Congress (UNC) and the ruling People's National Movement (PNM) each won 17 seats in Parliament. The National Alliance for Reconstruction (NAR) won two seats and joined with the UNC to form a new government. Basdeo Panday became the country's first Prime Minister of East Indian descent. The PNM is primarily but not exclusively Afro-Trinidadian; the UNC is primarily but not exclusively Indo-Trinidadian.

There are no specific laws that restrict the participation of women or minorities in government or the political parties. Women hold many positions in the Government and political party leadership. Four of 36 elected members of the House of Representatives and 10 of 31 appointed Senators are women, with 2 women serving as ministers. Prime Minister Panday appointed the first woman to serve as Attorney General; she has since moved to the position of Minister of Education.

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

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views. An independent ombudsman receives complaints relating to governmental administrative issues and investigates complaints of human rights abuse. The Ombudsman can make recommendations but does not have authority to force government offices to take action.

The Government sought to curtail appeals by death row inmates to the Inter-American Commission on Human Rights (IACHR) and the U.N. Human Rights Committee. In May it withdrew from the IACHR following its required 1-year notice. The Government also withdrew from the Optional Protocol to the International Covenant on Civil and Political Rights, but reacceded with the reservation that the U.N. Committee would not have jurisdiction over death penalty cases.

The Government's moves were prompted by a Privy Council ruling that failure to execute a condemned prisoner within 5 years of sentence constitutes cruel and unusual punishment in violation of the Constitution. To meet this 5-year deadline, the Government established time limits for appeals to courts and human rights bodies. Local appeals are now disposed of within an average of 16 months compared with the previous average of 7 years.

The Government asked the IACHR and the U.N. Committee each to agree to dispose of petitions within 8 months. According to the Government, both bodies responded that they could not provide such assurances. The Government stated that the conflict between a binding Privy Council ruling and its obligations to the human rights organs had to be resolved in favor of the Constitution and the Privy Council. The Government indicated that it would execute condemned prisoners who have exhausted all their appeals and have unresolved petitions pending more than 8 months before one of the human rights bodies.

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

The Government respects in practice the constitutional provisions for fundamental human rights and freedoms for all without discrimination based on race, origin, color, religion, or sex.

Women.—Physical abuse of women continued to be an extensive problem. There has been increased media coverage of domestic abuse cases and signs of a shift in public opinion, which held that such cases were a private matter. The Government has taken action to improve aid to victims. Murder, rape, and other crimes against women are reported frequently; 30 percent of all female homicide victims were believed to have been killed by their husbands or lovers. Rape, spousal abuse, and spousal rape are criminal offenses. The 1991 Domestic Violence Act was intended to facilitate court-issued restraining orders to protect victims and extended protection to common-law relationships, a frequent form of marital union. However, some observers say that the number of restraining orders issued has not increased at the rate expected since the enactment of the law. The establishment of a community police division improved police responsiveness to reports of domestic abuse, but some police officers are reported to be unsympathetic or reluctant to pursue such cases, resulting in underreporting of crimes of violence against women. There were more than 4,000 complaints of spousal abuse during the year; police handled an average of 9 cases a day that led to reports by victims, with the actual incidence of such abuse considered to be much higher. Two government ministries, operating independently, direct the nongovernmental organizations (NGO's) that run most of the country's social programs addressing domestic violence, including five shelters for battered women, and a rape crisis center offers counseling for rape victims and perpetrators on a voluntary basis. A Government-sponsored hot line receives about 200 calls per month.

In October a new Domestic Violence Act came into effect. The new law strengthens provisions of the 1991 law and allows easier access for police in instances of domestic violence. The Senate also introduced amendments to the Sexual Offences Act that would broaden the definition of sexual offenses and increase the punishment for such crimes. These amendments had not yet been approved by the lower House at year's end.

The court of appeals reduced the conviction and sentence of a woman who had been sentenced to death in 1998 for killing her husband in 1991. The appeals court based its decision on the argument that she suffered from battered-wife syndrome. The case had drawn wide attention; some women's groups asserted that the conviction and the death sentence represented a double standard that punished wife-killers less severely than women who retaliate against abusive husbands. The appeals court found her guilty of manslaughter and reduced her sentence to 5 years plus time served.

Many women hold positions in business, the professions, and government, but men tend to hold the most senior positions. There is no law or regulation requiring equal pay for equal work.

The Division of Gender Affairs in the Ministry of Culture and Gender Affairs is charged with protecting women's rights in all aspects of government and legislation. Several active women's rights groups also exist.

Children.—The Government's ability to protect children's welfare is limited by a lack of funds and expanding social needs. Some parts of the public school system seriously fail to meet the needs of the school age population due to overcrowding, substandard physical facilities, and occasional classroom violence by gangs. There is no societal pattern of abuse directed at children. The Domestic Violence Act provides protection for children abused at home. Abused children are usually placed with relatives if they are removed from the home. If there is no relative who can take them, there are several government institutions and NGO's that accept children.

People with Disabilities.—There is no legislation that specifically enumerates or protects the rights of disabled persons or mandates the provision of access to buildings or services, although NGO's lobbied Parliament to pass such legislation. The

lack of access to transportation, buildings, and sidewalks is a major obstacle for the disabled. The Government provides some public assistance and partial funding to a variety of NGO's which, in turn, provide direct services to disabled members or clients.

Indigenous People.—Members of a very small group in the population identify themselves as descendants of the original Amerindian population of the country. They maintain social ties with each other and other aboriginal groups and are not subject to discrimination.

National/Racial/Ethnic Minorities.—Various ethnic and religious groups live together peacefully, generally respecting one another's beliefs and practices. However, at times racial tensions appear between Afro-Trinidadians and Indo-Trinidadians. Each group comprises about 40 percent of the population. The private sector is dominated by Indo-Trinidadians and people of European, Middle Eastern, or Asian descent. Indo-Trinidadians also predominate in agriculture. Afro-Trinidadians tend to find employment in disproportionate numbers in the civil service, police, and military. Some Indo-Trinidadians assert that they are excluded from equal representation in the civil service due to racial discrimination. Since Indo-Trinidadians constitute the majority in rural areas and Afro-Trinidadians are in the majority in urban areas, competition between town and country for public goods and services often takes on racial overtones.

In October 1996, there were reports that several popular recreational clubs refused entry to Afro-Trinidadians and dark-skinned Indo-Trinidadians. The reports led to criticism of racism by the local press, and the Government pledged to implement a law banning racial discrimination in entry policies for private clubs. However, the Government has not yet taken such action.

Section 6. Worker Rights

a. *The Right of Association.*—The 1972 Industrial Relations Act provides that all workers, including those in state-owned enterprises, may form or join unions of their own choosing without prior authorization. Union membership has declined, with an estimated 20 to 28 percent of the work force organized in 14 active unions. Most unions are independent of the Government or political party control, although the Sugar Workers' Union is historically allied with the UNC. The Prime Minister was formerly president of the Sugar Workers' Union.

The law prohibits antiunion activities before a union is legally registered, and the Ministry of Labor enforces this provision when it receives a complaint. A union may also bring a request for enforcement to the Industrial Court. All employees except those in "essential services," such as government employees and police, have the right to strike.

The Labor Relations Act prohibits retribution against strikers and provides for grievance procedures if needed. A special section of the Industrial Court handles mandatory arbitration cases. Arbitration agreements are enforceable and can be appealed only to the Industrial Court.

Unions freely join federations and affiliate with international bodies. There are no restrictions on international travel or contacts.

b. *The Right to Organize and Bargain Collectively.*—The Industrial Relations Act establishes the right of workers to collective bargaining. The Ministry of Labor's conciliation service maintains statistical information regarding the number of workers covered by collective bargaining agreements and the number of antiunion complaints filed.

The Industrial Court may order employers who are found guilty of antiunion activities to reinstate workers and pay compensation, or it can impose other penalties including imprisonment. When necessary the conciliation service also determines which unions should have senior status.

There are several newly organized export processing zones (EPZ's). The same labor laws apply in the EPZ's as in the country at large.

c. *Prohibition of Forced or Compulsory Labor.*—The law does not explicitly prohibit forced or compulsory labor, but there were no reports that it was practiced. There were also no reports of forced or bonded labor by children.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal age for workers is 12 years. Children from 12 to 14 years of age may only work in family businesses. Children under the age of 18 legally may work only during daylight hours, with the exception of 16- to 18-year-olds, who may work at night in sugar factories. The probation service in the Ministry of Social Development and Family Services is responsible for enforcing child labor provisions, but enforcement is lax. There is no organized exploitation of child labor, but children are often seen begging or working as street vendors. The Government does not prohibit spe-

cifically forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The 1998 Minimum Wages Act established a minimum wage of about $1.10 (TT$7.00) per hour. The minimum wage is not sufficient to support a worker and family, but most workers earn more than the minimum. The Ministry of Labor enforces the minimum wage regulations.

The Minimum Wages Act also established a 40-hour workweek, time and one-half pay for the first 4 hours of overtime on a workday, double pay for the next 4 hours, and triple pay thereafter. For Sundays, holidays, and off days the act also provides for double pay for the first 8 hours and triple pay thereafter. Daily rest periods and paid annual leave form part of most employment agreements.

The Factories and Ordinance Bill of 1948 sets requirements for health and safety standards in certain industries and provides for inspections to monitor and enforce compliance. The Industrial Relations Act protects workers who file complaints with the Ministry of Labor regarding illegal or hazardous working conditions. If it is determined upon inspection that hazardous conditions exist in the workplace, the worker is absolved for refusing to comply with an order that would have placed him or her in danger.

f. *Trafficking in Persons.*—While there are no laws that specifically address trafficking in persons, the illegality of such acts is covered broadly in a variety of legislation dealing with kidnaping, labor conditions, pimping and prostitution, slavery, and indentured servitude. There were no reports of persons being trafficked in, to, or from the country.

URUGUAY

Uruguay is a constitutional republic with an elected president and a bicameral legislature. In 1994 former President Julio Maria Sanguinetti won a narrow election victory. His 5-year term ends in March 2000. In national elections for the presidency and the legislature on October 31, the left-of-center Broad Front coalition won about 40 percent of the vote in a four-party race, constituting the largest congressional bloc. Jorge Batlle of the Colorado Party won the runoff presidential election held on November 28. The judiciary is independent.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The military is responsible for external security within the prison system. The police at times committed human rights abuses.

The economy is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The leading exports are meat, leather, and rice. The Government respects private property rights. The unemployment rate is estimated at 11.4 percent. The economy grew by 4.5 percent in 1998, but growth was estimated to decline by 2 to 2.5 percent in 1999. Annual per capita income was about $6,560 in 1998.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of dealing with individual instances of abuse. However, there were problems in some areas, principally instances of police abuse and mistreatment of detainees, poor prison conditions, and delays in the justice system. Court cases sometimes last many years, resulting in lengthy preverdict detention. Other problems include violence against women and societal discrimination against women and the black minority.

RESPECT FOR HUMAN RIGHTS

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

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

In August guards at the prison in the department of San Jose shot and killed an inmate who apparently was attempting to escape and who ignored warnings to halt.

The investigation into the 1992 murder of Chilean chemist/intelligence agent Eugenio Berrios remained closed. Berrios, who had been called to testify in Chile concerning the assassination of former Chilean Foreign Minister Orlando Letelier, reportedly entered Uruguay under protective military custody. His body was discovered in 1995, after he was last seen alive in military custody in 1992. In March the judge in the case declined to provide the case files to Chilean judicial authorities, as they had requested. He reasoned that releasing such information would jeopardize any future prosecution of the case, should it be reopened. The judge did pro-

vide records of telephone calls made by Berrios in Montevideo prior to his disappearance and murder. Also in March, a group of Argentine and Uruguayan journalists filming a documentary about persons who disappeared during the military dictatorship were threatened and beaten while filming outside the house in which Eugenio Berrios had been detained by members of the military. The attacker was a relative of the military officer who owned the house and who had been questioned previously in the Berrios case.

The 1986 Amnesty Law applied to perpetrators of extrajudicial killings, torture, and other abuses during the 12 years of military rule from 1973 to 1985. However, some victims and relatives of victims had success using the civilian courts to seek redress. In March the widow of a criminal suspect who in 1998 died under suspicious circumstances while in police custody filed criminal charges against the personnel of the police unit at which her husband died. In two 1998 rulings, the trial judge ordered the Government to pay a total of $1.4 million in compensation to the families of a number of victims of torture and, in several cases, extrajudicial execution. Action on the Government's appeal of these rulings is pending.

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

Calls for investigations into past disappearances continued. In May, as in prior years, thousands of persons marched in memory of the 159 Uruguayans who disappeared during the rule of the dictatorship (115 in Argentina, 36 in Uruguay, 6 in Chile, and 2 in Paraguay).

The Government continued to disregard a 1992 ruling of the Inter-American Commission on Human Rights, reaffirmed in October 1997, which concluded that the 1986 Amnesty Law was incompatible with the American Convention on Human Rights and which recommended that the Government investigate the disappearances and compensate the families of the victims. Although the Amnesty Law obliges the executive branch to investigate the cases of citizens who were detained and then disappeared under the military regime, all three administrations since the return to democracy have consistently refused to open official investigations into their fate. The only exception was a cursory, nonpublic inquiry conducted by a military prosecutor that revealed nothing.

Since the 1986 Amnesty Law precludes criminal actions against suspected participants in human rights violations during military rule, some persons have sought justice in non-Uruguayan courts. In March Sara Mendez filed papers in an Argentine court formally accusing five present and former members of the Uruguayan military with the 1976 kidnaping of her infant from her Buenos Aires home. In June the relatives of eight Italian-Uruguayan dual nationals who had disappeared filed charges in an Italian court against four present and former members of the military and one police officer.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits brutal treatment of prisoners, but the police continued at times to commit abuses. On occasion, such abuse resulted in forced confessions (see Section 1.d.).

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. An internal police investigative unit receives complaints from any person concerning possible noncriminal police abuse of power, but it is understaffed and can issue only recommendations for disciplinary action. While the courts seldom convicted and punished law enforcement officials for such abuse in the past, such prosecutions are occurring more frequently. In the month of August alone, over 20 police officers were prosecuted for crimes ranging from abuse of authority to bank robbery and murder.

Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes are separated from active service until a court resolves their cases. A Ministry of Interior study reported that 179 police officers had been investigated or convicted by a court, and that 117 of these cases were directly linked to the exercise of their jobs. The 1995 Public Security Law requires a proportional use of force by the police and the use of weapons only as a last resort, in accordance with United Nations codes regarding the use of force.

Some torture victims and relatives of victims continued to use the courts to seek redress for their grievances. The Government is appealing damage awards made in 1998 to the families of a number of persons tortured or murdered in custody during military rule (see Section 1.a.).

In January three small explosions occurred in Montevideo. The authorities arrested two persons, including one former member of a neo-Nazi group, in connection with the bombings. They held the latter in custody at year's end (see Section 5).

Conditions in prisons and juvenile detention facilities for the roughly 3,700 prisoners remain poor but not life threatening. In 1997 a legislative human rights commission presented a report that criticized the "excessive use of force and abuse of

authority" by prison guards and officials, and stated that sanitation and health standards in the prison system were "unacceptable." This report reflects the work of a previous commission that in 1996 published a report to the Government citing overcrowding, lack of staff training, corruption, and physical violence as problems. According to press reports and a study conducted by SERPAJ, a nongovernmental organization (NGO), HIV-positive inmates sometimes received inadequate medical treatment. There were several incidents of prisoner unrest during the year, including a riot in June at the country's only maximum security prison, during which inmates demanded better prison conditions. The riot resulted in severe damage to the substandard facility, requiring a number of prisoners to be transferred to other facilities, some of which were already overcrowded.

The Government permits prison visits by human rights monitors, although prisoner unrest, as well as the requirement to route all such requests through the Ministry of Interior, at times cause delays.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution requires the police to have a written warrant issued by a judge before making an arrest, and the authorities generally respect this provision in practice. The only exception is when the police apprehend the accused during commission of a crime. The Constitution also provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. It is during this 24-hour period that police sometimes abuse prisoners, occasionally resulting in forced confessions.

A 1980 law stipulates that police confessions obtained before a prisoner appears before a judge and attorney (without the police present) have no validity. Further, should a prisoner claim that he has been mistreated, by law the judge must investigate the charge.

If the detainee cannot afford a lawyer, the courts appoint a public defender. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail. This seldom happens. As a result, approximately 68 percent of all persons incarcerated are awaiting a final decision in their case, down from approximately 90 percent in the past years. This improvement is due to the Government's efforts to improve the functioning of the criminal justice system. Because of the slowness of the judicial process, the length of time prisoners spend in jail before the judge issues a verdict may exceed the maximum sentence for their crime. The uncertainty as to how long one will be imprisoned is a factor creating tension within the country's prisons.

In December 1997, the legislature approved a bill to reform and modernize the Criminal Code. Among its provisions, the new law provides for more oral argument by prosecution and defense attorneys, and less investigative responsibility for judges, which is expected to accelerate the pace of criminal trials. The law was to take effect in 1998, but was delayed until at least February 2001, due to a lack of resources to implement the new system.

The Government does not use forced exile as a means of punishment.

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

The Supreme Court heads the judiciary system and supervises the work of the lower courts. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings usually are based on written arguments to the judge, which are not made public routinely. Only the prosecutor and defense attorney have access to all documents that form part of the written record. The courts introduced oral argument in 1990, but individual judges use it at their option. Most judges choose to retain the written method, a major factor slowing the judicial process. There is no legal provision against self-incrimination, and judges may compel defendants to answer any question they pose. The defense attorney or prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, but the authorities may abridge these rights if persons are deemed to be inciting violence or "insulting the nation."

All elements of the political spectrum freely express their viewpoints in both print and broadcast media. Montevideo alone has 8 daily newspapers and 6 important weeklies; there are also approximately 100 other weekly and a few daily newspapers throughout the country. Montevideo has one government-affiliated and three commercial television stations. There are about 110 radio stations and 20 television stations in the country.

A 1989 law stipulates that expression and communication of thoughts and opinions are free, within the limits contained in the Constitution, and it outlines methods of responding to "inexact or aggravating information." The law calls for 3 months' to 2 years' imprisonment for "knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State" or for "insulting the nation, the State, or their powers." The authorities use this law intermittently to set and enforce certain limits on freedom of the press.

Human rights activists and journalists have alleged that state enterprises such as the telephone and electric companies on occasion have withheld advertising from independent media that are critical of the Government and have favored media friendly to the Government with extensive paid advertising.

The national university is autonomous, and the authorities generally respect academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The law provides for these rights, and the Government respects them in practice.

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

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

The Government grants refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government granted first asylum to a Cuban tourist who requested asylum in October 1998. The Government granted asylum to other persons who requested asylum during the year, including Cubans and Colombians.

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

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Uruguay is a multiparty democracy with mandatory voting for those 18 years of age or older, and there are no restrictions regarding race, sex, religion, or economic status. The Colorado party, the National (Blanco) party, the Broad Front coalition, and the New Space Party are the four major political groupings.

Women and blacks face impediments to high-level participation in politics and employment in government. Only 1 of 12 cabinet ministers is a woman. In the legislature, 2 of 30 senators and 8 of 99 deputies were women. In October voters elected 3 female candidates to the Senate and 13 women deputies. There are no female justices on the Supreme Court. There has never been a black parliamentarian or cabinet-level official.

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

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

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

The Constitution and the law prohibit discrimination based on race, sex, religion, or disability. Despite these provisions, discrimination against some groups exists.

Women.—Violence against women continues to be a serious problem. A 1999 Ministry of Public Health study projected that within 5 years, domestic violence would constitute the second most prevalent threat to public health, after traffic accidents. In a November 1997 poll of 545 urban and suburban households, 47 percent of respondents reported physical or psychological abuse from their partners, with 23 percent reporting severe abuse. The law provides for sentences of 6 months to 2 years in prison for a person found guilty of committing an act of violence or of making continuing threats to cause bodily injury to persons related emotionally or legally to the perpetrator. The Montevideo city hall's hot line for victims of domestic violence received 4,785 complaints in 1998 and 4,927 in the first 10 months of 1999, reflecting both an increased public awareness of the problem as well as a changing attitude among women. Persons calling the hot line are provided counseling, free legal advice, and may be referred to NGO's that can provide further social services. The Criminal Code covers spousal abuse and spousal rape, although criminal charges rarely are initiated for those crimes. Similarly, although the law prohibits sexual harassment in the workplace, few complaints are ever filed under this provision.

The Government has established an office of assistance for victims of domestic violence that trains police how to resolve complaints of violence against women. A new directorate within the Ministry of Interior instituted a public awareness campaign about domestic violence and founded community assistance centers where abuse victims receive information and referrals to government and private organizations in their area that aid abused women. Both the Ministry of Interior and NGO's operate shelters in which abused women and their families can seek temporary refuge.

Women enjoy equality under the law but face discrimination stemming from traditional attitudes and practices. The work force exhibits segregation by gender. Women, who make up almost one-half the work force, tend to be concentrated in lower paying jobs. Women's salaries average two-thirds those of men; 10 years earlier, this figure was 57 percent. Two-thirds of the students who entered the university system in 1997 were women. Women often pursue professional careers but are underrepresented in traditionally male-dominated professions. In February 1997, the Government approved regulations to implement a 1989 law for equality in the workplace that had previously gone unenforced. In 1997 the Air Force Academy became the first armed services academy to admit women and has 7 female students out of a total student body of 74. The Army Military Academy began admitting women in 1998 and has 19 women enrolled in its 240-member student body.

A small institute in the Ministry of Education coordinates government programs for women. There are a number of active women's rights groups, and many of their activities remained centered on followup to the platform of action of the 1995 U.N. Conference on Women.

Children.—The Government generally is committed to protecting children's rights and welfare. An institute in the Ministry of Interior oversees implementation of the Government's programs for children but receives only limited funding for programs. The Government regards the education and health of children as a top priority and believes it should do more to ensure free education and proper health care for all children. An estimated 40 percent of children under the age of 5 live in the poorest 20 percent of homes. The Government is attempting to extend proper health care and education to them with the help of the United Nations Children's Fund. The Government provides free, compulsory primary and secondary education, and 95 percent of children complete their primary education. Girls and boys are treated similarly.

There is no societal pattern of abuse of children. Minors under the age of 18 are not subject to criminal trial, but receive special treatment with special judges and, when sentenced, stay in institutions run by the National Institute for Minors (INAME) for the period determined by the judge. The Government currently houses all problem minors in INAME-run institutions that emphasize the rehabilitation of minors. The most controversial aspect of the 1995 Public Security Law would allow the Government to put minors with a record of violent crimes in adult prisons if INAME has no room in its own institutions. Even though the law stipulates that minors would occupy separate facilities within the prisons, human rights groups adamantly oppose this provision. As a result, INAME has decided that it will not send minors to adult prisons. INAME runs an extensive network of programs, including shelters for at-risk children. INAME also runs a confidential hot line for children who are victims of domestic abuse.

A Code of the Child, intended to bring the law into compliance with the provisions of the U.N. Convention on the Rights of the Child, was approved by the lower house of Congress in August. The Senate subsequently referred the bill back to committee

for further study and modification, and the Senate took no further action before the end of the legislative session.

People with Disabilities.—The legislature passed a law covering the rights of the disabled in 1989. A national disabilities commission oversees implementation of the law. Although the law mandates accessibility only to new buildings or public services for people with disabilities, the Government is providing access to a number of existing buildings. The law reserves 4 percent of public sector jobs for the disabled. There is no governmental discrimination against disabled persons in employment, education, or in the provision of other state services. The country has a generally excellent mental health system and an interest in the rights of people with mental disabilities.

National/Racial/Ethnic Minorities.—The country's black minority, estimated at 5.9 percent of the population, continues to face societal discrimination. A government study conducted in 1996–97 found that the unemployment rate for blacks was 1.5 times the rate for whites. The National Institute of Statistics found that blacks earn an average of 20 percent less than whites who perform the same job. A 1993 report put the number of black university graduates at 65, and black professionals at fewer than 50. According to a study conducted by Mundo Afro (an NGO), one-half of Afro-Uruguayan women work as household domestics. Blacks are practically unrepresented in the bureaucratic and academic sectors.

Religious Minorities.—Isolated neo-Nazi elements have carried out occasional, limited attacks since 1997. One such incident occurred in June 1998, when a Molotov cocktail was thrown into the Ahdut Israel synagogue. Two policemen sustained minor injuries after three small explosions in January in Montevideo. Police subsequently arrested two persons in connection with the explosion, one of whom, a former member of a neo-Nazi group, remained in custody at year's end. In August an intensive police investigation resulted in the arrest of eight persons (including one minor) of a very small neo-Nazi group suspected of creating racist and anti-Semitic Internet websites. The authorities charged five of the suspects with subversive association; two were also charged with inciting hate or violence toward a particular group.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution states that laws should promote the organization of trade unions and the creation of arbitration bodies. In spite of this provision, there is almost no legislation concerning union activities. Unions traditionally organize and operate free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. An estimated 13 percent of the work force is unionized. Labor unions are independent of political party control but traditionally have associated more closely with the Broad Front, the leftist political coalition.

The Constitution provides workers with the right to strike, and there were numerous strikes during the year. The Government may legally compel workers to work during a strike if they perform an essential service which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society." In May the umbrella labor confederation PIT/CNT organized a one day general strike.

There are mechanisms for resolving workers' complaints against employers, but unions complain that these mechanisms are sometimes applied arbitrarily. The law generally prohibits discriminatory acts by employers, including arbitrary dismissals for union activity. Unions maintain that organizers are dismissed for fabricated reasons, thus avoiding penalty under the law.

There are no restrictions on the right of unions to form confederations or to affiliate with international trade union groups; however, the one national confederation has chosen not to affiliate officially with any of the world federations. Some individual unions are affiliated with international trade secretariats.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining between companies and their unions determines a number of private sector salaries. The executive branch, acting independently, determines public sector salaries. There are no laws prohibiting antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities. However, in cases of legal challenges by union activists, courts tend to impose indemnization levels that are higher than those normally paid to dismissed workers.

Union members continued to file claims of discrimination with the Ministry of Labor, which has a labor commission that investigates all claims. In some of the cases, employers agreed to reinstate workers, but other cases remained unresolved at year's end.

All labor legislation fully covers workers employed in special export zones. There are no unions in any of these zones, but the few workers in these zones are not in traditionally organizable occupations. Because of the protected status given many of the companies in the free zones and the lack of union presence, occasionally companies will implement labor practices in violation of the law.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and it is not known to occur. The law prohibits forced or bonded labor by children, and the Government enforces this prohibition effectively.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Child Labor Code protects children; the Ministry of Labor and Social Security is responsible for enforcing the law. Illegal child labor is not a major problem. The law prohibits forced or bonded labor by children, and the Government enforces this prohibition effectively (see Section 6.c.). A total of 95 percent of children complete primary school education, which is compulsory and free of charge. By law children under 15 years of age are not allowed to work unless granted a special permit; this is enforced in practice. Children under the age of 18 may not perform dangerous, fatiguing, or night work. Controls over salaries and hours for children are more strict than those for adults. Children over the age of 16 may sue in court for payment of wages, and children have the legal right to dispose of their own income. However, some children work as street vendors in the expanding informal sector or in the agrarian sector, which generally are regulated less strictly and where pay is lower.

e. *Acceptable Conditions of Work.*—The Ministry of Labor effectively enforces a legislated minimum monthly wage which is in effect in both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages. The minimum wage, which was set in July at about $90 (1,040 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it would not provide a decent standard of living for a worker and family. The vast majority of workers earn more than the minimum wage.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The law protects foreign workers and does not discriminate against them. However, in order to receive official protection, the companies that employ foreign workers must report them as employees. Many workers—both native and foreign—work off the books and thus forfeit certain legal protection.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions.

f. *Trafficking in Persons.*—There are no laws specifically addressing trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

VENEZUELA

Venezuela is a republic with an elected president and a bicameral congress. President Hugo Chavez Frias, the leader of an attempted coup in 1992, took office in February after being elected in December 1998 with 57 percent of the vote. Chavez's election was the result of deep popular dissatisfaction with the traditional parties and frustration with the country's continued economic crisis. Chavez campaigned on a promise of radical reform, including constitutional change through the election of a National Constitutional Assembly (ANC). In an April 25 national referendum, voters overwhelmingly approved his proposal for the popular election of a 131-member assembly with a 6-month mandate to rewrite the Constitution. Chavez's political party, the Fifth Republic Movement (MVR), won 119 of the 131 ANC seats in a July 25 election. The ANC drafted a new constitution, which voters approved in a December 15 referendum. Despite controversy over the ANC electoral campaign rules, international observers characterized the elections and both referendums as largely free and fair. The new Constitution, which took effect on December 30, creates two new branches of government—the civil authority and the electoral authority—and allows immediate presidential reelection for a 6-year term. In August the ANC issued a Legislative Emergency Decree that led to an institutional clash between

the ANC and the Congress until a cohabitation agreement was reached over respective responsibilities. Also in August, the ANC issued a Judicial Emergency Decree to reform the largely discredited judiciary, which although legally independent is highly inefficient, corrupt, and subject to influence.

The security apparatus comprises civilian and military elements, both accountable to elected authorities. The newly combined Interior and Justice Ministry controls the Judicial Technical Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of subversion and arms trafficking. The General Directorate for Military Intelligence, under the Defense Ministry, is responsible for collecting intelligence related to national security and sovereignty. The national guard, an active branch of the military, has arrest powers and is largely responsible for guarding the exterior of prisons and key government installations, maintaining public order, monitoring frontiers, conducting counterdrug operations, and providing law enforcement in remote areas. It also supplies the top leadership for the Metropolitan Police, the main civilian police force in and around Caracas, and for various state and municipal police forces, which fall under the authority of the respective state governors or municipal mayors. There was controversy during the year over the increasing role that the military played in government and society. In February President Chavez ordered 70,000 members of the military to participate in a public works program which continued throughout the year, including conducting a census of the unemployed; providing medical care to the needy; renovating schools, playgrounds, and medical care centers; and removing garbage. In May the President appointed an army general as his chief of staff. In December paratroopers and other security force members assisted with relief efforts following devastating flooding. Both police and military personnel were responsible for human rights abuses during the year.

The country has abundant natural resources, and its per capita gross domestic product (GDP) is $4,087. However, income is distributed unevenly, and approximately 80 percent of the population live at or below the poverty line. Oil accounted for 27 percent of GDP, 43 percent of government revenues, and 70 percent of the country's exports in 1998. State-owned enterprises' production of iron, aluminum, and petrochemical products constitute one-fifth of the country's nonoil exports. The economy underwent its worst recession in the last 10 years due to low oil prices, the recessionary effect of oil production cuts, monetary tightening to bring inflation under control, and investor uncertainty caused by nearly a year of constant political change. According to preliminary figures from the Central Bank, GDP contracted by 7.2 percent in 1999, compared with a contraction of 0.1 percent in 1998. However, a strong rebound in oil prices reduced the estimated fiscal deficit for the year. In December the country suffered its worst natural disaster when heavy rains triggered severe flooding and landslides that caused an estimated 20,000 deaths as well as extensive property and infrastructure damage. Following the disaster, the ANC declared a "state of alarm," and granted the President broad powers to respond to the flood.

The Government's human rights record continued to be poor in some areas; although there were improvements in some areas, serious problems remain. Human rights violations include extrajudicial killings of criminal suspects by the police and military, an increase in torture and abuse of detainees, failure to punish police and security officers guilty of abuse, arbitrary arrest and excessively lengthy detention, long delays in trials, illegal searches, and corruption and severe inefficiency in the judicial and law enforcement systems. Prison conditions remained harsh, and overcrowding and violence in the prisons were so severe as to constitute inhuman and degrading treatment. In October the ANC declared a prison emergency and set up an interinstitutional commission to address conditions in the prisons. On July 1, the Organic Criminal Procedures Code (COPP) entered into force, replacing the secretive inquisitorial system with an open adversarial system. The authorities fired a number of judges for corruption. In February the Chavez administration reinstated the constitutional provisions of freedom from arbitrary arrest and detention and search without warrant, as well as freedom of movement, which had been suspended in some border areas since June 1994. Violence and discrimination against women, abuse of children, discrimination against the disabled, and inadequate protection of the rights of indigenous people continue to be problems. Child labor persisted, and there were reports of trafficking in children for forced labor. Killings due to vigilante justice increased.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of targeted political killings; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a highly respected nongovernmental human rights organization, documented 101 extrajudicial killings from October 1998 through September 1999, compared with 104 from October 1997 to September 1998. The killings involved summary executions of criminal suspects, indiscriminate or excessive use of force, and death resulting from mistreatment while in custody. According to PROVEA, the state police forces were responsible for 44 of the killings; the Metropolitan Police, 11; the PTJ, 5; the national guard, 5; the municipal police forces, 13; the armed forces, 15; the DISIP, 2; and other security forces, 6. These figures reflect a range of killings in very different situations committed by organizations with varying levels of control and responsibilities. The majority of the killings were attributed to various state and municipal police forces that report to local officials and usually have little training or supervision.

The perpetrators of extrajudicial killings act with near impunity, as the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the new Organic Criminal Procedures Code (COPP) and, in the meantime, remains highly inefficient and sometimes corrupt. Military courts often are biased in favor of members of the armed forces accused of abuse. A pretrial summary phase called "nulo hecho," which is used in cases involving public officials and is conducted in secret, was abolished in July under the COPP. It often shielded members of the security forces from prosecution, since cases could languish in this phase for several years. In the small number of prosecutions in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued are frequently light or the convictions are overturned on appeal. Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spend much time in prison.

On February 24, Sucre state police in Cumana used tear gas canisters and pellet guns against students at the University Institute of Technology who were protesting peacefully noncompletion of the cafeteria. One student, Angel Castillo Munoz, died as a result of being hit in the head by rubber bullets and falling unconscious into an area flooded by tear gas. Police reportedly continued to fire, despite students' attempts to surrender, resulting in a delay of medical care to the injured. (Following Castillo's death on February 25, the students again protested and attacked, looted, and burned the Sucre state government palace. The National Guard was called in to restore order.) The Sucre state governor fired police commander Jose Jesus Navarro Dona and Sucre state secretary general Amalio Ermilo Rojas, suspended the police officers who took part in the original confrontation with students, and requested federal help in the investigation. Military intelligence (DIM) officers subsequently arrested Navarro and Rojas. Various groups objected to the fact that the military took over the case. The authorities released Navarro and Rojas for lack of evidence; there was no further progress on the case at year's end.

Also in February, Red de Apoyo, a nongovernmental organization (NGO), reported that Oswaldo Blanco died as the result of abuse by the National Guard, in whose custody he had been detained.

In June the Metropolitan Police detained Jhon Linares after shooting him in the stomach. The police also threatened his brother and sister who tried to help him. Later, Linares was found dead at the hospital with three bullet wounds. An investigation continued at year's end.

In December heavy rains triggered flooding and landslides that killed an estimated 20,000 persons. The authorities are investigating allegations of human rights violations by the military and security forces in the days immediately following the disaster. Witnesses claim that military and security forces beat, detained, and killed alleged looters and criminal suspects, between December 19 and December 25.

Security forces committed a small number of killings in prisons. However, the majority of the 390 inmate deaths resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

There has been no further investigation into the January 1998 killings of Harold Michael Zambrano Gonzalez and Arturo Jose Hernandez Ramirez by Metropolitan Police. The PTJ also made no progress in the investigation of the May 1998 killings of Carlos Alberto Colmenares Garcia, Richard David Palacios Garcia, and Avelino

Rafael Vega, who died after the Sucre municipal police opened fire on their car. Nor was any progress made in the investigation of the January 1997 incident in which members of the Metropolitan Police arrested and led away two young men in Guatire, Miranda state. Witnesses heard gunshots and later found one of the men, Freddy Rafael Toro Ramirez, dead from bullet wounds.

There were no prosecutions or new information surrounding the 1996 death of 25 inmates in a fire started by prison guards at La Planta prison. On February 19, a judge sentenced two of the three PTJ members implicated in the 1995 execution-style killing of 21-year-old Hector Rojas to 7 years in prison for first-degree murder, far less than the 15 to 25 years established by law. The court absolved the third officer, despite evidence of his guilt. The prosecution appealed the decision, but there was no further progress in the case at year's end. There were no developments in the 1994 discovery of a common grave in the Sierra de Perija region of Zulia state, the 1992 killing of at least 63 prisoners at Catia prison, or the 1992 killing of reporters Maria Veronica Tessari and Virgilio Fernandez by members of the security forces.

In November before the Inter-American Court of Human Rights, the Government accepted its responsibility in 44 cases of extrajudicial killings by security forces during and after the civil unrest of February–March 1989, in which some 300 alleged extrajudicial killings were committed. The Government also agreed to compensate the families of the victims and to identify and punish those responsible. A total of 45 cases had been referred to the Inter-American Commission on Human Rights (IACHR) by the Committee of Family Members of Victims of the Unrest (COFAVIC) in 1995. In 1991 a police officer was found guilty of one killing, but the courts released the officer from prison 1 year later. In October 1997, the IACHR called on the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. By the end of 1998, the Government had complied partially; it had investigated and made a payment, but it had not punished any of those responsible. The IACHR made a series of recommendations to the Government, but when the Government did not comply with these recommendations nor reach a settlement with the petitioners, on June 7, the IACHR referred the case to the Inter-American Court of Human Rights. On September 23, the Supreme Court made an unprecedented decision to assume the preliminary investigation of all the related cases that until then had been scattered among 13 courts.

In September 1996, the Inter-American Court of Human Rights awarded $722,332 in damages to 2 survivors and the surviving families of 14 fishermen killed in 1988 by military and police officers near the border town of El Amparo, Apure state. The Government acknowledged its responsibility and began to make payments in September 1997; it had completed payments by year's end, and the parties were discussing the payment of interest on the compensation. The Court also had ruled that the Government had to investigate the case and prosecute those responsible. The military originally claimed that the deaths were the result of a confrontation with Colombian guerrillas, and in August 1994 a military tribunal overturned the conviction of 16 defendants in the case despite strong evidence that they had participated in a planned ambush. In October 1998, the Supreme Court upheld that decision.

Mob lynching of supposed criminals increased substantially due to the public's perception of increased impunity resulting from the difficult implementation of the COPP. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 1997 and September 1998 (the latest available figures), PROVEA recorded 2 lynchings and 24 attempted lynchings, but both police and NGO's believe that the figures increased. The activities of vigilante groups known as "brigadas" reportedly decreased.

On February 25, the Revolutionary Armed Forces of Colombia guerrilla organization kidnaped American citizen indigenous activists Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok in Colombia. Their bodies were later found in Venezuela.

b. *Disappearance.*—There were no reliable reports of persons who disappeared after being detained by the police or the armed forces.

There were no developments in connection with the 1995 disappearances of Julio Rafael Tovar, Fidel Ernesto Croes Aleman, Luis Martin Sanchez Vargas, Juan Daniel Monsalve, or Jose Ramos; or the 1994 disappearances of Elsida Ines Alvarez, Benjamin Vasquez, and Fidel A. Sanabria. Members of the security forces reportedly had detained each of them prior to their disappearances.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, the security forces continue to torture and abuse detainees physically and psychologically at a substantially increased rate. Credible human rights groups report that this abuse most commonly consists of beatings dur-

ing arrest or interrogation, but there have been incidents when the security forces used near suffocation and other forms of torture that leave no telltale signs. Most victims come from the poorest and least influential parts of society.

PROVEA documented 424 cases of torture from October 1998 through September 1999, compared with 21 from October 1997 through September 1998. (This increase may reflect improved data collection and more accurate reporting by PROVEA.) According to PROVEA, the DISIP was responsible for 11 of the reported torture incidents; the PTJ, 10; the armed forces, 7; the state police forces, 203; the municipal police forces, 72; the Metropolitan Police, 67; and the national guard, 40. In April human rights NGO's presented a report to the U.N. Committee Against Torture in which they listed and documented 120 torture cases since 1987 that they have investigated and reported to the Prosecutor General and the National Human Rights Commission, but that still have not been investigated fully by the Government.

Torture, like extrajudicial killings, continues because the Government does not ensure the independent investigation of complaints needed to bring those responsible to justice. In addition to lack of vigor by the judiciary, the fact that the Institute of Forensic Medicine is part of the PTJ also contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few instances of torture have resulted in convictions.

In March the Metropolitan Police harassed and beat 22-year-old Andres Flores for no apparent reason when they encountered him sitting on the steps of a building. Despite the protests of those present, the police arbitrarily detained him. He was released only when a priest lobbied on his behalf at the police station.

In August the PTJ in Guasdualito detained Juan de la Cruz Bravo and accused him of murder. Bravo alleges that the police drugged him, beat him, and subjected him to electrical shock. The Justice Foundation, an NGO, is bringing his case to trial.

There were reports that security force members killed and beat looters following the December floods and landslides (see Section 1.a.).

No action ever was reported against some 50 Baruta municipal police officers who attacked residents of the poor working class Caracas suburb of Petare in the predawn hours of December 25, 1997, injuring 43 persons. There was no reported progress from the criminal court investigation or the internal investigation by the chief of the Baruta municipal police.

The police used tear gas and pellet guns against peaceful demonstrators, resulting in deaths and injuries (see Sections 1.a. and 2.b.).

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted on February 23. Subsequently, complaints against the security forces in this area decreased. The Support Network for Justice and Peace had documented many human rights abuses in this region by amassing detailed witness testimony. There has been no resolution of the border-area cases from 1995, in which members of the military, in separate incidents in reaction to guerrilla attacks, tortured 23 rural workers near Cararabo and 19 peasant farmers in La Victoria, both in Apure state.

Prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff and national guard members, and overcrowding so severe as to constitute inhuman and degrading treatment.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others, and violence among prisoners is common. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murders and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that exist in the prisons. In early June, 26 inmates escaped from Barcelona prison east of Caracas; prisoners in the El Dorado prison threatened to commit mass suicide unless they were transferred to other jails. In October some 35 prisoners escaped from a prison in downtown Caracas.

Female prisoners are detained in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often detain children together with adults.

At the beginning of the year, roughly 70 percent of the approximately 24,500 prisoners had not been convicted of a crime because, under the old procedural code, most criminal defendants were incarcerated rather than granted provisional liberty

while their prosecutions were pending. In addition, the slow and secretive inquisitorial justice system of the old code had led to an inefficient, overwhelmed, and corrupt justice system, which resulted in cases languishing an average of 4 to 5 years in the courts during which time the accused usually remained in jail. With the implementation of the new COPP on July 1, prisoners accused of petty crimes who had not been convicted but already had served 2 years or the minimum sentence possible for that crime were to be released following a psychiatric examination. Between July 1 and October 1, approximately 2,000 prisoners were released under the new provisions and benefits provided by the law. There were approximately 19,000 prisoners at year's end.

At the end of September, prisoners carried out a number of hunger strikes to demand that the Government expedite the review of the cases of inmates who might benefit from the COPP's provisions. It was estimated that there were still more than 6,000 prisoners who had not been convicted but already had served 2 or more years in prison. However, prisoners also had false expectations with respect to the benefits of the COPP, which resulted in rising levels of tension and violence. By the end of September, violent gang clashes in various penitentiaries resulted in 16 deaths and 57 injuries.

In response to these events, the National Constitutional Assembly declared a Prison Emergency on September 30 and created an Interinstitutional Prison Emergency Commission comprised of representatives from the ANC, the Interior and Justice Ministry, the judicial branch, and NGO's. Despite resistance from the Catholic Church and human rights NGO's, the Government decided to use the national guard, normally charged with guarding the outside of the prisons, to maintain internal control of the prisons while the Commission carried out its work and until new prison guards could be trained.

PROVEA documented 390 deaths and 1,695 injuries from violence in the prisons from October 1998 through September 1999; a decline from a total of 460 deaths from violence between October 1997 and September 1998. The majority of the deaths resulted from prisoner-on-prisoner violence, especially during clashes between rival gangs. Many others died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. Security forces committed a small number of the killings in prisons. Funding for prisons remained extremely low, preventing significant improvement in most penitentiaries.

There were no prosecutions of public officials for the corruption and neglect that contributed to the January 1994 riot at Sabaneta prison, in which inmates killed 105 fellow prisoners and wounded scores of others.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution and the COPP provide for freedom from arbitrary arrest and detention; however, the security forces routinely continued to arrest and detain citizens arbitrarily.

On February 23, the Government reinstated the constitutionally protected freedom from arbitrary arrest and detention in the border areas, where certain constitutional provisions had been suspended since 1994 and had not been lifted in 1995 when those protections were restored in the rest of the country.

There continued to be arbitrary detentions by the Metropolitan Police, the DISIP, the national guard, and the PTJ—especially during anticrime sweeps in impoverished sections of major cities. The authorities detained persons during the sweeps for up to 2 days while they checked criminal records; most were released without charges. PROVEA documented 6,236 persons detained in sweeps from October 1998 through September 1999, compared with 12,308 persons detained in sweeps from October 1997 through September 1998. Human rights groups attribute the decline to the shift in government policy away from using sweeps as a method of controlling crime. After taking office, the Chavez Government declared that DISIP and other intelligence agencies no longer would be used for domestic political purposes. However, on April 5, DISIP arrested Daniel Perez, the son of the then-secretary general of the Democratic Action (AD) party, based only on an anonymous telephone call accusing Perez of alleged arms trafficking. Following intervention by the Foreign and Interior Ministers, Perez was released the following day.

The COPP states that a person accused of a crime cannot be incarcerated during the criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger the accused may flee or impede the investigation. The law also provides for the right to a judicial determination of the legality of the detention within 48 hours. In no case can the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor exceed 2 years. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them

incommunicado. There still exists confusion over the new code, and arbitrary arrests continued to be common. Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their judicial hearings.

Forced exile is illegal and is not practiced.

e. *Denial of Fair Public Trial.*—The civilian judiciary is legally independent; however, it is highly inefficient, and judges are subject to influence from a number of sources.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Prosecutor General, who provides opinions to the courts on prosecution of criminal cases and acts as public ombudsman to bring public employee misconduct or violations of the constitutional rights of prisoners or accused persons to the attention of the proper authorities; the Ministry of Justice, which manages the national police force, oversees the prisons, and files complaints in criminal courts; and the Judicial Council, which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

Both the old code and its replacement, the new Organic Code of Criminal Procedures, provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the old secretive inquisitorial code, the presumption of innocence was ineffective in the justice system, which became overburdened, inefficient, and corrupt under a paper-intensive, costly, and time-consuming judicial process. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. This new adversarial system of justice gives practical effect to the presumption of innocence, eliminates the secret stage of trial that had existed in the previous system, and establishes the right to plead guilty and make reparation agreements. Lengthy delays in trials were still common; there has been some improvement, but the average length of delay is approximately 2½ years.

The Government struggled to implement the COPP, which required a major shift in the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, the judge, and the lawyers. The police no longer may detain persons arbitrarily for up to 8 days and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in open court. Open, oral trials took place around the country despite a shortage of trained personnel and resources. The COPP's successful implementation over the long term is expected to require further progress, including increased training for police and lawyers and an increased number of prosecutors and defenders to handle the workload.

In August the ANC issued a Judicial Emergency Decree that created the Judicial Emergency Commission, in order to bring about reform of the judicial system. On September 7, the Judicial Council, which oversees the selection, training, and discipline of judges, removed eight judges from office based on charges of corruption or judicial impropriety. The decisions were made with the support of the Supreme Court and the Judicial Emergency Commission. The head of the Judicial Emergency Commission announced at the same time that 50 other judges would face similar charges, and that many others were under active review. On September 9, the president of the Judicial Council resigned, stating that the Judicial Emergency Commission's method of dismissing judges violated the constitutional right to a proper defense. On September 17, the Judicial Council dismissed 10 more judges for administrative failures or sentencing errors. The Judicial Council also announced that it would dismiss formally judges more than once for different charges against them; in order to be reinstated, a judge would have to win an appeal to the Supreme Court on each charge. Judges with pending cases against them would not be eligible to take the October 15 competitive examinations required for all judges to become part of the new oral system under the COPP. Judges who had been reprimanded would lose points on the exam.

On October 7, the ANC amended the Judicial Emergency Decree to allow for the suspension of judges facing more than 7 charges while investigations are conducted, which facilitated the suspension of 124 judges. These judges continued to receive salaries, and their prosecution was subject to due process of law. By year's end, the Judicial Council had suspended or dismissed more than 200 judges, largely for corruption.

The military courts implemented a similar reform of the military justice system and successfully have made the transition to the new system. The military justice system carried out the first oral trial in the country. The secret pretrial summary

phase called "nulo hecho" was abolished in July with the implementation of the COPP. This phase often shielded members of the security forces from prosecution, since cases could languish for several years. Despite this success, human rights NGO's expressed concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. As a result, military offenders might evade punishment for extrajudicial killings and other human rights abuses.

The law provides for public defenders for those unable to afford an attorney; however, there are not enough public defenders to handle the caseload. The Judicial Council reported that there are 159 public defense attorneys for the entire country.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces infringed on citizens' privacy rights. From June 1994 to July 1995, the Government suspended the constitutional protection of freedom from search without a warrant, along with other freedoms. This suspension remained in effect in border areas until February 23, when President Chavez restored the suspended constitutional provisions. Even after reinstatement of the provision in urban areas, security forces often conducted searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. There were no complaints during the year by human rights NGO's of illegal wiretapping by the security forces.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Individuals and the media freely and publicly criticize the Government. A provision in the new Constitution states that all persons have the right to timely, truthful, and impartial information, without censorship. This "truthful information" clause raised concerns among many in the domestic and international media that it could be used by the Government to intimidate or censor the press. In addition, there were some allegations of government pressure on the media. On December 21, the editor of the El Mundo daily newspaper announced that he was resigning because of "tremendous government pressures" against the newspaper's owners. The paper had denounced the concentration of power in the President's hands.

There is no statutory censorship. The Government has tools to influence the press (e.g., potential controls on newsprint importation, lucrative public sector advertising, licensing requirements for journalists); however, in practice the media environment is free and open. Some observers believe that there is self-censorship; for example, there are very few editorials that reflect the opinion of an individual newspaper. However, signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations do not broadcast overt political opinions.

Human rights groups criticized the Government for interfering with free debate over the proposed new Constitution. In November Catholic Bishop Roberto Luckert of Coro reportedly spoke against the new Constitution on his diocese's radio station. The next day, two military intelligence agents allegedly visited the station, accused its manager of opposing the political process, and warned that they would be monitoring and recording future broadcasts.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in November 1995, but the Supreme Court had not yet ruled on this matter by year's end.

Print and electronic media are independent. There are state television and radio stations whose directors are named by the President, but whose broadcast policies are autonomous. The President's speeches are broadcast live on all radio and television stations, which traditionally provide broadcast time. The President has a weekly television show, which began in June, and a weekly call-in radio show. There is also a government-funded newspaper entitled The President's Mail.

There is no state censorship of books, films, or other media products.

Internet access is completely free and uncontrolled.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, and the Government generally respects this right in practice. Public meetings, including those of all political parties, generally are held

unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

However, as in earlier years, some demonstrations turned violent and were quelled by security forces, who on occasion used deadly force (see Section 1.a.). According to PROVEA, 2 persons were killed during demonstrations, and 77 were injured from October 1998 through September 1999. The student and teaching sectors carry out the largest number of protests, and the largest number of their demonstrations end up being quelled by security forces. In February one student died as a result of police tear gas and pellet guns used against peaceful student demonstrators (see Section 1.a.). In August police minimally used tear gas and water cannon to keep pro-Congress demonstrators and pro-ANC demonstrators separate following an attempt by the ANC to prevent Congress from meeting (see Section 3).

The Constitution provides for freedom of association, and the Government respects this right in practice. Professional and academic associations operate without interference.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, provided that the practice of a religion does not threaten public order or violate good custom, and the authorities respect this right in practice.

Each local church must register with the Office of Religion in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa to enter the country, which is obtained through the Office of Religion. Missionaries generally are not refused entry; however, many complain that the Office of Religion often takes months or years to process a request.

In 1964 the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Catholic Church's schools and social programs. Other religious groups are free to establish and run their own schools, but do not receive subsidies from the Government.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return, and the Government generally respects these rights. However, the Government can suspend the freedom to travel, as it did from June 1994 to July 1995. Freedom of movement remained suspended in some border areas until February 23 when President Chavez restored the suspended constitutional provisions. The Government also restricts foreign travel for persons being investigated for criminal activities. In December the security forces sometimes restricted movement in and out of some of the areas hardest hit by the floods.

There is no domestic legislation regarding determination of refugee status, the procedure or criteria to be applied, and no independent organization to handle asylum requests. In the absence of any such legislation, the Government allows the Venezuelan Bishops' Conference to coordinate with the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees, determining the status of individual asylum applicants under UNHCR's mandate. In 1999 there were a total of 188 persons in the country who had been granted refugee status. Under UNHCR procedures, 39 of these were granted refugee status during the year.

The Government in theory provides first asylum; however, in June some 3,500 Colombians entered the country in 3 waves following a paramilitary offensive in the Catatumbo area of Colombia. The Government provided rapid and effective humanitarian aid but, in coordination with the Colombian Government, quickly repatriated all of the Colombians. The first group of 2,084 Colombians, arrived June 3–4 and was repatriated voluntarily with the support of both governments by June 6. The Government determined that they were not refugees, but "displaced persons in transit." A second group arrived on June 8, and according to human rights workers, expressed fear of returning to their homes in Rio Negro, Colombia. The accelerated procedures adopted by both governments for the return of the second and third groups limited the opportunity for the Colombians to seek asylum, despite the intention previously stated by some members of these groups to different NGO's and the UNHCR. In August human rights NGO's filed a petition before the IACHR asserting that this was a violation of international refugee law. The Government established an Interministerial Technical Commission to address future cross-border movements, and the UNHCR reiterated the importance of enacting domestic regulations to establish a humanitarian procedure within a framework of respect for international refugee principles. There were no other reports of the possible forced return of persons to a country where they feared persecution.

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

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

In December 1997, Congress passed a new election law that automated the vote counting process, removed political party representatives from all electoral organs, prohibited campaign financing by anonymous sources, and created the National Electoral Council (CNE). The smoothness of the electoral process and the rapid reporting of the results during the November and December 1998 regional and presidential elections, and the referendums and elections related to the ANC, were evidence of the electoral reform. Most legislators from all levels of government were elected from party lists (which, under the new law, were supposed to have at least 30 percent women). The top election officials, although not party members, were selected by negotiation among the political parties in Congress. However, representatives to the ANC were not chosen from party lists, and top election officials did not function as formal representatives of political parties.

President Chavez had promised during his 1998 presidential campaign to reform the Government and to use a constitutional assembly as the primary mechanism to accomplish this objective. On January 19, the Supreme Court ruled that a national referendum on the proposed constitutional assembly did not violate the existing Constitution. The Young Jurists civic association and the Foundation for Human Rights both had challenged the referendum in October and December 1998, respectively, and the January ruling addressed both of these challenges simultaneously. On February 2, President Chavez signed a decree calling for a consultative referendum on his proposed constitutional assembly, asking the public to authorize the calling of a constitutional assembly and to grant the President the authority to determine how its members would be selected. On February 8, leaders of the Democratic Action party asked the Supreme Court to rule the second question unconstitutional; the Court ruled on March 23, and Chavez modified the second question. On April 25, voters approved a constitutional assembly in elections that international observers judged to be free and fair.

On April 26, following an extended debate with Congress over the scope and extent of the powers, President Chavez signed an enabling law that granted him emergency powers and allowed him to legislate by decree for 6 months on economic, financial, and social issues.

Since electoral law did not regulate specifically elections for a constitutional assembly, campaign regulations became the subject of controversy between President Chavez and the CNE. In May the CNE ruled, based on electoral regulations applied to other elections, that high public officials, including the President, could not campaign for or against candidates to the Constitutional Assembly. Later that month, five government ministers resigned to run for the ANC. President Chavez personally praised each candidate and disputed the CNE's ruling against such endorsements. The confrontation reached its conclusion in July when the CNE fined the President for violating the campaign regulations and suspended his radio and television shows. Chavez paid the fine and then stayed within the campaign regulations, as defined by the CNE.

On June 17, the Supreme Court rejected an appeal of the CNE's ruling that party symbols or colors could not appear on the ANC electoral ballot; however, it ordered the CNE to publish symbols and colors along with each participating organization and candidate in its official gazette.

On July 25, voters elected 131 candidates to the ANC; 24 were elected nationally, 104 regionally, and indigenous groups chose 3 persons. President Chavez's MVR party won 119 seats in elections that international observers judged to be free and fair.

At its opening, President Chavez called upon the ANC to decree a state of emergency relating to all branches of the government. The ANC maintained that, in addition to its mandate to draft a new constitution, it had the authority to establish, dissolve, and otherwise alter government institutions. It quickly issued a Judicial Emergency Decree, which was supported by a majority on the Supreme Court but led to the resignation of the its president (see Section 1.e.). President Chavez called several times on the ANC to dissolve Congress, including on one occasion in July when the Senate rejected 34 military promotions that he sought. On August 25, the ANC issued a Legislative Emergency Decree limiting the legislative powers of Congress and subjecting those prerogatives that it retained to ANC approval. The decree forbade the Congress to meet in plenary session, which applied to state governments as well; remaining legislative functions were to be carried out by small standing committees. The decree also established two committees within the ANC to pro-

pose legislation to the ANC for consideration and to investigate past congressional actions.

Congressional leaders subsequently said that the body would meet in plenary session despite the ANC measure. The secretary general of the Catholic Church's Episcopal Conference offered to mediate the dispute, and congressional leaders agreed not to try to meet in plenary session in exchange for a continued dialog with the ANC. However, some rank and file members of Congress, from parties that did not support the President, disagreed with the leadership and declared themselves in general committee. When they tried to read their declaration in front of Congress, they were attacked by ANC supporters, whom the police dispersed with tear gas. Congressional Vice President Capriles appealed the ANC's decree to the Supreme Court. In April the Supreme Court indicated that Congress could not be shut down until a new constitution was approved in a national referendum.

The Catholic Church continued to mediate talks between congressional members and the ANC, allowing for continued dialog between the two groups. On September 6, the two groups reached an agreement that allowed Congress to begin holding sessions in October, on an agenda prenegotiated with the ANC, and on September 9, an agreement was signed that effectively nullified the Legislative Emergency Decree, allowing Congress to resume its regular duties and the ANC to focus on drafting a new constitution. In early October, the Supreme Court rejected Capriles's challenge to the legislative decree, ruling that the ANC was not bound by the Constitution, as a result of the mandate it received from the public in the referendum.

On September 14, the ANC's president submitted a draft constitutional text to the ANC, which then was debated. In November the ANC presented its draft constitution to the public, and on December 15, 71 percent of voters approved the new Constitution. The abstention rate was 54 percent, due in part to the heavy rains in parts of the country. CNE rules for the election allowed public officials and bureaucrats to campaign actively to maximize public participation in the referendum, but they were not allowed to campaign in favor of an affirmative or negative vote. On December 30, the Official Gazette published the text of the new Constitution, and it formally entered into force, abrogating the previous constitution.

On December 23, the ANC appointed a new provisional executive board for the CNE; the move was criticized by civil society organizations and by the existing CNE leadership.

Women and nonwhites participate fully in government and politics; however, they remain underrepresented in senior leadership positions and national elective office. The bicameral Congressional Committee for Women's Rights focused on promoting political office-holding opportunities for women. In the November 1998 regional elections, women won 25 seats as deputies in the 207-member lower house of Congress, and 5 seats in the 53-member Senate; in the July elections, 16 women won seats in the 131-member National Constitutional Assembly. President Chavez appointed three women to ministerial positions in February. However, following the reorganization after passage of the Organic Law of Central Administration on August 30, which reduced the number of ministries to 14, there were no women in ministerial positions.

Indigenous people traditionally have not been integrated fully into the political system due to their limited knowledge of politics, low voter turnout, geographic isolation, and fewer economic and educational opportunities. Few indigenous people are in government, and only one was in Congress as an alternate deputy; there were 3 indigenous members of the ANC, who were chosen by traditional indigenous procedures. In February the President appointed Atala Uriana Pocaterra—an indigenous rights activist and member of the Wayuu indigenous group—as Minister of Environment and Natural Renewable Resources, making her the first indigenous person to occupy a ministry-level position. Along with four other ministers, she resigned in May at the President's request to run for a seat in the ANC. In addition to the three seats reserved for indigenous representatives elected by the indigenous communities, Uriana won a regional seat from Zulia state.

In March the National Indigenous Council of Venezuela (CONIVE), which claims to represent all indigenous groups, held an indigenous congress in which it selected three representatives to the ANC. Opposing indigenous groups contested the selections, and the CNE refused to ratify the choices, since they were made before the national referendum that approved the proposed constitutional assembly. After consulting with the indigenous communities, the CNE decided to reconvene an indigenous assembly in which approximately 600 representatives of the various groups would select their representatives; the assembly ratified the original choices. The active participation of indigenous people resulted in an expansion of their rights in the new Constitution.

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

A wide variety of human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases.

President Chavez met with human rights NGO's to listen to their suggestions and to discuss human rights issues during his consultations with a broad spectrum of society to formulate a plan for the convocation of the ANC. However, the human rights groups remained concerned about the lack of a new human rights agenda or of support for the national human rights agenda formulated by the previous government in a July 1997 symposium with NGO's. The Chavez administration also did not support the National Human Rights Commission that former President Caldera created in 1996 as a mechanism to coordinate the Government's human rights programs and to serve as a forum for dialog with NGO's. Despite the Commission's paralysis, NGO's have developed good relationships with specific ministries, such as the Ministry of Education to develop educational materials on human rights, and the Foreign Ministry to discuss the resolution of existing human rights cases against the Government in international courts.

The Defense Ministry's Human Rights Office made significant advances to incorporate human rights training into the military's curriculum. However, although the Defense Ministry continued to reject the validity of NGO reports of alleged human rights violations by the armed forces, it remained unwilling to provide evidence to refute the charges, citing confidentiality regulations. The National Guard opened a Public Attention Office to process charges of human rights violations by national guard members. A national Police Committee created in September 1997 to monitor police conduct, receive complaints, and ensure implementation of disciplinary measures no longer exists.

During their meeting with President Chavez, the human rights NGO's petitioned for the release of two neighborhood leaders and one human rights activist who were detained arbitrarily in the border town of Guasdualito, after the previously suspended constitutional protections had been restored in February. All three were released shortly after the meeting. At the request of the Venezuelan Episcopal Conference, Chavez also issued a presidential pardon to Jose Rosario Paishi, an indigenous person accused of collaborating with Colombian guerrillas; he had been detained since May 1998.

In September President Chavez invited the IACHR to make an on- site visit to the country.

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

The law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government does not safeguard adequately the rights of indigenous people, protect women against societal and domestic violence, or ensure the disabled access to jobs and public services. Very few resources are devoted to children's welfare; young delinquents are locked in institutions that are unsafe.

Women.—Violence against women is a problem, and women face substantial institutional and societal prejudice with respect to rape and domestic violence. The law makes rape extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the violation. A provision in the Penal Code provides that anyone guilty of rape can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to deal responsibly with rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that such low figures do not accurately portray the problem of rape and sexual assault. They claim that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt.

Domestic violence against women is very common and has been aggravated by the country's economic difficulties. A total of 14,683 cases of domestic violence were reported to the authorities in 1997. According to local monitors, the police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse. In addition, poor women generally are unaware of legal remedies and have little access to them. On January 1, the Law Against Violence toward Women and Children came into force, and the PTJ opened the Division Against Violence to accommodate its provisions. This law requires the police to receive reports of domestic violence and obligates hospital personnel to advise authorities of abuse.

The National Women's Council, an agency of the presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor, in 1996 prepared a manual on violence against women and children, which includes informa-

tion on where the victims might obtain assistance. There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned governmental agencies.

Sexual harassment in the workplace is a common problem.

Women and men are legally equal in marriage. Women account for roughly half the student body of most universities, have advanced in many professions, including medicine and law, and gradually have surmounted many of the barriers to their full participation in political and economic life. Nonetheless, women still are underrepresented in the higher ranks of labor unions and private industry.

The Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for a year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the major labor federation, these regulations are enforced in the formal sector, although social security payments often are delayed.

Children.—The Government continued to scale back its expenditure on education, health, and social services. While the law provides for universal free education, about one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to the United Nations Children's Fund, only 76.5 percent of eligible children enter the first grade. This means that over 750,000 children remain outside the educational system. In addition, the 1998 annual report of the Community Centers for Learning (CECODAP) stated that over 400,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly. In 1998 the Government attempted to remedy this problem by adopting a new regulation that requires hospitals to register the births of all children.

According to CECODAP's study, 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. A total of 40 percent of the population under the age of 17 suffer from malnutrition, and 76 percent live in poverty. These conditions contribute to the increase in preventable diseases that are leading causes of infant mortality.

An increase in poverty has raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. A survey by the National Institute for Minors in 1994 determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking. Some 40,000 children were exploited sexually, according to a 1994 study. There were also reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids (see Section 6.f.).

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by imposing curfews for unsupervised minors. Children's rights advocates claim that curfews permit the police to act arbitrarily in detaining persons who have committed no crime. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in jails where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

In October 1997, Amnesty International reported past incidents in which minors were subjects of extrajudicial killings and abuse, as well as deficiencies in law and practice with regard to the detention of children. In particular, the 1980 Minors' Protection Act requires them to be brought before a judge within 8 days of detention, but this may be extended to 3 months. In addition, security forces and law enforcement authorities often detain children together with adults.

Reports of child abuse are rare due to a fear of entanglement with the authorities and ingrained attitudes regarding family privacy. The overburdened judicial system, although very slow, generally ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children are inadequate and have poorly trained staff.

People with Disabilities.—The physically disabled have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, the disabled are discriminated against in many sectors, including education, health care, and employment.

In 1993 the Government passed the first comprehensive law to protect the rights of the disabled. The law requires that all newly constructed or renovated public parks and buildings provide access for the disabled. Among other important provisions, the law forbids discrimination in employment practices and in the provision

of public services. However, the Government did not make a significant effort to implement the new law, to inform the public of it, or to try to change societal prejudice against the disabled.

Indigenous People.—Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their human rights. Many indigenous people are isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis-B, malaria, and other diseases plague their communities. There are approximately 316,000 indigenous people in 27 ethnic groups.

The Constitution provides for special laws governing "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, and allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities are threatened by deforestation and water pollution. Few indigenous people hold title to their land, but many do not want to since most indigenous groups reject the concept of individual property and want the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

At year's end, the Supreme Court of Justice had not yet ruled on a lawsuit filed by environmental and indigenous organizations challenging a 1997 decree that permitted the expansion of legal mining activities in the Imataca Forest Reserve. The groups charged that only Congress can change the nature of the reserve, that there was an inadequate public review process prior to the change, and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area. In November 1997, the Supreme Court ordered the Government not to issue any new mining concessions in the Imataca reserve until the Court ruled on the constitutionality of the presidential decree. In June President Chavez said that he planned to enact a new law to regulate the use of the Reserve and that it would annul the 1997 decree.

The controversy over infrastructure development and the maintenance of traditional Indian lifestyles is most evident in Bolivar state, where the Pemon Indians continued to protest the building of power lines through Canaima National Park. In September the Pemons knocked down an electrical tower, blocked a key highway linking the country to Brazil, and detained three trucks being used to build the lines.

The Yanomami, among the most isolated of the indigenous people, have been subject to persistent incursions into their territory by illegal gold miners. The miners have not only introduced new diseases but social ills as well. In December 1996, a number of human rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned the IACHR in connection with the 1993 massacre of 16 members of the community by Brazilian miners. The petition alleges that the Government failed in its obligation to protect the Yanomami and to seek appropriate punishment of the killers, who were released by the Brazilian authorities after 3 months' detention. In May 1998, the Government agreed to work with the NGO's under IACHR mediation to resolve the case. In November the Government signed an agreement to compensate the Yanomami; plans to implement this agreement were being discussed at year's end.

Since 1998 hundreds of members of the Warao indigenous group have migrated from their traditional homelands in the swampy Orinoco delta region to the capital of Caracas where they live in the streets, selling their traditional crafts and begging. The Warao say that flooding and petroleum exploration have eroded their traditional means of survival, fishing, and horticulture. In addition, many Warao no longer want to or no longer possess the knowledge required to survive in their traditional manner. However, the Caracas city government and the Metropolitan Police have maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998 they returned, on average, groups of 100 Warao, at least 15 times. Many of the Warao return to Caracas, citing lack of jobs and money in the delta and their ability to receive approximately $225 (130,000 bolivars) per week in handouts in Caracas.

Section 6. Worker Rights

a. *The Right of Association*.—Both the Constitution and labor law recognize and encourage the right of workers to organize. The comprehensive 1990 Labor Code extends the right to form and join unions of their choosing to all private sector and public sector employees (except members of the armed forces). The code mandates registration of unions with the Ministry of Labor, but it reduces the Ministry's dis-

cretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and the membership list) are submitted. Only a judge may dissolve a union, and then only for reasons listed in the law, such as the dissolution of a firm or by agreement of two-thirds of the membership.

One major union confederation, the Venezuelan Confederation of Workers (CTV), three small union confederations, and a number of independent unions operate freely. About 28 percent of the national labor force is unionized. The CTV's top leadership includes members of several political parties but the majority are affiliated with one of the traditional parties, Democratic Action. The CTV and the AD influence each other.

In September the ANC debated a proposed labor decree, which called for the closing of unions and federations, and the establishment of a single federation; however, the decree had not been enacted at year's end. On September 13, the ANC and the CTV formalized an agreement to create a single, unified workers confederation with free and open leadership elections. On October 23, the CTV voted to coordinate action plans with the country's three other labor confederations, with the collaboration of the ANC.

The law recognizes the right of public and private sector employees to strike. However, public servants may exercise it only if it does not cause "irremediable damage to the population or to institutions." The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population." During the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, and firefighters. In May striking truckers blocked the border crossing between Tachira state and Colombia for 2 weeks, to protest competition from Colombian truckers.

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally.

b. *The Right to Organize and Bargain Collectively*.—The Labor Code protects and encourages collective bargaining, which is practiced freely. According to the code, employers must negotiate a collective contract with the union that represents the majority of their workers. The code also contains a provision stating that wages may be raised by administrative decree, provided that the Congress approves the decree. The law prohibits employers from interfering with the formation of unions or with their activities and from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union.

Ministry of Labor inspectors hear complaints regarding violations of these regulations, and can impose a maximum fine of twice the minimum monthly wage for a first infraction. Under the code, union officials enjoy special protection from dismissal. If a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to his years of seniority.

Labor law and practice are the same in the sole export processing zone, located in Punto Fijo, as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor*.—The Labor Code states that no one may "obligate others to work against their will," and such practices generally are not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports that children were trafficked into the country to work as housemaids and beggars (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but much less so in the informal sector, which accounts for the vast majority of child laborers. A plan formulated by the National Institute for Minors in 1996 to reach and better protect children who work in the informal sector has not been implemented because of a lack of funding.

Primary school education is compulsory, free, and universal. However, 64 percent of children leave school before the ninth grade. In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher considering that those who stated that they attended school also reported that they worked on average 7½ hours a day 4 to 7 days a week.

The Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission.

It states that children between the ages of 14 and 16 may not work without permission from their legal guardians. Minors may not work in mines or smelters, in occupations that risk life or health, that could damage intellectual or moral development, or in public spectacles.

Those under 16 years of age must by law work no more than 6 hours a day or 30 hours a week. Minors under the age of 18 may work only between the hours of 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the National Institute for Minors 1996 survey of working children, half the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of those working in the informal sector have work permits.

Apart from the general prohibition of compulsory labor, the law does not specifically prohibit forced and bonded labor by children, but such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work*.—The monthly minimum wage was $201 (120,000 bolivars) in the private sector for urban workers and $165 (98,000 bolivars) for rural workers, effective May 1. Total take-home pay in the public sector, the product of collective bargaining, was at least equal to that received by private sector minimum wage workers. Fringe benefits are added to these minimum figures; they vary with the workers' individual circumstances, but in general increase wages by about one-third. However, even with these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions point out that a worker's income is often less than the cost of a family's basic monthly food basket, estimated by the Center for Documentation and Analysis for Workers in September at $363 (228,591 bolivars). Under the Labor Code, minimum wage rates are set by administrative decree, which Congress may either suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. The Ministry of Labor enforces minimum wage rates effectively in the formal sector of the economy, but about one- half of the population works in the informal sector, where labor laws and protections generally are not enforced.

The 1990 Labor Code reduced the standard workweek to a maximum of 44 hours and requires 2 "complete days of rest each week." Some unions, such as the petroleum workers, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time and a half. The Ministry of Labor effectively enforces these standards in the formal sector.

The authorities have yet to promulgate regulations to implement the 1986 Health and Safety Law, which is not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The code also requires that workplaces maintain "sufficient protection for health and life against sicknesses and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions.

However, in practice Ministry of Labor inspectors seldom close down unsafe job sites. Under the law, workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. *Trafficking in Persons*.—There were reports that women were trafficked to Spain for purposes of prostitution.

There also were reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids.

EAST ASIA AND THE PACIFIC

AUSTRALIA

Australia has a federal system of government and a long history as a multiparty parliamentary democracy. The judiciary is independent.

Federal, state, and local police are under the firm control of the civilian authorities and carry out their functions in accordance with the law. There were occasional reports that police committed abuses.

A highly developed economy, which includes manufacturing, mining, agriculture, and services, provides most citizens with a high per capita income. A wide range of government programs offers assistance for disadvantaged citizens.

The Government generally respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. There were occasional reports that police beat or otherwise abused persons. The Government administers many programs to improve the socioeconomic conditions of Aborigines and Torres Straits Islanders, who together form about 2 percent of the population, and to address longstanding discrimination against them. Societal violence and discrimination against women are problems that are being addressed actively. Trafficking in women, a growing problem, also is being addressed.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings by government officials. However, 93 persons died in prisons, police custody, or during police attempts to detain them (see Section 1.c.).

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits all such practices; however, police on occasion mistreat suspects in custody. Indigenous groups charge that police harassment of indigenous people is pervasive and that racial discrimination among police and prison custodians persists. Amnesty International reported several incidents that involved such abuses. State and territorial police forces have internal affairs units that investigate allegations of abuse and report to a civilian ombudsman.

In 1998 the total number of deaths in custody fell by 10 to 93. Of these, 24 deaths occurred in police custody or during attempts by police to detain suspects. The remainder occurred in prison custody, including one youth who died in a juvenile detention center. Of the total deaths in custody, 38 persons died from hanging. Twenty persons died of natural causes. Five died as a result of injuries sustained while fleeing police during high-speed pursuit. The police shot and killed six persons; in all cases the use of deadly force was found to be justified. One person died from a self-inflicted gunshot wound. A record eight prison inmates died during 1998 at the hands of another inmate. Eleven persons died as a result of drug overdoses. Three died of unknown causes. One cause of death is still to be determined by a coroner.

Aboriginal adults represent 1.6 percent of the adult population but constituted approximately 19 percent of the total prison population during 1998. Aborigines accounted for 16 (17 percent) of the 93 deaths in custody. Six died in police custody or during attempts by police to detain them. Of the six, one died from hanging; two died of natural causes; one died from injuries; one died from a self-inflicted gunshot wound during a police siege; and one died from an undetermined cause, possibly smoke inhalation, after setting a fire in his cell. Nine died in prison. Of the nine, five died from hanging; three died of natural causes; and one died from injuries inflicted by another inmate. For the first time since 1988, an indigenous youth died, from hanging, in a correctional setting.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the executive and legislative branches respect its provisions.

There is a well-developed system of federal and state courts, with the High Court at its apex. Almost all criminal trials are conducted by courts established under state and territorial legislation. The Federal Court and the High Court have very limited roles to play.

The law provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

When trials are conducted in local courts, the magistrates sit alone. In higher courts, namely the state district or county courts and the state or territorial supreme courts, trials are usually conducted before a judge and jury. The jury decides on the facts and a verdict after a trial conducted by a judge.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices; government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although there is no bill of rights, in two decisions the High Court has indicated that freedom of political discourse is implied in the Constitution. The Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Although these rights are not codified in law, citizens exercise them without government restriction.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Constitution prohibits the adoption of a state religion. Minority religions are given equal rights to land, status, and building of places of worship.

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

The Government encourages immigration by skilled migrants, family members, and refugees.

The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees, and relevant laws and regulations are in accordance with the 1951 U.N. Convention Relating to the Status of Reugees and its 1967 Protocol. There is no provision for first asylum. In April the Government offered temporary safe haven to 4,000 Kosovar refugees. On September 1, 550 East Timorese were given similar temporary protection. In November the Government changed its policy on undocumented migrants and asylum seekers. Previously those who claimed a fear of persecution if returned to their country of origin were either issued or denied protection visas, providing for full residence and employment rights, with no intermediate measures. With the change in policy, undocumented arrivals are issued a temporary protection visa valid for 3 years only. This visa does not provide for application for family reunification and limits access to public benefits to medical assistance only. After 3 years, a case is to be reviewed, at which point a full protection visa would be issued if the person were still unable to return home.

Under the Migration Reform Act of 1994, asylum-seekers, who arrive at the border without prior authorization to enter the country, are automatically detained, but may be released from detention if they meet certain criteria—including age, ill-health, and experiences of torture or other trauma. The majority of asylum seekers are detained for the duration of the often-prolonged asylum process. The detention policy has led to extensive litigation initiated by human rights and refugee advocacy groups, which charge that the sometimes-lengthy detentions violate the human rights of the asylum seekers. The U.N. Human Rights Commission (UNHRC) stated in April 1997 that Australia had violated the rights of a boat person by detaining him for more than 4 years while his applications to remain in the country were being considered. The UNHRC stated that his detention was arbitrary and in violation of the International Covenant on Civil and Political Rights. In an April 1997 report to Parliament, the federally funded but independent Australian Human Rights and Equal Opportunity Commission also condemned the Government's treatment of asylum seekers as breaching international treaty obligations.

In 1998–99 the Government planned to accept 68,000 migrants, with an additional 12,000 admitted under the humanitarian program. This figure includes 2,000 places for those persons already in the country who are granted refugee status. As in 1997–98, the humanitarian program continues to give priority to the former Yugoslavia, the Middle East, and Africa. Persons admitted under the humanitarian program have immediate access to a wide range of government welfare and health benefits, including income support, English education, and translating and interpreting services. In 1997–98 the Government spent approximately $7 million for resettlement services for refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In October 1998, voters elected the Liberal-National Party coalition to a second 3-year term of office. On November 6, voters rejected a referendum to amend the Constitution to become a republic.

No legal impediments exist to prevent women and indigenous people from holding public office. However, historical patterns of bias against women have contributed to their underrepresentation in government and politics. Approximately 25 percent of federal parliamentarians are women, an increase from the 22 percent in the last Parliament. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office.

The deleterious effects of poor educational achievement and a generally inferior socioeconomic status have contributed significantly to the underrepresentation of Aboriginals among political leaders. One Aboriginal was elected to the Federal Senate in the October 1998 elections; there were no Aboriginals in the previous Parliament.

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

A wide variety of human rights groups operate without government restriction (and in some instances with government funding), investigating and publishing their findings on human rights cases. Government officials cooperate and respond to their views. Overall complaints of discrimination dropped from 2,249 in 1996–97 to 1,522 in 1997–98, a 32 percent reduction.

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

The law prohibits discrimination based on these factors, and the Government and an independent judiciary vigorously enforce the prohibition.

From July 1998 to June 1999, 37 cases of assault against gays and lesbians were reported in the state of New South Wales.

Women.—Social analysts and commentators estimate that domestic violence may affect as many as one family in three or four. Wife beating is particularly prevalent in certain Aboriginal communities. The Government recognizes that domestic violence and economic discrimination are serious problems and the statutorily independent Sex Discrimination Commissioner actively addresses these and other areas of discrimination. A 1996 Australian Bureau of Statistics (ABS) study found that 111,000 women who were married or in a common-law relationship experienced an incident of violence by their partner in the previous 12-month period. Almost one in four women who have been married or in a common-law relationship have experienced violence by a partner at some time during the relationship, according to the ABS study.

Trafficking in East Asian women for the sex trade is a growing problem (see Section 6.f.).

Women have equal status under the law, and the law provides for pay equity. There are highly organized and effective private and public women's rights organizations at the federal, state, and local levels. There is a federal-level Office of the Status of Women that monitors women's rights. The federal Sex Discrimination Commissioner receives complaints and attempts to resolve those that are deemed valid. According to government statistics, sex discrimination complaints fell by 37 percent from the previous year. In August the Office of the Status of Women estimated the ratio of female to male full-time average hourly earnings was 85 percent. This was termed "the highest on record."

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its publicly funded systems of education and medical care. The Government provides rebates of approximately 10 percent of the cost of

childcare to all parents and provides additional childcare subsidies to lower income families.

The federal Human Rights and Equal Opportunity Commission receives complaints and attempts to resolve those it finds valid. Similarly, the six states and two territories investigate complaints of neglect or child abuse and institute practical measures aimed at protecting the child when such complaints prove founded. The Government has enacted strict legislation aimed at restricting the trade in, and possession of, child pornography, and which further allows suspected pedophiles to be tried in Australia regardless of where the crime was committed. There is no societal pattern of abuse.

The Government and domestic NGO's have responded promptly to the problem of a small number of children who have been smuggled into the country generally for the sex trade. The NGO End Child Pornography and Trafficking in Children (ECPAT) has conducted an aggressive public education campaign to raise awareness of the issue and offer strategies to combat trafficking in children. ECPAT successfully lobbied the Department of Immigration and Multicultural Affairs (DIMA) to conduct police checks of unaccompanied children entering the country to verify that they are not part of a trafficking operation (see Section 6.f.).

People With Disabilities.—Legislation prohibits discrimination against disabled persons in employment, education, or other state services. The Disability Discrimination Commissioner promotes compliance with federal laws that prohibit discrimination against disabled persons. The Commissioner also promotes energetic implementation and enforcement of state laws that require equal access and otherwise protect the rights of disabled persons. On July 21, the Human Rights and Equal Opportunity Commission found that a private primary school had violated the federal Disability Discrimination Act when it refused to enroll a 7-year-old girl with spina bifada in its kindergarten program. The school is appealing the ruling through the federal courts.

No federal legislation mandates the uniform provision of accessibility for the disabled. It is lawful to deny employment or services to those with disabilities if there are reasonable grounds for believing that the disabled person would be unable to carry out the work or would require the employer or service provider to furnish services or facilities that could not reasonably be provided.

Indigenous People.—The Racial Discrimination Act of 1975 prohibits discrimination on grounds of race, color, descent, or national or ethnic origin. The Ministry for Aboriginal Affairs, in conjunction with the Aboriginal and Torres Straits Islander Commission (ATSIC), has the main responsibility for initiating, coordinating, and monitoring all governmental efforts to improve the quality of life of indigenous people. A wide variety of government initiatives and programs seek to improve all aspects of Aboriginal and Torres Straits Islander life. In 1998 the Federal Government spent approximately $1.13 billion on health, welfare, education, and regional development programs targeted at assisting Aboriginal people. Spending on indigenous-specific programs is now the highest on record in real terms and in 1998 amounted to almost $14,000 annually per Aboriginal household.

However, in practice indigenous Australians continue to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, elevated levels of unemployment, and general discrimination, which contribute to a feeling of powerlessness.

Nationally, indigenous people are imprisoned at 21 times the rate of nonindigenous people. Over 45 percent of Aboriginal men between the ages of 20 and 30 years have been arrested at some time in their lives. The prison incarceration rate for indigenous juvenile offenders is 21 times that of nonindigenous juveniles. Indigenous groups claim that the Government's lack of response to a series of recommendations by the 1991 Royal Commission into Aboriginal Deaths in Custody contributes to these disturbing statistics. Human rights observers claim that socioeconomic conditions give rise to the common precursors of indigenous crime, e.g., unemployment, homelessness, and boredom.

Indigenous groups charge that police harassment of indigenous people including juveniles is pervasive and that racial discrimination among police and prison custodians persists. A human rights delegation that visited in 1996 alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of systematic discrimination. Most of the juveniles interviewed complained about violence occurring after apprehension and during questioning about alleged offenses. In November 1998, the Queensland Government launched an inquiry after it was discovered that an 11-year-old Aboriginal boy had been held for 3 days in an adult detention center because no youth facility was available in that remote part of the state. Government statistics confirm the common perception among indigenous people that police systematically mistreat them. Government reports have suggested that the

pursuit of economic self-determination for indigenous people would greatly assist in solving the crime problems in indigenous communities and the differences in rates of imprisonment.

The average life expectancy of an indigenous person is 20 years less than that of a nonindigenous person. The infant mortality rate for indigenous children is 3 times that of nonindigenous children. The maternal mortality rate for indigenous women is 5 times that of nonindigenous women. The incidence of illnesses such as tuberculosis, leprosy, hepatitis, and of sexually transmitted diseases is 10 times greater among indigenous people than nonindigenous people. Data indicate that 22.5 percent of indigenous children complete secondary education compared with 76.2 percent of nonindigenous children. Government statistics for 1995 show that the participation rate in university education for Aboriginals is 2.4 percent (up from 1.8 percent in 1991) compared with 2.7 percent for non-Aboriginals.

Government programs, including a $750 million indigenous land fund and a "Federal Social Justice Package," aim at ameliorating the challenges faced by indigenous Australians. In July 1998, after a compromise with its opponents, the Government was able to pass amendments to the 1993 Native Title Act. The ATSIC stated that the amended act contains gains for Aboriginal people but still contains "substantial pain" for native title claimants. Aboriginal leaders were pleased by the removal of the time limit for lodging native title claims but expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continue to express concern that the amended act limits the future ability of Aboriginal people to fully protect their property rights. At present 15 percent of Australian land is owned or controlled by Aboriginal people. In March the U.N. Committee on the Elimination of Racial Discrimination (CERD) expressed serious concern about the Government's Native Title amendments and asked the Government to explain why the amendments were not racially discriminatory. In August then-ASTIC Chairman Gatjil Djerrkura asked the CERD to maintain scrutiny on the Howard Government. He claimed that the Howard Government had continued to ignore concerns raised by the CERD.

On August 26, the Government, in identical motions passed by both Houses of the Federal Parliament, expressed public regret for past mistreatment of the Aboriginal minority; however, the government-sponsored motion of reconciliation was criticized by many aboriginal leaders as not going far enough. Prime Minister Howard acknowledged the "most blemished chapter in our national history" and submitted a seven-point motion to Parliament. Howard proposed that Parliament express "its deep and sincere regret" that Aborigines had "suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel." However, both Aboriginal and opposition leaders stated that only a full apology would be sufficient. The Government also continues to oppose an official apology in the specific case of the "Stolen Generation" of Aboriginal children, who were taken from their parents by the Government from 1910 to the early 1970's and raised by foster parents and orphanages. The Government's position remains that the present generation has no responsibility to apologize for the wrongs of a previous generation.

As of October, the Federal Government had allocated an additional $7 million over 4 years to the Link Up Program, which was created to reunite members of the Stolen Generation with their families. The ASTIC spent over $630,000 during the financial year ending June 30 on location, reunion, and counseling support for members of the Stolen Generation. Across the nation, Link Up counselors are assisting over 2,500 Aboriginal clients. The ASTIC reports that during the financial year ending June 30, it assisted the reunion of slightly more than 100 clients with their families.

Following the October 1998 reelection of the Government, Prime Minister Howard gave Immigration and Multicultural Affairs Minister Philip Ruddock additional duties with regard to Aboriginal Australians. In his victory speech following reelection, Howard said that he would make reconciliation with Aboriginals one of his second term priorities. In June the Council on Aboriginal Reconciliation released its draft document of reconciliation for public comment and discussion. Created by Parliament in 1991, the Council is to hold its culminating national event in May 2000, at which time it is to release a document of reconciliation, which is intended to serve as a national blueprint for healing between indigenous citizens and the wider community.

National/Racial/Ethnic Minorities.—Although Asians make up less than 5 percent of the population, they account for 40 percent of recent immigrants. Public opinion surveys indicate growing criticism of immigration. In a survey published in 1996 by the Chinese-language newspaper Sing Tao, more than half the respondents

said that they had been abused verbally or physically in the previous 2 months. Leaders in the ethnic and immigrant communities expressed concern throughout the year that the nativist One Nation Party had contributed to the increasing sense of isolation and atmosphere of vilification of immigrants and minorities. However, according to the Human Rights and Equal Opportunity Commission, during the financial year ending June 30, the number of racial discrimination complaints fell 37 percent from the previous year.

Section 6. Worker Rights

a. *The Right of Association.*—The law and practice provide workers, including public servants, freedom of association domestically and internationally. Approximately 32 percent of the work force is unionized.

Unions carry out their functions free from government or political control, but most local affiliates belong to state branches of the Australian Labor Party (ALP). Union members must make up at least 50 percent of the delegates to ALP congresses, but unions do not participate or vote as a bloc.

The 1996 Workplace Relations Act significantly restricted the right of workers to take industrial action by confining it to the period of bargaining, where it remains a protected action. In April this provision was sucessfully challenged by a union in federal court. In its decision, the court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because it was in support of maintaining existing wages and conditions. The International Labor Organization (ILO) is examining whether several provisions of the Workplace Relations Act violate ILO conventions. Legislation that went into force in 1994 for the first time legalized what had always been a de facto right to strike.

Laws and regulations prohibit retribution against strikers and labor leaders, and they are effectively enforced. In practice employers tend to avoid legal remedies, e.g., secondary boycott injunctions, available to them in order to preserve a long-term relationship with their unions.

During the year, the most notable industrial action was taken by the coal miners of the Construction, Forestry and Mining Union, who struck twice, once to protest the threat to job security cased by reductions in coal prices, and a second time to protest nonpayment of entitlements following the closure of a mine. In the first action the Industrial Relations Commission ordered the strikers back to work. In the second, the Government was pressured into passing legislation to compensate workers.

Unions freely may form and join federations or confederations, and they actively participate in international bodies.

b. *The Right to Organize and Bargain Collectively.*—The law and practice provide workers with the right to organize and bargain collectively, and the law protects them from antiunion discrimination.

The Workplace Relations Act contains curbs on union power, restrictions on strikes, and a new unfair-dismissal system. Several unions are considering challenging the law on the grounds that it violates the right to assembly provided for in several International Labor Organization conventions that Australia has signed. The primary curb on union power is the abolition of closed shops and union demarcations. Although unions are weakened, this provision could create many small and competing unions at individual worksites. The restrictions on strikes include heavy fines for labor unrest during the life of an agreement and tougher secondary-boycott provisions. The new unfair-dismissal system further limits redress and compensation claims.

The negotiation of contracts covering wages and working conditions is gradually shifting from the centralized system of the past. Previously legislation provided for the negotiation of simpler "enterprise agreements," which were negotiated by individual companies with their workers or with the relevant union(s). The federal and state governments administered centralized minimum-wage awards and provided quasi-judicial arbitration, supplemented by industrywide or company-by-company collective bargaining. The Workplace Relations Act also provides for the negotiation of Australian Workplace Agreements (AWA's) between employers and individual workers. These agreements are subject to far fewer government regulations than the awards. At present the AWA's are required to be roughly equivalent to basic working conditions in the award that would apply to the sector to which the firm belongs.

There are no export processing zones. The Darwin Trade Development Zone, Northern Territory, attempts to increase exports via a geographically defined free trade zone. In practice the Darwin initiative is focused almost exclusively on its Asian neighbors to the north and west.

c. *Prohibition of Forced or Compulsory Labor.*—Although there are no laws prohibiting it, forced labor, including forced and bonded labor by children, generally is not practiced. However, as a result of the discovery in April of children in several clothing sweatshops in Sydney and Melbourne, the Attorney General's Department is studying the existing laws and considering whether new legislation would strengthen the Government's ability to combat the problem. Most cases of abuses in the past few years have involved members of ethnic communities from nations where child labor is not uncommon.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, monitored and enforced by state educational authorities, effectively prevent most children from joining the work force until they are 15 or 16 years of age. Federal and state governments monitor and enforce a network of laws, which vary from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations.

The law does not explicitly prohibit forced and bonded labor by children, but such practices generally are not known to occur, although there were isolated instances of such abuses (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Although a formal minimum wage exists, it has not been relevant in wage agreements since the 1960's. Instead, 80 percent of workers are covered by differing minimum wage rates for individual trades and professions, all of which are sufficient to provide a decent standard of living for a worker and family.

Most workers are employees of incorporated organizations. For them, a complex body of government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions are set by a series of "awards" (basic contracts for individual industries). Some awards specify that workers must have a 24 or 48 hour rest break each week while others specify only the number of days off per number of days worked.

Federal or state safety laws apply to every workplace.

The Occupational Health and Safety (Commonwealth Employment) Act of 1991 provides federal employees with the legal right to cease work if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum, private sector employees have recourse to state health and safety commissions, which will investigate complaints and demand remedial action.

f. *Trafficking in Persons.*—Trafficking in persons is a growing problem. Each of the country's states and territories has a comprehensive set of laws designed to combat exploitative acts such as slavery, bonded labor, and prostitution (immigration and hence trafficking is a federal responsibility). In August the Federal Parliament passed the Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 to improve investigative effectiveness and ensure more uniform legal action. It contains new definitions of offenses involved in slavery, sexual servitude, and deceptive recruiting and is part of a comprehensive effort directed at eliminating these practices. The act also provides for extraterritorial jurisdiction over citizens and persons of other nationalities in certain circumstances. It includes penalties of up to 25 years' imprisonment.

Another government initiative was the Child Sex Tourism Act of 1994, which provides for the investigation and prosecution of citizens who travel overseas and engage in illegal sexual conduct with children.

Trafficking in East Asian women for the sex trade is a growing problem. Immigration and federal police have developed profiles and identified trends in the industry, but lax laws—including legalized prostitution in parts of the country—make enforcement difficult at the working level.

Australian Federal Police (AFP) and the Department of Immigration and Multicultural Affairs (DIMA) have determined that women and children from Thailand, the Philippines, Malaysia, China, Indonesia, and South Korea are trafficked into the country for purposes of prostitution. Some of the brothels that employ these prostitutes are owned and operated by prominent organized crime figures, and connections have been made to triad societies (ethnic Chinese gangs historically headquartered in Hong Kong) such as the 14k. (These groups also are suspected of involvement in international heroin trafficking and money laundering.) The high profit potential, combined with the difficulty of detection and previously low penalties when prosecuted, has resulted in the spread of groups engaged in these activities.

While the numbers of women being brought into the country are relatively small (in the hundreds per year), they are subjected to what is essentially indentured sexual servitude. Recent investigations by DIMA found women locked in safe houses with barred windows, with no access to medical care or the outside world. These women have been lured either by the idea that they would be waitresses in restaurants or, in some cases, coerced to come by criminal elements operating in their home countries. Their movements often are controlled strictly. Some women are escorted to the various brothels and later collected and taken back to their residences until their next shift. To reduce the likelihood of all their workers being apprehended in one raid (as occurred in Sydney in 1992, with the mass arrest of 16 Asian women living at one address) organizers sometimes house the prostitutes in separate residential premises. Women have been charged up to approximately $25,000 (A$40,000) to come to the country and pay off the cost of their smuggling by performing sexual "services." Some women also are obliged to pay off additional hidden assessments for clothing and lodging fees, and thereby are forced into continued indentured sex work. There are unconfirmed reports of punishments for women who try to escape, including executions, beatings, and transfers to more secure brothels.

Anecdotal evidence suggests that an increasing number of children, mainly from Asia, are entering the country as sex workers. The numbers of children involved and whether their entry into the sex industry is coerced is unknown. Under the laws of the various states it is illegal for an adult to have sex with a minor.

There also is evidence of a growing problem of trafficking in women to work in sweatshops in textile, clothing, and footwear industries as well as in service industries, sometimes as bonded labor.

BRUNEI

Brunei Darussalam, a small, wealthy monarchy located on the north coast of Borneo, is a sultanate ruled by the same family for 600 years.

The 1959 Constitution provided for the first delegation of political power by the late Sultan Omar Ali Saifuddin to an appointed council of state, but in 1962 the then Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These powers have been regularly renewed, most recently in July 1998. In August the Foreign Minister confirmed that a review of the Constitution had been submitted to the Sultan for approval, and that "an element of an election" was in this report. Although not all the articles of the Constitution are suspended, the state of emergency places few limits on the Sultan's power. The Sultan also serves as Prime Minister, Minister of Defense, Minister of Finance, chancellor of the national university, superintendent general of the Royal Brunei Police Force, and leader of the Islamic faith.

The police force, which has responsibility for internal security, reports to the Prime Minister's office, which includes an Internal Security Department, and is firmly under the control of civil authorities.

Brunei's large oil and natural gas reserves, coupled with its small population, give it a very high per capita gross national product. A midyear recovery in oil prices helped the country's cash flow; however, the economy still was feeling the effects of the Amedeo Corporation's collapse. The corporation, which was owned by the Sultan's brother Jefri, is being liquidated to pay debts amounting to more than $6 billion.

Human rights remain broadly circumscribed. In practice citizens do not have the right to change their government, and they generally avoid political activity of any kind. Nor, constitutional provisions notwithstanding, do they genuinely exercise the freedoms of speech, press, assembly, and association. Other human rights problems continued, including discrimination against women and restriction of religious freedom.

RESPECT FOR HUMAN RIGHTS

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

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

In June 1998, an assistant superintendent of police was arrested and charged with the manslaughter of a Bangladeshi national. The police official allegedly used police premises to interrogate the Bangladeshi national over a personal business matter. During the interrogation, the police official allegedly beat and kicked the victim, who subsequently died of internal injuries. The police superintendent was

convicted of a reduced charge of causing hurt, since pathologists could not conclude that the beating directly caused the victim's death. He was sentenced to 12 months in jail and ordered to pay $12,050 (B$20,000) to the deceased's family in compensation. The superintendent was dismissed from the police service.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There were no reports of police mistreatment of prisoners. Any report of police mistreatment of prisoners would be investigated as a violation of the law. In 1988 caning became mandatory punishment for 42 drug-related and other criminal offenses and for vandalism. Since then, sentences of caning have been handed down and carried out in the presence of a doctor who monitors implementation and has the authority to interrupt and postpone the punishment for medical reasons. Caning generally is included as part of the sentencing in 80 percent of criminal convictions. Many convicted persons reportedly prefer caning to lengthy incarceration.

Prison conditions meet minimum international standards. There is no overcrowding; however, there is a growing prison population, and a new facility to supplement the 60-year-old prison was completed in 1998. Prisoners receive regular medical checkups. Remand cells at police stations are Spartan.

Human rights monitors are not known to have requested prison visits; foreign diplomats have visited prisoners. Family members also can visit prisoners and bring food.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides for a prompt judicial determination of the validity of an arrest. However, those provisions, like the Constitution itself, may be superseded, either partially or wholly, through invocation of the emergency powers. The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable 2-year periods. The Government occasionally has used the ISA to detain persons suspected of antigovernment activity; however, information on the detainees is published only after they are released. In 1997 two former rebel leaders were pardoned and released, after undergoing "religious indoctrination" and swearing loyalty to the Sultan (see Section 1.e.). Muhamad Yasin Abdul Rahman, age 76, who played a pivotal role in the abortive 1962 rebellion, was detained without trial for 12 years from 1962 to 1973, when he escaped from prison to live in exile in Malaysia. He returned to the country in 1997 and immediately was arrested and detained once more without trial. In July 1999, he was released from detention after swearing an oath of loyalty to the Sultan and admitting his political "crimes."

In August 1998, authorities arrested several citizens under the ISA for distributing defamatory letters containing allegations about the royal family and senior government officials connected with the collapse of the Amedeo Group, a large holding company headed by the former Finance Minister and Sultan's brother, Prince Jefri. The Government warned citizens that it would take action against anyone involved in such activities. There were no known arrests for publishing or distributing antigovernment literature during the year.

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

Under the colonial-era Banishment Act of 1918, any person deemed to be a threat to the safety, peace, or welfare of Brunei, may be forcibly exiled either permanently or temporarily by the Sultan. Since independence, there have been no cases of banishment of citizens.

e. *Denial of Fair Public Trial.*—The Constitution does not specifically provide for an independent judiciary. However, in 1996 in a landmark legal decision, the appellate-level High Court ruled that the court has powers independent of the prosecution and ordered a discharge in a car theft case under review, which amounted to an acquittal under the Criminal Procedure Code. So far the Government has not challenged the court's finding that magistrates have the legal power to discharge and acquit a defendant, even when the prosecution does not request the discharge.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London. In 1995 Brunei terminated appeal to the Privy Council in criminal cases. Procedural safeguards include the right to defense counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers. There were no known instances of government interference with the judiciary and no trials of political opponents.

The civil law, based on English common law, provides citizens with a fair and efficient judicial process. Shari'a (Islamic law) supersedes civil law in some areas, in-

cluding divorce, inheritance, and some sexual crimes. Shari'a law is not applied to non-Muslims.

At present there are no known political prisoners (see Section 1.d.).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the law permits government intrusion into the privacy of individual persons, families, or homes, this rarely happens. There were no reports of mail having been tampered with during the year. The Government at times prevents the importation of foreign newspapers and magazines (see Section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—While there are no laws restricting freedom of speech and freedom of the press, the Government used its authority to protect public safety, morals, health, and domestic security to restrict these freedoms. Editions of foreign newspapers or magazines with articles that are found objectionable, embarrassing, or critical of the Sultan, royal family, or government are not allowed into the country. Magazine articles with a Christian theme reportedly invariably are censored. However, the growing use of fax machines, the Internet, and access to satellite transmissions make it increasingly difficult to keep such material from entering. The independently owned local newspaper, the Borneo Bulletin, appears to practice self-censorship in its choice of topics to avoid angering the Government, but it has instituted a new feature of letters to the editor, by which citizens—some by name and some anonymously—criticize the Government's handling of certain social, economic, and environmental issues. In 1997 the newspaper expanded its letters column to reflect the increase in letters. In July a second English-language newspaper, the News Express, began publication. The daily, which is owned by a former government minister, features a letters page where citizens and residents express their views and complaints, often about government services and, increasingly, about government policy. The newspapers' willingness to publish these expressions of opinion represents a modest extension of press freedom.

The Government's reactions to the letters have been mixed. On the one hand, it clearly has been responsive to public opinion on some issues concerning social or environmental problems. On the other hand, the Internal Security Department allegedly has tried—abeit without success—to obtain the names of people who have complained to the newspaper about government services.

Although the only television station is government-owned, three Malaysian television channels are also received locally. A 14-channel cable network of television stations is widely available. This network includes the Cable News Network, the British Broadcasting Corporation World News, and several entertainment channels.

The Government's tolerance of political criticism has not been tested recently because there is no organized opposition. Moreover, citizens generally make almost no criticism of the Government. In the past, the Government has not hesitated to arrest those who attempted to propagate unwelcome political views.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Freedom to assemble for political purposes has not been tested seriously in recent years.

Following a 1967 ban on political parties, the Government allowed two parties to form in 1985 and 1986. It disbanded one of the parties in 1988. Political parties are allowed but they are not to engage in "activities that endanger people." Membership is open to all citizens, except civil servants and security force personnel, who together make up 60 percent of all employed citizens.

The remaining party, the Brunei Solidarity National Party (BNSP), which was inactive for several years, held an assembly in February 1995, reportedly with the consent of the Government. About 50 people attended. In April 1998, fewer than 50 persons attended a BNSP General Assembly. Following the General Assembly, party leaders expressed support for the Government's determination to investigate the Amedeo crisis, but the party appeared to be largely inactive. In October 1998, the Prime Minister's Office rebuked BNSP President Haji Mohamed Hatta over an interview he gave to a regional newsmagazine. The Prime Minister's Office described Hatta's portrayal of Brunei as "irresponsible, untrue, inaccurate, misleading, and embarrassing."

The activities of international service organizations such as Rotary, Kiwanis, and the Lions continued to be constrained by the Government, which in 1995 reminded local leaders of these organizations that Muslims may not be members.

c. *Freedom of Religion.*—The Constitution states that, "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafeite sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." However, the Government only partially respects these rights, as it routinely restricts the practice of

non-Islamic religions. The Government sporadically voiced alarm about "outsiders" preaching radical Islamic fundamentalist or unorthodox beliefs. Citizens deemed to have been influenced by such preaching (usually students returning from overseas study) have been "shown the error of their ways" in study seminars organized by mainstream Islamic religious leaders. The Government seems more concerned about these so-called Islamic "opportunists" than unwelcome political views. Moreover, the Government does not hesitate to investigate and to use its internal security apparatus against persons whom it considers purveyors of radical Islam.

In 1991 the Government began to reinforce the legitimacy of the hereditary monarchy and the observance of traditional and Muslim values by reasserting a national ideology known as the Malayhu Islam Beraja (MIB) or "Malay Muslim monarchy," the genesis of which reportedly dates to the 15th century. The Government in 1993 participated in issuing the Kuala Lumpur Declaration, which affirms the right of all persons to a wide range of human rights, including freedom of religion. Despite this and constitutional provisions providing for the full and unconstrained exercise of religious freedom, the Government routinely restricts the practice of non-Muslim religions by: Prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and ignoring requests to expand, repair, or build new churches, temples, and shrines. However, in February 1998, the Government allowed the Catholic Church to establish the first apostolic prefecture in the country and to install a Bruneian of Chinese origin as the country's first apostolic prefect. This development constituted a modest step in the direction of improved religious freedom, but as yet there is no broad trend toward increased religious freedom.

In September 1998, officials of the Islamic Propagation Center confiscated gold and other precious Buddhist and Christian icons from a number of goldsmiths in the capital, stating that the open display of these items "offended local sensitivities." The confiscations were made under the Undesirable Publications Act, which gives the Government wide-ranging powers. Several days later, the goldsmiths were informed that they could recover their property from the Ministry of Home Affairs. The Government also routinely censors magazine articles on other faiths, blacking out or removing photographs of crucifixes and other Christian religious symbols.

In July 1998, the authorities began to raid clubs frequented by foreign residents and foreign workers in order to confiscate alcohol and foodstuffs that were not prepared in accordance with "halal" requirements (the Islamic requirements for the slaughter of animals and the prohibition on inclusion of pork products in any food). These actions continue and are regarded by the majority of citizens as upholding Islam.

The Ministry of Education also restricted the teaching of the history of religion or other courses on religion in non-Islamic schools while requiring courses on Islam or the MIB in all schools. Only the Bandar Seri Begawan international schools are exempt from these restrictions.

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

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

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

Citizens are unable to change their government; Brunei is a monarchy and there are no established democratic processes. Under the continuing state of emergency, there is no parliament, and political authority and control rests with the ruling monarch. Individuals may seek to express their views or to influence government decisions and policies by writing letters to a local newspaper or by petitioning the Sultan or handing him letters when he appears in public.

A form of popular representation lies in a traditional system of village chiefs who, since 1992, are elected by secret ballot by all adults. These leaders communicate constituents' wishes through a variety of channels, including periodic meetings chaired by the Home Affairs Minister, with several officials appointed by the Sultan. In 1996 the Sultan officiated at the first General Assembly of the "mukim" (a group

of villages) and village consultative council. Over 1,000 village chiefs from 150 villages and 35 mukim participated as delegates. The delegates were elected from among individual villagers, and the Government described the Assembly as "a grass roots level political system." However, the Sultan appoints all the council's advisers. The Government insists that ordinary citizens actually use these councils to present their grievances and to obtain redress.

The Sultan has an appointed Cabinet, the members of which serve as his principal advisors.

The lack of representative democratic government seriously limits the role of both men and women in government and politics; however, women are making progress. In 1997 the Sultan's sister, Princess Masna, became the second ranking official in the Ministry of Foreign Affairs, and for the first time two women were appointed as permanent secretaries, one in the Ministry of Education and the other in the Ministry Culture, Youth, and Sports. Other firsts included the appointments of the first female High Court judge and the first female ambassador.

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

No government or private organizations deal specifically with the protection of human rights. However, in 1997, for the first time, the Government entered into a human rights dialog with a foreign embassy and that dialog continues. There were no known allegations of abuses or requests to visit by international human rights groups.

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

Except for religion (see Section 2.c.), the Constitution does not contain specific provisions prohibiting discrimination based on the factors listed above.

Women.—The extent to which spousal abuse may occur and go unreported is not known. In response to a perception that domestic violence was rising, in 1994 a special unit was established within the police department to investigate domestic violence complaints. Female officers staff the unit. Since 1995 a hot line has been in service for abused spouses and the public to report domestic violence. During the year approximately 10 women and their children stayed at a women's shelter run by the Social Affairs Services unit of the Ministry of Culture. The Social Affairs Services unit provides counseling for women and their spouses. In August a photograph of a man accused of stabbing his wife and assaulting one of his children was published in a daily newspaper, a new development in the country, where privacy generally is guarded closely. While Islamic courts usually discourage divorce in domestic violence cases, there appears to be a movement away from encouraging wives to reconcile with flagrantly abusive spouses. Islamic religious authorities recognize wife beating as grounds for divorce.

The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury would be punished by caning and a longer jail sentence. In October a man convicted of assaulting his ex-wife with a knife and a piece of wood on three separate occasions, received three concurrent sentences of 2 years and 6 months in prison and three strokes of the cane. He also received a 6-month prison sentence for assaulting his 7-year-old daughter. A man impersonating a religious inspector who raped and extorted money from a woman he found in a compromising situation with her boyfriend was sentenced to 12 years in prison and 6 strokes of the cane.

One area of apparent abuse involves female domestic servants. While the level of violence in society is low, beating of servants—or refusing them the right to leave the house on days off, sometimes on grounds that they "might encounter the wrong company"—is less socially unacceptable behavior. Since most female domestics are foreign workers who are highly dependent on their employers, those subject to abuse may be unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints are brought, the Government generally is quick to investigate allegations of abuse and impose fines and punishment as warranted.

In accordance with Koranic precepts, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. Under the Brunei Nationality Act, citizenship is transmitted through males only. Female citizens who are married to foreigners or bear children by foreign fathers cannot transmit citizenship to their children, even when such children are born in the country. This has resulted in the creation of a sizable population of stateless children, estimated at more than 5,000 residents, who are entitled to live

in the country and to be documented for travel by the Government, but who cannot enjoy the full privileges of citizenship, including the right to own land.

Although men are eligible for permanent positions in government service whether or not they hold university degrees, women who do not have university degrees are eligible to hold government positions only on a month-to-month basis. While recent changes eliminated some previous inequities, women in month-to-month positions continue to receive slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions.

There are no separate pay scales for men and women, and in recent years there has been a major influx of women into the work force. Women serve in a wide variety of capacities in the armed forces, although they are not permitted to serve in combat. The number of female university graduates is increasing, and nearly two-thirds of Brunei University's entering class is female.

Religious authorities strongly encourage Muslim women to wear the tudong, a traditional head covering, and many women do so. However, some Muslim women do not, and there is no official pressure on non-Muslim women to do so. All female students in government-operated schools are required to wear the tudong; students in nongovernment schools are encouraged to wear it.

In July a new Married Women's Law came into effect, improving significantly the rights of non-Muslim married women with respect to maintenance, property, and domestic violence. In November changes to the Islamic Family Law (in the section on Women's Position in Marriage and Divorce) came into effect and are expected to improve the marital rights of Muslim women.

Children.—No statistics are published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provides most children a healthy and nurturing environment. Education is free, compulsory, and universal for 9 years. With a few exceptions involving small villages in extremely remote areas, nutritional standards are high, and poverty is almost unknown. There were 18 reported cases of child abuse in the first half of 1995. In 1996 the High Court convicted a father of child abuse. The Chief Justice sentenced him to 20 years in prison and ordered him caned with 20 strokes of the rattan for causing the death of his 3-year-old daughter and grievous hurt to another 2 of his children.

People with Disabilities.—No legislation mandating accessibility or other assistance for disabled persons has been passed. The Government is attempting to provide educational services for children with disabilities, although these efforts are not yet adequate to address the situation. Teachers are still being trained to deal with disabled children, and some children have no educational opportunities. A special facility with trained educators is needed to accommodate the disabled children who cannot be assimilated into normal classrooms, and the Ministry of Education is studying the problem.

Indigenous People.—The 6 percent of the population that is composed of indigenous people long has been integrated into society, and enjoys the same rights as other citizens.

National/Racial/Ethnic Minorities.—Some members of non-Malay minorities, such as ethnic Chinese, including those born and raised in the country, are not automatically accorded citizenship and must travel abroad as stateless persons. Brunei's colonial-era naturalization laws are widely viewed as out of date and in need of reform.

Section 6. Worker Rights

a. *The Right of Association.*—Trade unions are legal but must be registered with the Government. The three registered trade unions—one passive and two generally inactive—are all in the oil sector and have a total membership amounting to less than 5 percent of that industry's work force. All workers, including civil servants other than those serving in the military and police, may form or join trade unions. Unions are independent of the Government.

The 1962 Trade Unions Act permits the formation of trade union federations but forbids affiliation with international labor organizations. An individual contract is required between an employer and each employee, but legal trade union activities cannot be deemed to violate employee contracts. Local legal experts interpret this provision as conferring the right to strike, but there have been no strikes. Brunei is not a member of the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—The Government has not prevented the legal registration of trade unions, nor has it dissolved any. The Government did not interfere with lawful union activity. It is illegal to refuse employment or discriminate against an employee on the basis of membership or nonmembership in a trade union. While unions are legal and easy to register, conditions are not con-

ducive to the development of trade unions. There is little interest on the part of workers in forming trade unions, and existing unions are not very active. The law is silent on collective bargaining, and it occurs in only a few industries. There are few industries of the kind in which unions have traditionally developed. Also cultural tradition favors consensus over confrontation. Wage and benefit packages are based on market conditions and tend to be generous.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ), established in May 1994.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor including forced and bonded labor by children, and it is not practiced.

In 1997 a foreign beauty contest winner brought suit in a foreign court against members of the Brunei royal family alleging that she and six other women were brought to Brunei in 1996 and subsequently held against their will for purposes of sexual exploitation. A statement by the royal family called the case "frivolous and groundless." The Sultan's sovereign immunity was recognized, and the court accepted Prince Jefri's claim of immunity. An appeal of Prince Jefri's immunity was pending at year's end.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The 1954 Labor Enactment Laws prohibits the employment of children below the age of 16. Education is free, compulsory, and universal through grade nine. Parental consent and approval by the Labor Commission is required for those below the age of 18. Female minors under age 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is a part of the Ministry of Home Affairs, effectively enforces laws on the employment of children. There were no reports of violations of the child labor laws. Forced and bonded labor by children is prohibited and it is not practiced (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Skilled labor is in short supply, and market forces enable most citizens to command good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two 24-hour rest periods each week. Overtime is paid for work in excess of 48 hours a week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspects working conditions on a routine basis and in response to complaints. The DOL generally enforces labor regulations effectively. However, in the unskilled labor sector enforcement is lax, especially for foreign laborers (see Section 5). The DOL is empowered to close any workplace where health, safety, or working conditions are unsatisfactory, and it has done so in the past. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but in practice this is unlikely to happen.

f. *Trafficking in Persons.*—There are no specific references to trafficking in persons in the Constitution and laws. There are occasional reports of women entering the country for purposes of prostitution (which is illegal), but they usually are deported swiftly.

BURMA

Burma continued to be ruled by a highly authoritarian military regime. Repressive military governments dominated by members of the majority Burman ethnic group have ruled the ethnically Burman central regions and some ethnic-minority areas continuously since 1962, when a coup led by General Ne Win overthrew an elected civilian government. Since September 1988, when the armed forces brutally suppressed massive prodemocracy demonstrations, a junta composed of senior military officers has ruled by decree, without a constitution or legislature. In 1997 the junta reorganized itself and changed its name from the State Law and Order Restoration Council (SLORC) to the State Peace and Development Council (SPDC). The Government continued to be headed by armed forces commander General Than Shwe, although Ne Win, who retired from public office during the 1998 prodemocracy demonstration, may continue to wield informal but declining influence. In 1990 the junta permitted a relatively free election for a parliament to which the junta announced before the election that it would transfer power. Voters overwhelmingly supported antigovernment parties with the National League for Democracy (NLD) winning more than 60 percent of the popular vote and 80 percent of the parliamentary seats. Throughout the 1990's, the junta systematically violated human rights in Burma to suppress the prodemocracy movement, including the NLD, and to thwart repeated efforts by the representatives elected in 1990 to convene. Instead, the junta convened a government-controlled "National Convention" intended to ap-

prove a constitution that would ensure a dominant role for the armed forces in the country's future political structure. Since 1995 the NLD has declined to participate in this National Convention, perceiving its agenda to be tightly controlled by the junta. More than a dozen armed ethnic groups continued to rule or to exercise some governmental functions in peripheral ethnic minority areas under various cease-fire agreements negotiated with the junta between 1989 and 1995. The judiciary is not independent of the junta.

Since 1988 the junta has more than doubled the size of the armed forces, from about 175,000 to more than 400,000 men, and has increased the Government's military presence throughout the country, especially in ethnic minority areas from which government forces were not excluded by cease-fire agreements. The Government reinforces its firm military rule with a pervasive security apparatus led by the military intelligence organization, the Directorate of Defense Services Intelligence (DDSI). Control is buttressed by arbitrary restrictions on citizens' contacts with foreigners, surveillance of government employees and private citizens, harassment of political activists, intimidation, arrest, detention, and physical abuse. The Government justifies its security measures as necessary to maintain order and national unity. Members of the security forces committed numerous, serious human rights abuses.

Burma is a poor country with a population said by its Government to number about 48 million. Average per capita income was estimated to be about $300, but about $800 on a purchasing power parity basis. More than 3 decades of military rule and mismanagement have resulted in widespread poverty. Primarily an agricultural country, Burma also has substantial mineral, fishing, and timber resources. From 1988 to 1995, the Government partly liberalized and opened the economy and thereby reversed the economic contraction of the 1980's. However, economic growth has slowed since the mid-1990's as the junta has retreated from economic liberalization in response to a worsening foreign exchange shortage. Obstacles to growth include extensive overt and covert state involvement in economic activity, state monopolization of leading exports, a bloated bureaucracy, arbitrary and opaque governance, institutionalized corruption, poor human and physical infrastructure, and disproportionately large military spending at the expense of social development spending and stable prices.

The Government's extremely poor human rights record and longstanding severe repression of its citizens continued during the year. Citizens continued to live subject at any time and without appeal to the arbitrary and sometimes brutal dictates of the military regime. Citizens did not have the right to change their government. There continued to be credible reports, particularly in ethnic minority-dominated areas, that soldiers committed serious human rights abuses, including extrajudicial killings and rape. Disappearances continued, and members of the security forces tortured, beat, and otherwise abused detainees. Prison conditions remained harsh and life threatening, but improved slightly in some prisons after the International Committee of the Red Cross (ICRC) gained access to prisons in May. Arbitrary arrest and detention for expression of dissenting political views continued with increasing frequency; the Government continued to detain more than 55 members-elect of Parliament and hundreds of other NLD supporters to prevent the party from convening the parliament elected in 1990. Since 1962 thousands of persons have been arrested, detained, or imprisoned for political reasons; more than 1,300 political prisoners remained at year's end. The judiciary is not independent. The Government continued to infringe on citizens' privacy rights, and security forces continued systematically to monitor citizens' movements and communications, to search homes without warrants, and to relocate persons forcibly without just compensation by due process. During the year, those suspected of or charged with prodemocratic political activity were subjected to increased surveillance and harassment. Security forces continued to use excessive force and to violate international humanitarian law in internal conflicts against ethnic insurgencies. The regime forcibly relocated large ethnic minority populations in order to deprive armed ethnic groups of civilian bases of support.

The SPDC continued severely to restrict freedom of speech and of the press. The junta restricted academic freedom; most universities have been closed since 1996 due to fear of political dissent. The junta severely restricted freedom of assembly, and systematically intensified its restriction of freedom of association, pressuring many thousands of members to resign from the NLD political party and closing party offices nationwide. Since 1990, the junta frequently has prevented the NLD and other prodemocracy parties from conducting normal political activities. Although the junta continued to recognize the NLD as a legal entity, it also continued to refuse to recognize the legal political status of key NLD party leaders, particularly its general secretary and 1991 Nobel laureate, Aung San Suu Kyi, and the two party cochairmen, and to constrain their activities severely through security meas-

ures and threats. During the year, the SPDC intensified its systematic use of coercion and intimidation to deny citizens the right to change their government. In August 1998, the NLD leadership organized a 10-member Committee Representing the People's Parliament (CRPP) to act on behalf of the Parliament. The junta has responded by intensifying its campaign to destroy the NLD without formally banning it, by intimidating several elected representatives into resigning from the parliament, by detaining 55 other elected representatives, and by pressuring constituents to sign statements of no confidence in others. The junta restricted freedom of religion; it continued its institutionalized control over Buddhist clergy in order to restrict efforts by some Buddhist clergy to promote human rights and political freedom, and government authorities coercively promoted Buddhism over other religions in some ethnic minority areas. The Government imposed restrictions on certain religious minorities. The Government continued to restrict freedom of movement and in particular foreign travel by female citizens; the junta also continued to restrict Aung San Suu Kyi's freedom to leave her residence or to receive visitors. The Government did not allow domestic human rights organizations to exist, and remained generally hostile to outside scrutiny of its human rights record. Violence and societal discrimination against women remained problems. The junta continued severely to neglect the education of children by underfunding public schools. There was governmental and societal discrimination against ethnic minorities, and animosities between the Burman majority and ethnic minorities continued. The Government continued to restrict worker rights, ban unions, and use forced labor for public works and to produce food and other daily necessities for military garrisons. Forced labor including forced child labor was a serious problem. The forced use of citizens as porters by the army—with attendant mistreatment, illness, and sometimes death—remained a common practice. The Government did not honor its repeated pledge to prevent its officials from using their authority under the country's Towns Act and Villages Act to mobilize forced labor. In June the Government responded to sanctions that the International Labor Organization (ILO) imposed on it for its use of forced labor by unilaterally withdrawing from the convention on forced labor administered by the ILO. Child labor is also a problem, and varies in severity depending on the region. Trafficking in persons, particularly in women and girls to Thailand and China, mostly for the purposes of prostitution, remained widespread.

Insurgent forces committed numerous abuses, including killings, rapes, forced labor, and the forced use of civilians as porters.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There continued to be many credible reports of extrajudicial killings by soldiers of noncombatant civilians, particularly in areas of ethnic insurgencies (see Section 1.g.).

There were numerous detailed but unconfirmed reports that army soldiers indiscriminately shot and killed ethnic Karen, including women and children, in villages in the Thaton District of Mon State during the first half of the year.

Brutal treatment by soldiers also caused deaths among those impressed as military porters for use in counterinsurgency operations in areas of ethnic insurgencies. According to reports, porters who no longer can work often are either abandoned without medical care or assistance, or executed (see Section 6.c.). There also continued to be detailed reports that physical abuse and neglect by army soldiers resulted in the death of persons forced to labor on physical infrastructure projects (see Section 6.c.). An exile Chin nationalist organization reported that on May 5, soldiers beat and killed Pa Za Kung, a man from Vomkua village in Chin State's Thantlang Township, for resting without permission while being forced to help build a road from Thantlang to Vuangtu village. While these reports are unconfirmed, the Government's general disregard for human rights has created a climate that is clearly conducive to such abuses.

Some inmates died in prisons and labor camps, or shortly after being released from them, due to torture or to denial of adequate medical care and harsh conditions (see Section 1.c.). On May 23, in Depeyin Town in Sagaing Division, 25-year-old Kyi Khaing died after 10 hours in police custody; he was arrested for verbally abusing his aunt. Although police initially informed his family that he hanged himself, his body had a broken pelvis and many bruises, and in the course of a subsequent investigation police sergeant Sein Win reportedly confessed to beating Kyi Khaing to death; however, no action was taken against Sein Win, who subsequently disappeared. On July 1, NLD member-elect of Parliament Kyaw Min died of hepatitis contracted during his incarceration in Rangoon's Insein Prison from May 1996 to May 1998; he had been detained along with hundreds of other members-elect of Par-

liament in 1996 for attempting to convene the Parliament elected in 1990. On May 21, NLD member Hla Khin died in Insein prison, allegedly a suicide. He had been detained in 1998 for traveling on a public road to witness the detention of Aung San Suu Kyi, who was prevented by security forces from traveling to a town in the western part of the country (see Section 1.d.).

Some insurgent groups also committed extrajudicial killings. In March near three pagoda's pass in the eastern part of the country soldiers of the Karen National Union (KNU) reportedly captured and killed 10 Burmese immigration officials. The KNU claimed that its captives were killed in a firefight with the army. On June 23, near the town of Myawadi on the Thai border, a KNU landmine destroyed a bus, killing seven noncombatants, reportedly in retaliation for the bus company's refusal to pay protection "taxes" to the KNU. The Government reported that on July 31 in Kayah State, elements of the Karenni National Progressive Party (KNPP), an insurgent group, killed 2 persons who in July helped to arrange the surrender of 100 KNPP members to the Government, and who were attempting to mediate further similar negotiations (see Sections 1.g. and 2.d.).

b. *Disappearance.*—Throughout the country, as in previous years, private citizens and political activists continued to "disappear" for periods ranging from several hours to several weeks or more; some have never reappeared. DDSI officials usually apprehended individuals for questioning without the knowledge of their family members. In many, although not all cases, the DDSI released them soon afterward. Such action usually was intended to prevent free political expression or assembly. The army continued to seize by force large numbers of persons for porterage or related duties, often without the knowledge of their family members. The whereabouts of those persons seized by army units to serve as porters, as well as of prisoners transferred for labor or porterage duties, often remained unknown.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Government routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. The most common forms of mistreatment were sleep and food deprivation coupled with around-the-clock questioning under bright lights; some detainees also were kicked and beaten. Credible reports continued that prisoners were forced to squat or assume stressful, uncomfortable, or painful positions for lengthy periods.

There continued to be credible reports that security forces subjected ordinary citizens to harassment and physical abuse. The military forces routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Those forced into porterage or other labor faced extremely difficult conditions and beatings and mistreatment that sometimes resulted in death (see Sections 1.a. and 6.c.). In contrast to previous years, there were no instances of security forces beating NLD members who were attempting to assemble for meetings.

There were frequent reports that army soldiers and other army personnel raped women who were members of ethnic minorities, especially in Shan, Karenni, and Karen states, where the majority of armed encounters between the army and insurgents took place (see Sections 1.g. and 5.).

Members of insurgent forces also reportedly raped civilians.

Prison conditions remained harsh and life threatening; however, they improved slightly in some prisons after the ICRC gained access to prisons in May. All prisoners usually were permitted to receive medicine as well as essential supplemental food brought by their families (if the families could afford to do so) during 15-minute visits permitted every 2 weeks, although there are occasional reports that guards demand bribes for that privilege.

The Government's Department of Prisons operates many facilities of several categories including several labor camps. Conditions for political prisoners reportedly remained much harsher at facilities far from major cities, including prison labor camps than at prisons in Rangoon and Mandalay. Throughout the year, the Government transferred many prisoners—including NLD members—from Insein prison to prisons and labor camps far from Rangoon. Most such prisoners suffered additional hardship in the form of reduced access to family support, food, medicine, and clothing. There were credible reports that at least a few political prisoners or detainees have long been denied adequate medical care. Some of these prisoners died as a result (see Section 1.a.). On July 1, NLD member-elect of Parliament Kyaw Min died of hepatitis contracted in prison. He had been detained from 1996 to 1998 without trial and released to his family prior to his death.

International monitoring of prisons began in May after the Government agreed to allow the ICRC unrestricted access to all prisoners in all prisons, detention centers, and labor camps. In response to ICRC recommendations, the Government provided some prisoners with an opportunity for exercise, better food, reading material, and improved medical care. Although the Government transferred many political

prisoners from Rangoon's Insein Prison to other facilities before the ICRC's first visit to Insein in May, the Government apparently subsequently ceased such practices. During the year the ICRC was able to visit more than 30,000 prisoners in at least 18 prisons including more than 1300 political prisoners. The Government allowed the ICRC to perform its traditional services such as delivering letters to and from prisoners.

d. *Arbitrary Arrest, Detention, or Exile.*—There is no provision in the law for judicial determination of the legality of detention, and the SPDC routinely practiced arbitrary arrest and incommunicado detention. Prior to being charged, detainees rarely had access to legal counsel or their families and political detainees have no opportunity to obtain release on bail. Some political detainees are held incommunicado for long periods. Even after being charged, detainees rarely have benefit of counsel. Some political prisoners were not released after completing their sentence.

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

The Government repeatedly detained and deported foreign journalists (see Section 2.a.).

Throughout the year, the Government continued its campaign of detention and intimidation to prevent the NLD from convening the parliament elected in 1990. Between July and September authorities arrested or detained hundreds of local NLD leaders and former student leaders throughout the country; authorities reportedly detained as many as 100 persons in Pegu and Mandalay between July and September (see Section 1.c.). Many of these detentions apparently were intended to prevent public demonstrations in connection with the anniversary of the August 1988 prodemocracy demonstrations (see Section 2.b.) or on the numerologically significant date of September 9 (9/9/99) on which some prodemocracy groups based in foreign countries had called for a nationwide general strike to commemorate the 1988 prodemocracy demonstrations.

At year's end, the Government continued to detain without charge 55 persons elected to parliament in 1990; most were NLD members and most had been detained since September 1998, just before the NLD organized the formation of the CRPP. During the year, the junta released about 150 members-elect of Parliament who were being detained without charge as of the end of 1998. However, there were credible reports that in many cases the junta released members-elect of Parliament only after they agreed to resign from the elected Parliament, to withdraw their proxies to CRPP members, or otherwise to restrict their political activities (see Section 3).

In August in the town of Mergui in Tenasserim Division, authorities arrested and detained at least 17 high school students who were protesting rising formal and informal school fees, the continued closure of the universities, and the Government's continued prohibition of independent student associations (see Sections 1.e., 2.b. and 5). In December authorities arrested and detained high school students in Mergui for planning a protest, and students of closed postsecondary institutions living in Mandalay and in the town of Pakokku in Magwe Division for planning unauthorized public meetings or distributing prodemocracy literature (see Sections 2.a. and 2.b.).

The Government did not use forced exile. However, during the year, Aung San Suu Kyi was threatened with deportation in the state-controlled media.

Since 1988, when the SPDC refused to recognize the results of the elections and pressured successful candidates to resign, some candidates, as well as thousands of political activists, went into foreign exile rather than face threats.

e. *Denial of Fair Public Trial.*—The judiciary is not independent of the military junta. The junta appoints justices to the supreme court who, in turn, appoint lower court judges with the approval of the junta; it has done so since 1988. These courts adjudicate cases under decrees promulgated by the junta that effectively have the force of law. Pervasive corruption further serves to undermine the impartiality of the justice system.

The court system, as inherited from the United Kingdom and subsequently restructured, comprises courts at the township, district, state, and national levels.

Throughout the year, the Government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system were formally in place, the court system and its operation remained seriously flawed, particularly in the handling of political cases. Unprofessional behavior by some court officials, the misuse of overly broad laws—including the Emergency Provisions Act of 1950, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Destructionists—and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial and the rule of law.

Some basic due process rights, including the right to a public trial and to be represented by a defense attorney, generally were respected, except in political cases that the Government deemed especially sensitive. Defense attorneys are permitted to call and cross-examine witnesses, but their primary purpose is to bargain with the judge to obtain the shortest possible sentence for their clients. Most court proceedings are open to the public. However, in political cases, trials are not open to the public. Political detainees often are given harsher sentences if they mount a defense in court. In political cases, defense counsel appears to serve no purpose other than to provide moral support, since reliable reports indicate that senior military authorities dictate verdicts. Defense attorneys often are reluctant to take political cases.

Two foreign prodemocracy activists were sentenced to long prison terms for actions that elsewhere would be deemed innocuous. After two arrests in 1997 and 1998 that included serving 90 days of a 5-year prison sentence for illegal entry, James Mawdsley was again arrested in August. He was convicted and sentenced to a total of 17 years in prison. In September Rachel Goldwyn was arrested after chaining herself to a lamppost in downtown Rangoon and singing a prodemocracy song. She was convicted of sedition and sentenced to 7 years' imprisonment, but was released on appeal and left the country in November.

In October the Supreme Court dismissed suits brought by members of the NLD's central executive committee against SPDC Secretary One Lt. Gen. Khin Nyunt, the chief of military intelligence. The suits alleged that the military intelligence apparatus intentionally damaged private individuals in connection with the detention of NLD members elected to parliament in 1990. They also filed suit against other senior government officials for libel, fraud, and intimidation in connection with the organization of petitions of "no confidence" in NLD members-elect of Parliament (see Sections 1.d. and 3). Although the hearing was closed to the public, the Supreme Court reportedly ruled that General Khin Nyunt could not be sued for official actions without the permission of his superior, Senior General Than Shwe, and that the "no confidence" petitions were valid.

There were unconfirmed estimates that the Government holds over 1,300 political prisoners. Although the law provides for the commutation of sentences for good behavior, political prisoners often are not granted this benefit. Moreover, some political prisoners remained in custody despite having completed their sentences. However, in January and February the Government released two prominent political prisoners, Ohn Myint and Dr. Ma Thida, on humanitarian grounds prior to the completion of their sentences.

Some of the persons arrested and detained in July through September for prodemocracy activities were tried and sentenced to prison terms. For example, NLD youth member Tey Za from Myinma in Sagaing Division, who was arrested for posting a sign that his shop would close on September 9, was tried and sentenced later in the same month to 2 years in prison on a charge of instigating public panic. In Mandalay, a family of four was arrested and its members were sentenced to harsh prison terms for wearing yellow, a color associated with the NLD, on September 9 (see Sections 1.d. and 2.a.).

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The military Government continued to interfere extensively and arbitrarily in the lives of citizens. Through its extensive intelligence network and administrative procedures, the Government systematically monitored the travel of all citizens and closely monitored the activities of many citizens, particularly those known to be active politically. The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance, and that any household that hosts a person not domiciled there maintain and submit to the police a guest list. Police routinely entered and searched homes during night hours without warrants, ostensibly to enforce compliance with this requirement. Security personnel also commonly searched private premises and other property without warrants in other contexts.

Government employees generally are required to obtain advance permission before meeting with foreigners. Military intelligence continued frequently to monitor the movements of foreigners and to question citizens about conversations with foreigners.

Government employees are prohibited from joining or supporting political parties. The Government continued to use coercion and intimidation to induce many persons including nearly all public sector employees not only to join the Union Solidarity and Development Association (USDA), the Government's mass mobilization organization, but also repeatedly to attend mass meetings called to criticize the NLD and NLD members-elect of Parliament (see Sections 1.d., 2.b., and 3).

Government officials including senior officials continued repeatedly to make statements in the state-monopolized domestic media warning parents of students that authorities could hold them responsible for any political offenses that their children might commit.

In July 1998, the Attorney General banned women from marrying foreigners (see Sections 2.d., 5, and 6.f.). However, this ban is not enforced.

During late 1998 and early 1999, the Government refused to allow Aung San Suu Kyi's late husband Michael Aris, then terminally ill, to travel from Britain to visit his wife in Rangoon. The Government stated that if Aung San Suu Kyi wanted to see her British husband, she could leave the country to visit him in the United Kingdom. The Government announced that it would allow the prodemocracy leader to reenter the country only if they judged her visit to be non-political. At about the same time, state-owned media and billboards and government-organized mass rallies called for Aung San Suu Kyi to be deported (see Section 1.d.).

Army units routinely forced citizens, including women and children, to provide a wide range of support services without compensation and to work as military porters under harsh conditions (see Sections 1.a., 1.b., 1.g., and 6.c.). The army reportedly includes child soldiers as young as 14-years old. Child soldiers are assigned support duties.

Weak private property rights regarding land ownership continued to facilitate involuntary relocations of persons by the State. The law does not permit private ownership of land; it recognizes only different categories of land use rights, many of which are not freely transferable. Postcolonial land laws have revived the precolonial tradition that the State owns all land and that private rights to it are contingent upon use that the State deems productive.

To make way for commercial or public construction and in some cases for reasons of internal security and political control, the SPDC continued to relocate citizens out of cities to new towns; however, this occurred on a much smaller scale than during the early 1990's. Persons relocated to "new towns" continued to suffer from greatly reduced infrastructure support and living standards, and residents targeted for displacement continued to be given no option but to move, usually on short notice.

In rural areas the military Government also continued its widespread and frequent practice of forcibly relocating ethnic minority villages. This practice was particularly widespread and egregious in the Shan, Kayah, and Karen States and in areas of Mon State and Pegu Division as part of the armed forces campaign against insurgents. In these areas, thousands of villagers were displaced and herded into smaller settlements in strategic areas (see Section 1.g.). These forced relocations often have been accompanied by intensified demands for forced labor to build infrastructure for both villagers and army units to guard them in the areas to which they were relocated, and often have generated large outflows of refugees to neighboring countries or to parts of the country not controlled by the Government. In areas that it has forced ethnic minorities to leave, the junta repeatedly has organized the settlement of Burmans. In some areas army units forced or attempted to force ethnic Karen to relocate to areas controlled by the Democratic Karen Buddhist Army (DKBA), an armed ethnic group allied with the Government (see Section 5).

During the year, the Government reportedly also forcibly relocated several largely Islamic villages in Arakan State and resettled the area with Buddhist Burmans whom it compelled to move out of Dagon Township in Rangoon Division (see Sections 1.g. and 5).

In a number of urban areas, residents were compelled to cede use of land for road widening and a host of other projects approved without any public consultation or endorsement. Other long-term city residents were required to cede use of land for commercial redevelopment and were compensated at only a fraction of the value of their lost homes.

In rural areas, military units and personnel routinely confiscated livestock, fuel, food supplies, alcoholic drinks, or money. This abuse has become widespread and systematic since 1997, when the junta, intent upon continuing its military buildup despite mounting financial problems, ordered its regional commanders insofar as possible to supply their logistical needs locally rather than rely on the central authorities, and reorganized the junta to give greater authority to regional commanders relative to the central Government. As a result, regional commanders have increased their use of forced contributions of food, labor and building materials throughout the country.

Security personnel continued to screen private correspondence and telephone calls.

Government authorities continued generally to prevent citizens from subscribing directly to foreign publications or satellite television (see Section 2.a.). The Government continued to license or ration electronic communication devices. A decree pro-

mulgated by the junta in 1996 has made possession of an unregistered telephone, facsimile machine, or computer modem punishable by imprisonment. (see Section 2.a.).

Both army and insurgent units used forced conscription.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.—Continuously since independence in 1948, the army has battled diverse ethnic insurgencies. These ethnic minority insurgent groups have sought to gain greater autonomy, or in some cases, independence from the ethnic Burman-dominated State. Since 1989 about 15 such groups have concluded and maintained cease-fire agreements with the Government; under these agreements, such groups generally have retained their own armed forces and either rule or perform some governmental functions within specified territories inhabited chiefly by members of their ethnic groups. However, the Karen National Union (KNU) has continued to conduct insurgent operations in areas with significant Karen populations in the eastern and southern regions of the country, including not only Karen State but also Mon State, Tenasserim Division, and Pegu Division. In Kayah State, the Karenni National Progressive Party (KNPP) has resumed fighting against the Government since the breakdown of a cease-fire negotiated in 1995. In central and southern Shan State, military forces continued to engage the Shan State Army (SSA), a remnant of Khung Sa's narcotics-linked Mong Tai army. The government continued a campaign of forced relocation of villagers. There are credible reports that the army committed retaliatory killings, rapes and other atrocities against civilians. Numerous other minor ethnically based insurgent groups including the Chin National Front (CNF), the Naga National council, the Rohingya solidarity organization (RSO), and the Arakan National Organization (ANO) continue to oppose the central government with varying levels of insurgent activity.

In combat zones or in areas controlled by ethnic minorities as part of the government's cease fire arrangements, some insurgents subjected civilians to forced labor.

Some antigovernment insurgent groups also committed serious abuses. Some KNU units committed extrajudicial killings of civilians, in one case by blowing up a passenger bus with a landmine (see Section 1.a.). KNPP elements reportedly killed two persons who had arranged the surrender of KNPP fighters to the Government and were attempting to do so again (see Section 1.a.). SSA insurgents reportedly committed retaliatory killings, rapes, and other atrocities against civilians. There were credible reports that some insurgents used women and children as porters. At least one Karen insurgent group calling itself God's Army, which has split from the KNU and operated from a base inside the country near the border with Thailand, was led by child soldiers (see Section 5). In September five young armed Karen seized the Burmese Embassy in Thailand and held persons of several nationalities hostage. The hostage takers later were granted refuge at God's Army camp in Burma.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The law authorizes the Government to restrict freedom of speech and of the press and in practice the junta continued to restrict these freedoms severely and systematically. The Government continued to arrest, detain, convict or imprison many persons for nonviolently expressing or attempting to express political opinions critical of the junta or of military rule, or for distributing or possessing publications in which such opinions were expressed (see Sections 1.c., 1.d., and 1.e.). In addition, security services continued to monitor, harass, and intimidate persons believed to hold such political opinions. Many more persons refrained from speaking out due to fear of arrest, interrogation, and other forms of intimidation.

Legal restrictions on freedom of speech, already severe since the early 1960s, have intensified since 1996, when the junta promulgated a decree prohibiting speeches or statements that "undermine national stability" as well as the drafting of alternative constitutions. In all regions of the country that it controlled, the military Government continued to use force to prohibit virtually all public speech critical of it by all persons, including persons elected to parliament in 1990 and by leaders of political parties (see Sections 1.d., 1.e., 2.b., and 3). The Government has pursued this policy consistently since 1990, with the one exception of permitting weekly speeches by NLD leaders in front of Aung San Suu Kyi's residence in Rangoon from late 1995 until December 1996.

During the year, novelist Maung Tha Ya fled the country and publicly stated that he believed that 20 prominent writers remained in prison in the country, including novelist and journalist San San Nweh, who has been imprisoned for a 10-year-term since 1994 for passing information about human rights violations to international reporters and United Nations observers. Some of these writers, including San San

Nweh, were reportedly in poor health, and government censorship boards continued not to approve publication or distribution of many works written by them. An international nongovernmental organization (NGO) that promotes media freedom reported in December that 13 journalists were in prison. The government did allow former political prisoner Dr. Ma Thida to publish a novel following her release from prison.

On August 19, the junta announced that security forces recently seized thousands of "instigative leaflets" and many cassettes and videotapes that called for participation in September 9 activities to commemorate the prodemocracy demonstrations of August 1988 (see Section 1.d.). On August 27, in Rangoon Division's Thaketa Township, security forces reportedly arrested six high school students for distributing such leaflets on the street.

All forms of domestic public media were officially controlled or censored. This strict control in turn encouraged self-censorship on the part of writers and publishers.

The State continued to own and the Government continued to control all daily newspapers, domestic radio and television broadcasting facilities. These official media remained propaganda organs of the junta and normally did not report opposing views except to criticize them. While some state-owned newspapers continued to include many edited international wire service reports on foreign news, domestic news hewed strictly to and reinforced government policy.

All privately owned publications remained subject in principle to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published monthly or less often. However, since 1996 the Government, in order to help state employees supplement their increasingly inadequate salaries, has given transferable waivers of prepublication censorship for weekly periodicals to state employee associations; although private weekly tabloids have proliferated, they remain subject in principle to censorship and generally have not reported domestic political news.

Imported publications remained subject in principle to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense that continued in cases involving prodemocracy literature to be punished by imprisonment (see Sections 1.d. and 1.e.). The Government also restricted the legal importation of foreign news periodicals, as of all other goods, by licensing. Citizens were generally unable to subscribe directly to foreign publications, but a limited selection of foreign newspapers could be purchased in a few hotels and stores in Rangoon (see Section 1.f.). Censors frequently banned issues or deleted articles deemed unwelcome by the Government. However, some street vendors sold illegally imported copies of international newsmagazines and daily newspapers.

Since 1997 the Government has issued few visas to foreign journalists and has held fewer than a handful of press conferences on political subjects. Several journalists who entered the country as tourists were detained and deported by the Government.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas, and most villages lacked access to electrical power, except from generators or batteries. The junta continued to monopolize and to control tightly the content of all domestic radio broadcasting. Foreign radio broadcasts, such as those of the British Broadcasting Corporation, Voice of America, Radio Free Asia, and the Norway-based Democratic Voice of Burma, remained the principal sources of uncensored information.

The Government continued to monopolize and to control tightly all domestic television broadcasting, offering both a government channel and an armed forces channel. The Government continued to restrict the reception of foreign satellite television broadcasts, although restrictions are not enforced strictly in many cases (see Section 1.f.). Operation of an unlicensed satellite television receiver is a crime punishable by imprisonment for up to 3 years. Persons active in prodemocracy activities remained generally unable to obtain licenses. However, many citizens not engaged in prodemocracy activities ignored the licensing regulation without penalty. The Television and Video Law makes it a criminal offense to publish, distribute or possess a videotape not approved by a state censorship board, and in 1996 the junta promulgated an amendment to that law that stiffened the penalties for distributing uncensored videos.

The junta continued severely and systematically to restrict access to electronic media. Under a decree promulgated by the junta in 1996, all computers, software, and associated telecommunications devices are subject to government registration,

and possession of unregistered equipment is punishable by imprisonment (see Section 1.f.).

The Ministry of Defense continued to operate the country's only known Internet server, and during much of the year began to offer Internet services selectively to a small number of customers. However, in December military intelligence officials closed the private domestic e-mail services, seized some of their equipment, closed two private computer training schools, and detained and interrogated five instructors at those schools. Also in December, military intelligence reportedly closed the Defense Ministry's domestic Internet subscription service, arrested Col. Khin Maung Lwin, who managed the Defense Ministry's Internet operations, and charged him with violating the Official Secrets Act. The country's first cybercafe opened in Rangoon during the year, but did not offer patrons direct access to the Internet.

The Government continued to restrict academic freedom severely. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other government employees. The Ministry of Higher Education continued routinely to warn them against criticism of the Government; to instruct them not to discuss politics while at work; to prohibit them from joining or supporting political parties or engaging in political activity; and to require them to obtain advance ministerial approval for meetings with foreigners. Like all government employees, professors and teachers continued to be coerced into joining and taking part in the activities of the USDA (see Sections 1.d., 1.f., 2.b., and 3.). Teachers at all levels continued to be held responsible for preventing students from engaging in any unauthorized demonstrations or political activity.

Most institutions of higher education have remained largely closed again since 1996, when the junta closed the universities and even primary and secondary schools following widespread student demonstrations. Primary and secondary schools reopened in August 1997. Graduate students also were allowed to continue their studies. In 1998 several universities were opened for abbreviated refresher courses and examinations. Dissatisfaction with the limited time for education prompted several student demonstrations. Authorities arrested student protest leaders and sentenced them to lengthy prison terms. After holding exams, the junta again closed the universities. The junta reopened the medical college in 1998 and the agricultural college in 1999. In December it reopened some engineering and technical institutes, but these did not remain open.

Although the Government increasingly has promoted higher education through correspondence courses, in practice domestic access to general higher education involving substantial classroom instruction remained conditional upon enrollment in the armed forces. The armed forces academy and medical and technical schools remained open.

b. *Freedom of Peaceful Assembly and Association.*—The Government continued to restrict freedom of assembly severely. Its prohibition of unauthorized outdoor assemblies of more than five persons remained in effect, although it was enforced unevenly. The 10 existing legal political parties remained required to request formal permission from the Government to hold internal meetings of their members, although some members still met without official permission.

The military junta intensified its systematic decade-long use of coercion and intimidation to prevent the parliament elected in 1990 from convening (see Sections 1.c., 1.d., 1.e. and 3.).

From July through September, government authorities in various parts of the country used force to prevent prodemocracy demonstrations or punish participants in them. Authorities detained or arrested and in many cases convicted and imprisoned persons suspected of planning such demonstrations (see Sections 1.d. and 1.e.). On August 8 and September 9, security forces, including army soldiers and riot police deployed at key intersections in Rangoon to prevent any antigovernment demonstrations. On August 12, in Mergui, security forces reportedly arrested about 30 high school students who participated in a demonstration for a reduction of school fees, the right to form a student union, and other educational and political reforms (see Sections 1.d. and 5).

The Government continued to allow the NLD to celebrate certain key party events with public gatherings at Aung San Suu Kyi's residence or the national NLD party headquarters in Rangoon. However, on some of these occasions, the Government restricted the size of the gatherings or the types of individuals who were allowed to attend. In August the security forces prevented diplomats and journalists from attending an NLD commemoration of the first anniversary of the formation of the CRPP. Outside the capital, authorities in most areas routinely restricted NLD members' freedom of assembly more severely, and required members of parliament-elect to register at police stations twice per day. In contrast to previous years, there were

no incidents during which security forces publicly beat NLD members as they attempted to peaceably assemble or attend meetings.

In 1998 the Government organized large anti-NLD rallies in every state and division (see Section 3). Many participants were required to attend. These rallies ceased in 1999 and were replaced by trumped-up recall petitions for elected members of parliament who refused to resign in the face of government pressure.

The Government sometimes interfered with religious groups' assemblies or other outdoor gatherings during the year (see Section 2.c.).

The Government intensified its already severe restrictions on freedom of association, particularly against members of the main opposition political party, the NLD.

Aside from officially sanctioned organizations like the USDA, the right of association existed only for organizations, including trade associations and professional bodies, permitted by law and duly registered with the Government, such as the Forest Reserve Environment Development and Conservation Association. Few secular nonprofit organizations continued to exist, and even those were subject to direct government intervention and took special care to act in accordance with government policy. This group included nominally apolitical organizations such as the Myanmar Red Cross and the Myanmar Medical Association. Only 10 political parties remained legally in existence, and most were moribund. Military authorities generally required civilian employees both of the Government to belong to the USDA.

Government authorities continued to harass NLD members for petty offenses or for no offenses at all. The authorities reportedly cut off the supply of electrical power to the home of an NLD township chairman. On August 29, security forces reportedly detained the wife of an NLD member of the CRPP for having provided food at an NLD commemoration of a national holiday on July 19. Authorities also continued to arrest, convict, and imprison NLD activists for political crimes (see Sections 1.c., 1.d., and 1.e.).

In addition, during the year the junta continued its systematic nationwide campaign to destroy the NLD without formally banning it. This campaign was intensified after September 1998, when the NLD's national leadership organized the CRPP. Throughout the year, government media published hundreds of reports from localities across the country that NLD members had "voluntarily resigned" from the party in groups ranging in size from fewer than 10 to more than 1,000 persons. By year's end, the reported number of NLD members who "voluntarily resigned" numbered in the tens of thousands. Government authorities announced in state media that those who had resigned from the NLD included 27 persons elected to parliament in 1990 (see Section 3.).

Many of these resignations from the NLD generally were coerced according to the people concerned. In some townships, authorities subjected local NLD officers to particularly intense pressure to resign from the party and rendered local party organizations officially defunct due to a lack of recognized officers. In some localities, NLD members and in particular local NLD officials who refused to resign from the party were arrested or imprisoned or recall motions were mounted against them. In many townships, this campaign deprived people of any registered organization though which they could associate for political purposes without criminal liability. The NLD credibly alleged that the government also used its control of some members of the Buddhist clergy to induce NLD members to resign and to dissolve local party organizations.

c. *Freedom of Religion.*—Most adherents of all religions duly registered with the authorities generally enjoyed freedom to worship as they chose; however, the Government imposed some restrictions on certain religious minorities. In addition, the government systematically restricted efforts by Buddhist clergy to promote human rights and political freedom, and coercively promoted Buddhism over other religions in some ethnic minority areas.

The most recent Constitution, promulgated in 1974, permitted both legislative and administrative restrictions on religious freedom, stating that "the national races shall enjoy the freedom to profess their religion . . . provided that the enjoyment of any such freedom does not offend the laws or the public interest." The Government required religious organizations, like all organizations, to register with it. Although there is a government directive exempting "genuine" religious organizations from registration, in practice only registered organizations can buy or sell property or open bank accounts, which induces most religious organizations to register. Religious organizations register with the Ministry of Home Affairs with the endorsement of the Ministry for Religious Affairs. The State also provides some utilities, such as electricity, at preferential rates to recognized organizations.

The Government routinely monitored religious meetings, like all assemblies; and it subjected religious publications, like all publications, to censorship and control.

There is no official state religion; however, the Government continued both to show preference for Theravada Buddhism, the majority religion. State-controlled news media continued frequently to depict or describe junta members paying homage to Buddhist monks, making donations at pagodas throughout the country, officiating at ceremonies to open, improve, restore or maintain pagodas, and organizing ostensibly voluntary "people's donations" of money, food, and uncompensated labor to build or refurbish Buddhist religious shrines throughout the country. State-owned newspapers routinely featured, as front-page banner slogans, quotations from the Buddhist scriptures. Buddhist doctrine remained part of the state-mandated curriculum in all elementary schools; however, individual children could opt out of instruction in Buddhism. The Government continued to fund two State Sangha Universities in Rangoon and Mandalay to train Buddhist clergy.

Religious groups of all faiths were able to establish and maintain links with coreligionists in other countries and travel abroad for religious purposes; however, the Government reportedly monitored these activities. Foreign religious representatives usually were allowed visas only for short stays but in some cases were permitted to preach to congregations.

In general, the Government has not permitted permanent foreign missionary establishments since the mid-1960's, when it expelled nearly all foreign missionaries and nationalized all private schools and hospitals, which were extensive and were affiliated mostly with Christian religious organizations. However, some elderly nuns and priests working in the country since before independence in 1948 have been allowed to continue their work. By contrast, the junta partly funded the construction of the International Theravada Buddhist Missionary University in Rangoon, which opened in December 1998; its stated purpose is "to share Myanmar's knowledge of Buddhism with the people of the world," and the main language of instruction is English.

There continued to be credible reports from various regions of the country that government officials and security forces compelled persons, especially in rural areas, to contribute money, food, or uncompensated labor to state-sponsored projects to build, renovate, or maintain Buddhist religious shrines or monuments. The Government calls these contributions "voluntary donations" and imposes them on both Buddhists and non-Buddhists (see Section 6.c.).

The Government prohibits any organizations of Buddhist clergy other than nine state-recognized monastic orders, which submit to the authority of a state-sponsored State Clergy Coordination Committee ("sangha maha nayaka committee"—SMNC) elected indirectly by monks. The junta continued to subject the Buddhist clergy ("sangha") to special restrictions on freedom of expression and association. Since 1995 the junta has prohibited the ordination as clergy of any member of a political party.

In July the senior abbots of five monasteries around Mandalay reportedly protested a new order by the regional military command that forbade Buddhist clergy to leave their township of residence without first surrendering their identity cards and obtaining written permission from local authorities; persons other than Buddhist clergy generally were not subject to such severe restrictions on movement (see Section 2.d.).

There is no reliable estimate of the number of Buddhist clergy in prisons or labor camps at year's end. Buddhist monks reportedly have died in prisons or labor camps run by the Government's Department of Prisons.

Christian and Islamic groups continued to have difficulties in obtaining permission to build new churches and mosques, particularly on prominent sites.

It was credibly reported that in Karen State's Pa'an Township, army units repeatedly conscripted as porters young men leaving worship services at some Christian churches, causing young men to avoid church attendance.

Religious publications, like secular ones, remained subject to censorship. Translations of the Bible and the Koran into indigenous languages could not be imported or printed legally, although this ban is not enforced in many areas. In February and May in Tamu Township in Sagaing Division, military authorities reportedly confiscated 1,600 copies of the Bible printed outside the country in the Chin, Kachin, and Karen languages; these Bibles reportedly remained confiscated at year's end.

Since 1990 government authorities and security forces have promoted Buddhism over Christianity among the Chin ethnic minority of the western part of the country. Since 1990 government authorities and security forces, with assistance from monks of the Hill Regions Buddhist Missions, coercively have sought to induce Chins to convert to Theravada Buddhism and to prevent Christian Chins from proselytizing Chins who practice traditional indigenous religions. This campaign, reportedly accompanied by other efforts to "Burmanize" the Chin, has involved a large increase in military units stationed in Chin State and other predominately Chin

areas, state-sponsored immigration of Buddhist Burman monks from other regions, and construction of Buddhist monasteries and shrines in Chin communities with few or no Buddhists, often by means of forced "donations" of money or labor. Government authorities repeatedly prohibited Christian clergy from proselytizing. Soldiers beat Christian clergy who refused to sign statements promising to stop preaching. There reportedly have been instances of forced conversion. Since the early 1990's, security forces have torn down or forced villagers to tear down crosses that had been erected outside Chin Christian villages; these crosses often have been replaced with pagodas, sometimes built with forced labor. In parts of Chin State, authorities reportedly have not authorized the construction of any new churches since 1997. After parts of the Aungdawmu Buddhist pagoda in Chin State's Falam Township collapsed in July, Buddhist monks and army authorities reportedly forced Chin villagers, most of whom were not Buddhists, to labor for months without pay to repair it.

During the year, there were several credible reports of harassment of Christian churches and pastors in Chin State and in the Chin community elsewhere in connection with the celebration of the l00th year of Christianity among the Chin.

On January 5, after a centennial celebration held in the town of Than Tlang on January 1–3, citizens of the town erected a cross atop Vuichip Hill outside the town. The township military commander reportedly ordered the town's residents to remove the cross, but they refused to do so, whereupon soldiers reportedly removed the cross and arrested and interrogated six Chin Baptist pastors. In response the inhabitants of Than Tlang observed a general strike and day of prayer on January 6. The township military command then reportedly summoned 20 Christian clergy and church leaders for interrogation. On January 9, Christian churches around Hakka, the capital of Chin State, joined Than Tlang's protest by holding special prayer services. The regional military command then reportedly ordered the postponement until April of a centennial celebration to be held in Hakka, and informed Chin Christian leaders that erection of the crosses on hilltops must be approved by authorities in Rangoon. Authorities allowed the centennial celebration in Hakka to take place in April, but reportedly limited participation to 4,500 persons and reportedly refused to allow former Baptist missionaries and Baptists from other countries to participate. Early in the year, military authorities in Hakka reportedly ordered that the construction of new churches be halted, thereby preventing the completion before the April centennial celebration of a hall named in honor of the first Baptist missionary among the Chin.

For several years, there have been reports that the Government sought to induce members of the Naga ethnic group in Sagaing Division to convert from Christianity to Buddhism by means similar to those it used to convert members of the Chin to Buddhism. During the year, the first mass exodus of Naga religious refugees from the country occurred. In August more than 1,000 Christians of the Naga ethnic group, from 8 different villages, reportedly fled the country to India. These Naga reportedly claimed that the army and Buddhist monks tried to force them to convert to Buddhism and had forced them to close churches in their villages, then desecrated the churches.

Religious affiliation sometimes is indicated on government-issued identification cards that citizens and permanent residents of the country are required to carry at all times. There appear to be no consistent criteria governing whether a person's religion is indicated on his or her identification card. Nationals are also required to indicate their religions on some official application forms, e.g., for passports.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government restricts freedom of movement. Although citizens have the legal right to live anywhere in the country, both urban and rural residents were subject to arbitrary relocation (see Sections 1.f. and 1.g.). Except for limitations in areas of insurgent activity, most citizens could travel freely within the country but were required to notify local government of their whereabouts (see Sections 1.f.).

Since ostensibly freeing NLD general secretary Aung San Suu Kyi in 1995 from a 6-year-long house arrest, the junta has continued to restrict severely her freedom of movement within the country, seldom allowing her to travel outside the capital and sometimes preventing her from leaving her home in Rangoon. The Government prevented her from leaving her residence on September 9 and September 16 (see Section 2.a.). Since 1996 security forces also have restricted public movement along the street in front of her residence.

Those residents unable to meet the restrictive provisions of the citizenship law, such as ethnic Chinese, Arakanese, Muslims, and others must obtain prior permission to travel. Some Arakanese Muslims must obtain permission from the security forces to travel to the next town. The Government also prohibits foreign diplomats and foreign employees of U.N. agencies based in Rangoon from travelling outside

the capital without advance permission, which sometimes was not granted or rescinded after travel had begun.

The Government carefully scrutinized prospective travel abroad. This facilitated rampant corruption as many applicants were forced to pay large bribes to obtain passports to which they otherwise were entitled. The official board that reviews passport applications denied passports in some cases apparently on political grounds. All college graduates who obtained a passport (except for certain government employees) were required to pay a special education clearance fee to reimburse the Government for the cost of their education. Citizens who had emigrated legally generally were allowed to return to visit relatives, and some who had lived abroad illegally and acquired foreign citizenship were able to return to visit.

Since the mid-1990's, the Government increasingly has restricted the issuance of passports to female citizens (see Sections 1.f., 5 and 6.f.). However, these restrictions sometimes were evaded by payments of large bribes.

In March while denying a visa to her terminally ill British husband, the Government indicated that they would issue Aung San Suu Kyi a passport to enable her to visit him in the United Kingdom, but stated that it would allow her to reenter the country only if her foreign travel were not of a political nature. In the first quarter of the year, state media throughout the country featured slogans urging that Aung San Suu Kyi be deported (see Sections 1.f. and 5).

Restrictions on foreign travelers have been eased as part of an effort to promote tourism. Burmese embassies issued tourist visas, valid for 1 month, within 24 hours of application. However, select categories of applicants, such as foreign human rights advocates, journalists, and political figures continued to be denied entry visas unless traveling under the aegis of a sponsor acceptable to the Government and for purposes approved by the Government. In September the Government temporarily stopped issuing visas to independent travelers in order to prevent foreign activists from entering the country. Many travelers were questioned at length and asked to sign oaths indicating that they were not journalists or activists before their visas were issued. The Government detained and deported several journalists (see Section 2.a.). One foreign citizen who entered the country after previously being expelled for antigovernment activity was sentenced to 5 years in prison in 1998. He was released after 90 days and deported. After violating the terms of his deportation by returning to Burma in September, he was convicted of immigration and publishing violations and sentenced to seventeen years in prison. Although some areas of the country remained closed to foreigners for security reasons, the Government permitted travel to most other destinations. Rangoon-based diplomats must apply 10 days in advance for travel outside the capital.

From early October until late November the Government closed the border with Thailand; it announced that the seizure of its embassy in Bangkok, Thailand, by Karen insurgents in early October impelled it to take this action (see Section 1.g.).

Hundreds of thousands of citizens continued to reside outside the country, mostly in Thailand, India, and Bangladesh. About 150,000 lived in refugee camps. During the first months of the year, at least 112,000 Karen, Mon, and Karenni residing in refugee camps in Thailand, and the tens of thousands of Shan refugees whom the Thai Government did not confine to such camps, were joined during the year by thousands of new arrivals who fled army attacks against insurgencies in the Karen, Karenni, and Shan ethnic areas, which were accompanied by numerous, serious, widespread abuses of the human rights of noncombatants (see Sections 1.a., 1.c., 1.f., 1.g., and 6.c).

At year's end, there were still 21,000 Rohingya Muslims remaining in refugee camps in Bangladesh. The UN High Commissioner for Refugees (UNHCR) repatriation program, which since 1992 had succeeded in returning approximately 238,000 refugees to Burma and originally had been scheduled to end on August 15, 1997, halted prematurely when the Rohingyas as a group rejected repatriation and demanded resettlement in Bangladesh. While the Government agreed to resume repatriation of those remaining, this repatriation is proceeding extremely slowly.

The Rohingyas refused to return because they feared human rights abuses, including religious persecution and other government restrictions. The UNHCR reported that the Government cooperated in investigating isolated incidents of renewed abuse of repatriated citizens. However, returnees face severe and increasing restrictions imposed by the Government on their ability to travel and to engage in economic activity (see Sections 2.c. and 5).

The Government does not allow refugees or displaced persons from abroad to resettle or seek safe haven, and has no policy to grant asylum. There were no reports that persons formally sought asylum in the country during the year. There also were no reports of the forced return of persons to a country where they feared persecution.

On October 1, a handful of armed antigovernment terrorists who took control of the Burmese embassy in Bangkok, Thailand, held hostage and threatened to kill foreign tourist visa applicants as well as embassy staff; the incident was resolved without loss of life (see Section 1.g.).

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

Despite the overwhelming desire that citizens demonstrated in the 1990 elections for a return to democracy, the regime continued to deny them the right to change their government.

Since 1962 active duty military officers have occupied most important positions throughout the Government, particularly at the policy making level, but also extending to local administration. Since the armed forces brutally crushed widespread and largely peaceful prodemocracy demonstrations in 1988, all state power has been held by a military junta. All members of the junta have been military officers on active duty, and the junta has placed military or recently retired military officers in most key senior level positions in all ministries. At year's end, only 11 of the 41 government ministers were civilians.

Following the NLD's victory in the 1990 elections, the SPDC thwarted voters by refusing to implement the election results. The Government disqualified, detained, or imprisoned many successful candidates, and many others fled the country (see Sections 1.d. and 1.e.).

Rather than accept the will of the citizenry as expressed in the 1990 election, the junta convened a national convention in 1993 to draw up principles for a new constitution. The junta hand-picked most delegates, and carefully stage-managed the proceedings; even limited opposition views were ignored. The junta tasked the convention with drafting a new constitution designed to provide a dominant role for the military services in the country's future political structure. In 1995 the NLD delegates withdrew from the convention pending agreement by the Government to discuss revising the convention's working procedures to permit debate and meaningful participation in formulation of a new constitution. Two days after its withdrawal, the NLD was expelled formally. The national convention continued its deliberations until it adjourned in March 1996. It has not reconvened. The provisions that it adopted were designed to ensure the large-scale involvement of the military services in all levels of government—including reserving 25 percent of seats in the Parliament for appointed members of the military services, and reserving key government posts for military personnel as well. In addition it adopted provisions that prohibited, among other things, anyone "under acknowledgment of allegiance" to a foreigner or who has received any type of assistance from a foreign source, from participating in the Government. These provisions apparently were designed to exclude Aung San Suu Kyi, who was married to a British citizen.

During the year, the SPDC intensified its systematic use of coercion and intimidation to deny citizens the right to change their government. In August 1998, the NLD leadership organized a small Committee of Representatives of the People's Parliament that had written delegations of authority from a majority of the surviving representatives elected in 1990 to act on behalf of the Parliament, in view of the junta's continued use of force to prevent the whole Parliament from convening. The junta has responded by directing a sustained, systematic campaign to destroy the NLD without formally banning it; authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. Military intelligence officials also have detained without charge 55 other elected representatives, mostly NLD members, since September 1998 (see Section 1.d.).

In addition, the junta continued its systematic nationwide campaign in which local authorities pressured constituents to sign statements of no confidence in NLD representatives elected from their districts in 1990. During the year, state-owned media reported that a majority of eligible voters in at least 10 townships had signed petitions expressing no confidence in at least 27 NLD members-elect of Parliament. These petitions were presented to local Multiparty Democracy General Election Commissions in formal ceremonies staged at mass rallies widely publicized by state-owned media. Both the CRPP in public statements and the NLD in lawsuits it filed to protest these activities (see Section 1.e.) alleged credibly and in detail that signature of these petitions and participation in these mass rallies generally was obtained by systematic coercion and intimidation by government and USDA officials (see Section 1.e.).

In late October the national Multiparty Democracy General Election Commission reportedly announced that of 392 NLD members elected to parliament in 1990, only 92 remained both NLD members and members-elect of parliament; 105 had resigned

their parliamentary status, the Commission had disqualified or revoked the candidacy of 139, 27 had resigned from the NLD, and 31 had died.

At year's end, the government claimed there were only 166 of the 485 elected members of Parliament. Given credible reports of forced resignations and opposition assertions that disqualifications are invalid, a more indicative statistic is that 432 persons elected to be members of parliament in 1990 remained alive and in the country at year's end.

Women and minorities were underrepresented in the Government and the top ranks of government services and excluded from military leadership. There were no female members of the SPDC, ministers, or supreme court judges.

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

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

The Government does not allow domestic human rights organizations to exist, and it remained generally hostile to outside scrutiny of its human rights record. Approximately 15 nonpolitical, humanitarian, international NGO's continued project work. A few others established a provisional presence while undertaking the protracted negotiations necessary to set up permanent operations in the country.

The Government continued to refuse to meet with representatives of the U.N. Human Rights Commission (UNHRC), which repeatedly has criticized the Government's junta rights record in annual resolutions, and continued to deny the UNHRC Special Rapporteur for Burma, Rajsoomer Lallah, entry into the country. In his report to the UNHRC, Lallah criticized the human rights violations committed against ethnic minorities as a result of the SPDC's policy of forcible relocations and continued recourse to forced labor. The Government allowed two visits of U.N. Special Envoy to Burma Alvaro de Soto in 1998 and 1999. However, the SPDC refused to engage on the substance of Mr. De Soto's mandate.

In recent years the Government has denied entry to foreigners, including staff of an International Labor Organization (ILO) Special Commission of Inquiry, who sought to investigate allegations of forced labor (see Section 6.c.).

The Government continued routinely, although less routinely than during 1998, to deny visas to foreign journalists and NGO staff whom it regarded as likely to criticize its human rights record publicly.

The Government's restriction of travel to and within the country by foreign journalists, NGO staff, U.N. agency staff, and diplomats, its monitoring of the movements of such foreigners, and its frequent interrogation of citizens about contacts with foreigners, its restrictions on the freedom of expression and association of citizens, and its practice of arresting citizens who passed information about government human rights abuses to foreigners, all impeded efforts to collect or investigate information about human rights abuses (see Sections 1.c., 1.d., 1.e., 2.a., 2.b., 2.c., and 6.a.). Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed, and seldom could be verified with certainty.

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

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

The military junta continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

Women.—Domestic violence against women, including spousal abuse, appears to be relatively infrequent. Married couples often live in households with extended families, where social pressure tends to protect the wife from abuse. The Government sponsors social welfare training for women.

Prostitution became an increasingly overt problem during the period, particularly in some of Rangoon's "new towns," populated chiefly by poor families forcibly relocated from older areas of the capital (see Section 1.f.). The Government and at least one international nongovernmental organization operate schools and other rehabilitation programs for former prostitutes.

Trafficking in women for the purposes of prostitution is a serious problem (see Section 6.f.).

In general women traditionally have enjoyed a high social and economic status exercising most of the same basic rights as men. Consistent with traditional culture, women keep their names after marriage and often control family finances. While nationwide, there was little difference between the males and females in school attendance rates or educational attainment, in Muslim dominated areas, girls tended to

stop schooling much earlier than boys. However, women remained underrepresented in most traditional male occupations, and women continued to be barred effectively from a few professions including the military officer corps. The burden of poverty, which is particularly widespread in rural areas, fell disproportionately on women. In recent years, the Government officially hampered women from marrying foreigners and restricted foreign travel by women but has not enforced these restrictions consistently (see Sections 1.f., 2.d., and 6.f.).

Women did not consistently receive equal pay for equal work. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these accommodations often were not realized.

There were no independent women's rights organizations; the National Committee for Women's Affairs in the Ministry of Social Welfare is charged with safeguarding women's interests. The Myanmar Maternal and Child Welfare Association, a government-controlled agency, provided assistance to mothers. A professional society for businesswomen, the Myanmar Women Entrepreneurs' Association, formed in 1995, provided loans to new businesses, and made charitable donations.

During the year, the State acceded to the Convention on the Elimination of All Forms of Discrimination Against Women.

Children.—The Government continued to neglect and restrict the education of children. The junta continued to allocate few and declining resources to fund public education. In response to inadequate public education, private institutions began emerging during the year despite an official monopoly on education. Government expenditures for all civilian education for 1997–98 were equivalent to only 0.9 percent of recorded GDP during the year and have declined by more than 70 percent in real terms since 1990. According to government studies conducted with U.N. assistance, although education is compulsory, only 37 percent of children finished fourth grade in urban areas and only 22 percent did so in rural areas. Rates of school attendance and educational attainment decreased during the 1990s, due largely to increasing formal and informal school fees as the junta diverted expenditures from health and education to the armed forces. Teachers' salaries were far below subsistence wages. Increasingly, only relatively prosperous families could afford to send their children to school, even at the primary level. In some areas in the center of the country, where few families could afford unofficial payments to teachers, teachers generally no longer came to work and schools no longer functioned. Junta policies have accelerated a general educational decline (see Section 1.f.).

Children also suffered greatly from the junta's severe and worsening neglect of health care. Private health care facilities became increasingly the provider of choice for the relatively prosperous. The junta has cut government expenditures on public health care even more sharply than it cut spending for education. Government expenditures for civilian health care in 1997–98 were equivalent to only 0.3 percent of GDP. Government studies sponsored by U.N. agencies in 1997 found that on average 131 of 1,000 children died before reaching the age of 5 years, and that on average only 1 out of 20 births in rural areas was attended by a doctor, due chiefly to pervasive and extremely shortages of medical personnel, facilities, and equipment. In parts the country, health care was virtually nonexistent.

Government studies sponsored by U.N. agencies in 1997 found that of children under 3 years old, 37 percent were malnourished and 13 percent were severely malnourished. Many families subsisted on one meal of rice per day.

Child prostitution and trafficking in girls for the purpose of forced prostitution—especially Shan girls who were sent or lured to Thailand, continued to be a major problem (see Section 6.f.). Reports from Thailand indicated that the rising incidence of HIV infection there has increased the demand for supposedly "safer" younger prostitutes.

The army conscripts children as young as the age of 14, especially orphans and street children; they are deployed to training camps where they support the military forces. In combat areas the military forces continued to force children to labor as porters, and often subjected them to beatings (see Sections 1.f., 1.g., 6.c. and 6.d.).

Religious Minorities.—The great majority of the country's population at least nominally follow Theravada Buddhism. There are minorities of Christians (mostly Baptists as well as some Catholics and Anglicans), Muslims (mostly Sunni), Hindus, and practitioners of traditional Chinese and indigenous religions. There is some correlation between ethnicity and religion. In much of the country there is also some correlation between religion and social class, in that non-Buddhists tend to be better educated in secular matters, more urbanized, and more commercially oriented than the Buddhist majority.

There are social tensions between the Buddhist majority and the Christian and Muslim minorities, due in large part to government preference in practice (although

not in law) both for non-Buddhists during British colonial rule and for Buddhists since independence.

Non-Buddhists continued to experience discrimination at upper levels of the public sector. Only one non-Buddhist served in the Government at ministerial level, and the same person, a brigadier general, is the only non-Buddhist known to have held flag rank in the armed forces during the 1990's. The Government discourages Muslims from entering military service, and Christian or Muslim military officers who aspire to promotion beyond the middle ranks are encouraged by their superiors to convert to Buddhism.

There were credible reports that during the spring anti-Islamic booklets were distributed throughout the country through the USDA. This report followed other reports in recent years of government instigation or toleration of violence against Muslims. Even though the Government reportedly contributed to or instigated anti-Muslim violence in Arakan State in 1991, in Shan State and Rangoon in 1996, and in cities throughout the country in 1997, its reported ability to do so repeatedly reflects widespread prejudice against Muslims, many of whom are ethnic Indians or Bengalis.

Members of the Muslim Rohingya minority in Arakan State, on the country's western coast, continued to experience severe legal, economic, and social discrimination. The Government denies citizenship status to most Rohingyas on the grounds that their ancestors allegedly did not reside in the country at the start of British colonial rule, as required by the country's highly restrictive citizenship law. In 1991 tens of thousands of Rohingya, according to some reports as many as 300,000, fled from Arakan State into Bangladesh following anti-Muslim violence alleged although not proven to have involved government troops. Rohingyas who have returned to Arakan complained of government restrictions on their ability to travel and to engage in economic activity.

There are credible reports that government authorities in Arakan State have compelled Muslims to build Buddhist pagodas as part of the country's forced conscription labor program (see Section 6.c.). In March the Government forcibly relocated about 200 Buddhists from Dagon Township in Rangoon to Arakan State; this had the effect of increasing the population of Buddhists in a region with a large Muslim population (see Section 1.f.). On November 19, in Arakan State's Maungdaw Township, Myint Tun, director of the state's Buddhist Religious Association, accompanied by officials of a local Buddhist religious center, reportedly visited the village of lower Purma and ordered the village headman to demolish the village's largest and oldest mosque, without citing any reason.

Since 1994 when the progovernment Democratic Karen Buddhist Army (DKBA) was organized, there has been armed conflict between the DKBA and the Christian-led Karen National Union. This armed conflict between two nongovernmental Karen organizations has had strong religious overtones. During the mid-1990's, it was reportedly common DKBA practice to torture Christian villagers and kill them if they refused to convert to Buddhism, and during 1998 DKBA troops in Ler Doh Township in Karen State reportedly posted signs in front of churches warning that they would kill anyone attending those churches on Sundays. In recent years, a Karen Christian fundamentalist insurgent group that called itself God's Army has split from the KNU (see Section 1.g.).

People with Disabilities.—In principle official assistance to the disabled includes two-thirds of pay for up to 1 year of a temporary disability and a tax-free stipend for permanent disability; however, in practice assistance is extremely limited. There is no law mandating accessibility to buildings, public transportation, or government facilities. While there are several small-scale organizations to assist the disabled, most disabled persons must rely on their families to provide for their welfare. Disabled veterans receive available benefits on a priority basis. Because of landmine detonations, there is a high rate of amputee injuries.

National/Racial/Ethnic Minorities.—Wide-ranging governmental and societal discrimination against minorities persists.

Animosities between the country's many ethnic minorities and the Burman majority, which has dominated the Government and the armed forces since independence, continued to fuel at least four active ethnic insurgencies that resulted in many killings and other serious abuses (see Section 1.g.). Some frequently reported abuses included killings, beatings, and rapes of Chin, Karen, Karenni, and Shan by mostly Burman army soldiers. During the past decade, the junta has sought to pacify these ethnic groups by means of negotiated cease-fires, grants of limited autonomy, and promises of development assistance.

The Government continued to discriminate systematically against non-Burmans. National identity cards and passports generally denoted the ethnicity of non-Burmans either explicitly or through the use of a personal title in the ethnic minority

language rather than Burmese. Ethnic minority areas that were remote from active insurgent operations, such as the large Karen areas of Irrawaddy Division, experienced tighter controls on personal movement including more frequent military checkpoints, closer monitoring by military intelligence, and larger military garrisons and hence more informal taxes, than comparable Burman areas.

Ethnic minority groups generally had their own primary languages. However, throughout all parts of the country controlled by the Government, including ethnic minority areas, Burmese remained the sole language of instruction in all state schools. Even in ethnic minority areas, primary and secondary state schools did not offer any instruction in the local ethnic minority language even as a second language. There were very few domestic publications in indigenous minority languages. In some ethnic minority areas such as Chin State, there continued to be many reports that the army offered financial and career incentives for Burman soldiers to marry Chin women, teach them Burmese, and convert them to Buddhism. Throughout the 1990s, there were credible reports that the junta resettled groups of Burmans in various ethnic minority areas.

The ethnic minority populations continued to complain that their concerns have not been addressed adequately by the Government. Economic development among minorities has continued to lag, leaving many persons living at or below subsistence levels.

There are ethnic tensions between the Burmans and nonindigenous ethnic populations including Indians, many of whom are Muslims, and a rapidly growing population of Chinese, mostly recent immigrants from Yunnan province that increasingly dominates the economy of the northern part of the country. Both groups have tended to be more commercially oriented and hence more prosperous and economically powerful than Burmans, and their members commonly have discriminated based on ethnicity in hiring, buying, and selling.

Since only persons who can prove long familial links to the country are accorded full citizenship, nonindigenous ethnic populations continued to be denied full citizenship and to be excluded from government positions. Persons without full citizenship continued to face restrictions in domestic travel and to be barred from certain advanced university programs in medicine and technological fields (see Section 2.d.).

Section 6. Worker Rights

a. *The Right of Association.*—The 1926 Trade Unions Act, which remained in effect, permits the formation of trade unions only with the prior consent of the Government; however, free trade unions do not exist in the country, and the junta has dissolved even the government-controlled that existed before 1988.

There were no strikes during the year. The last reported strike was in December 1997, when workers in a foreign-owned textile factory in Pegu staged a successful 4-day strike.

Because of its longstanding violation of ILO Convention 87 on freedom of association, the 1998 ILO Conference cited the Government for continued failure to implement that convention. The Conference criticized both lack of progress and absence of cooperation on the part of the Government. On June 17, the Foreign Ministry issued a press release stating that it would "cease participation in activities connected with Convention 87," thereby in effect withdrawing from that Convention.

The Government also continued to require that citizens who found work on foreign vessels through its Seafarers' Employment Control Division (SECD) neither contact nor participate in any activities of the International Transport Workers' Federation (ITF).

No unions are affiliated internationally.

In 1989 the United States suspended Burma's eligibility for trade concessions under the Generalized System of Preferences (GSP) program, pending steps to afford its labor force internationally recognized worker rights.

b. *The Right to Organize and Bargain Collectively.*—Workers do not have the right to organize and bargain collectively to set wages and benefits. The Government's Central Arbitration Board, which once provided a means for settling major labor disputes, continued to exist but in practice has been dormant since 1988. Township-level labor supervisory committees existed to address minor labor concerns.

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

There were no export processing zones. However, there were special military-owned industrial parks, such as Pyin-ma-bin near Rangoon, which attracted foreign investors and often manufactured for export by offering cheaper labor than was available elsewhere. These were tantamount to export processing zones in many respects.

c. *Prohibition of Forced or Compulsory Labor.*—Forced or compulsory labor remained a widespread and serious problem. Although the Penal Code provides for the punishment of persons who impose forced labor on others, there were no known cases of the application of this provision. Throughout the country, international observers have confirmed that the Government routinely continued to force citizens to work on infrastructure construction and maintenance projects. The law does not prohibit forced and bonded labor by children specifically, and forced labor by children occurs.

On June 17, the ILO Conference suspended Burma from receiving ILO technical assistance or attending ILO meetings due to the Government's "flagrant and persistent failure to comply" with Convention 29 on forced labor. The ILO Conference's action followed an exhaustive 1998 report by an ILO Special Commission of Inquiry into Forced Labor in Burma, which concluded, based on 6,000 pages of documentation, that there was abundant evidence of pervasive use of forced labor in the country. The Special Commission of Inquiry found that women, children, and the elderly were unduly required to perform forced labor; that porters often were sent into dangerous military situations, rarely received medical treatment, and were almost never compensated; that forced laborers frequently were beaten; and that some women performing forced labor were raped or otherwise abused sexually by soldiers. On June 17, the Ministry of Foreign Affairs issued a press release stating that the Government would "cease participation in activities connected with Convention 29."

Since precolonial times, the country's rulers have imposed large forced labor obligations on its inhabitants for military, economic, or religious purposes. However, from 1992 to 1996, the junta significantly increased the State's use of forced labor to meet its infrastructure development goals. After 1996, when the Government announced that military personnel would provide labor for infrastructure projects, the use of unpaid civilian labor on physical infrastructure projects, especially for irrigation projects and railroad building, diminished. Nonetheless, the use of forced labor on such projects has remained widespread.

Many detailed credible reports indicate that in recent years, especially in areas inhabited chiefly by members of the Chin, Karen, Karenni, and Shan ethnic groups, army units have increased greatly their use of forced labor for logistical support purposes, including to build, repair, or maintain army camps and roads to them, as well as to plant crops, cut or gather wood or bamboo, cook, clean, launder, weave baskets, fetch water for army units—and, in the case of young women, to provide sexual services to soldiers. The number of reports of this practice has increased since 1997, when the junta required regional military commanders to become more self-sufficient logistically (see Sections 1.f. and 1.g.).

Authorities continued to impose forced labor chiefly, although not exclusively, on rural populations, and imposed forced labor quotas on villages, households, or persons directly or through village headmen. Government authorities often allowed households or persons to substitute contributions of money or food for contributions of labor for infrastructure projects, but widespread rural poverty obliged most households to contribute labor. The State allocated funds to regional and local authorities to pay wages to at least some of the civilians on whom it imposed labor obligations; however, these wages were set at levels that were below rural market wages, and reports indicated that local authorities commonly did not disburse allocated funds to workers. Especially in ethnic minority areas, the army often deployed soldiers to guard persons engaged in forced labor; there continued to be reports that such soldiers often beat and occasionally killed workers (see Sections 1.a. and 1.c.).

During the year, in Sagaing Division over 1,000 persons were herded into a "volunteer labor camp" and forced to work to build a railroad; at least 17 reportedly died from malaria. Authorities in Irrawaddy Division's Nga-Thaing-Chaung Township forced villagers to build an embankment or pay about $1.60 (500 kyat) per person, and detained for 17 days a woman who protested, citing government statements that there was no forced labor in the country. In April authorities in Rangoon Division's Htan-Da-Bin Township ordered villagers to work on a road between Hle-Seik and Kyun Ngu villages; after some villages failed to appear, the authorities sent a letter to village ward leaders threatening to fine them if they failed to contribute labor the next day. In May authorities in Rangoon Division ordered villagers to work on a road from Insein to Nyaung Don or pay a fine of about $1 (300 kyat) per household; police threatened residents with beatings or detention if they refused and arrested those who did not comply. In May authorities in Sagaing Division's

Hsar-Lin-Gyi Township forces persons from 42 village tracts to work on the Taung-Yama dam near Mwe-Tone Village, or pay a fine of slightly more than $2 (700 kyat) per household. In June, authorities forced all villagers including children to build a 20-mile road between the towns of Myo Tha and Tada Oo; about 1,000 persons worked on the road every day. In June authorities in Sagaing Division forced villagers to build a canal in the industrial zone in Monywa Township; every 10 households were required either to dig a hole 66 feet long, 15 feet wide, and 5 feet high, or to pay a fine of about $3 (800 to 1,000 kyat) per household; in March authorities forced villagers from the same area to build a drainage canal for the Chindwin Rivier. In a May report, the ILO's Director General described more than a dozen other reports of forced labor on infrastructure projects between August 1998 and May. In Irrawaddy Division, two villagers who failed to provide forced labor or pay fines were convicted and sentenced to 15 years' imprisonment under the provisions of the Villages Act.

There continued to be reports that the Government used forced labor to construct infrastructure to support tourism. During the year, government officials used forced labor to build the approach road to the international airport being built near Mandalay; officials reportedly went door-to-door in villages outside Mandalay, ordering each household to contribute either about $1 (300 kyat) or one person's labor to the project, and most households contributed labor. Government officials also used forced labor to prepare the historic city of Mrauk-Oo in Arakan State for expected tourist and VIP arrivals.

Starting in late 1998 and continuing throughout the year, the Government began to use large amounts of forced labor on a project to double the amount of cultivated land in the country by developing 22 million acres of wetlands and virgin lands. This involved the establishment of "labor villages" to help private entrepreneurs, including foreign investors, to develop wetlands. In December 1998, government authorities instructed each village tract from 8 townships in Sagaing Division to provide 2 villagers to work on 500 acres of land per township for a project to reclaim about 4,000 acres of virgin land; in addition, each household was required to give about $0.70 (200 kyat) each to the authorities to buy food for workers on the project. During the first half of the year, officials of the military's Northwest Command forced villagers in Sangaing Division's Yinmarbin Township to provide uncompensated labor or else pay more than $3 (1,000 kyat) per person to reclaim 2,000 acres of fallow land. Authorities in another township in Sagaing Division reportedly forced villagers to clear 1,000 acres of land or pay a fine of more than $10 (3,500) kyat per household. Authorities in Irrawaddy Division ordered residents of a village both to clear over 100 acres of land as part of a wetlands reclamation project, and to pay for equipment needed to clear the land.

Government authorities also forced both Buddhists and non-Buddhists to work to build, repair, or maintain Buddhist religious facilities. In Twantay Township in Rangoon Division, authorities forced villagers to guard the ancient Danoke Pagoda, which has been under renovation, and to gather wood, fetch water, and perform other tasks for soldiers involved in the project. Villagers were allowed to pay money to be exempted from pagoda guard duty. In Bogalay Township in Irrawaddy Division, authorities forced villagers to construct 32 miles of road between Pe-Chaung village and Kadone village, or else to hire substitutes, which cost about $15 to $30 (5,000 to 10,000 kyat) at market wages. The road was being built for the use of Buddhist pilgrims at the request of the Pe-Chaung monastery. In predominantly Islamic Maungdaw District in Arakan State, authorities required villagers to build a Buddhist pagoda in Dail Fara; residents of one village said they had to provide 10 laborers per week. Buddhist monks and army authorities reportedly forced Chin villagers, most of whom were not Buddhists, to labor for months without pay to repair a Buddhist pagoda that collapsed in Chin State's Falam Township in July (see Section 2.c.).

The army continued to force citizens—including women and children—to work as porters in military actions against ethnic insurgents. This practice continued to lead to mistreatment, illness and death (see Sections 1.a., 1.c., and 1.g.). Both the May report of the ILO'S Director General and reports during the year by NGO's including Amnesty International described dozens of reports of forced porterage.

Parents routinely called upon their children to help fulfill their households' forced labor obligations, without opposition by the Government (see Section 6.d.).

There were numerous, detailed and jointly credible reports that forced labor, including forced child labor, was used directly in growing and harvesting some crops, chiefly for army units. Widespread forced labor including forced child labor continued to contribute materially to the construction and maintenance not only of irrigation facilities important to the cultivation of some export crops including rice, but also of roads and some railroads important for the transportation of exports to ports.

Forced labor, including forced child labor, has contributed materially to the construction of industrial parks subsequently used largely to produce manufactured exports including garments. There have been many credible reports that forced labor, including forced child labor, has been used widely since 1998 to clear and drain virgin lands and wetlands for the cultivation of crops many of which, according to public descriptions of the Government's economic plans, are intended largely for export.

There have been unconfirmed reports about the use of forced labor on past individual projects by both government and nongovernment actors.

Trafficking in women and girls to neighboring countries for the purpose of forced prostitution remained a serious problem (see Sections 5 and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Although the law sets a minimum age of 13 for the employment of children, in practice the law is not enforced. Working children are highly visible in cities, mostly working for small or family enterprises, and in family agricultural activities in the countryside. Children working in the urban informal sector in Rangoon and Mandalay often start work at young ages. Children are hired at lower pay rates than adults for the same kind of work. In the urban informal sector, child workers are found mostly in food processing, selling, refuse collecting, light manufacturing, and as tea shop attendants. Despite a compulsory education law, almost 50 percent of children never enroll in school, and only 40 percent of them complete the 5-year primary school course (see Section 5).

The law does not specifically prohibit forced and bonded labor by children; while bonded labor is not practiced, forced labor by children occurs. The military Government not only tolerates child labor, but also uses children as porters in infrastructure development and in providing other services to military forces (see Section 6.c.). Households tend to satisfy forced labor quotas by sending their least productive workers, and government authorities accepted such workers in satisfaction of those quotas. Many children often have been seen working on gangs building or repairing roads and irrigation facilities. In recent years, there have been growing numbers of reports that military units in various ethnic minority areas either forced children to perform logistical support services, such as fetching water, cleaning, cutting bamboo, or cultivating food crops, or allowed households or villages to use children to satisfy army orders to perform such services (see Sections 1.f. and 6.c.).

e. *Acceptable Conditions of Work.*—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum monthly wage for salaried public employees is $2.00 (600 kyats) for what was in effect a 6-hour workday. Various subsidies and allowances supplement this sum. Neither the minimum wage nor the higher wages earned even by senior government officials provides a worker and family with a decent standard of living. Low and falling real wages in the public sector have fostered widespread corruption. In the private sector, urban laborers earned about $0.70 per day (200 kyat), while rural agricultural workers earn about half that rate. Some private sector workers earn substantially more; a skilled factory worker earns about $15 per day (4,500 kyat).

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

Numerous health and safety regulations exist, but in practice the Government has not made the necessary resources available to enforce the regulations. Although workers may in principle remove themselves from hazardous conditions, in practice many workers cannot expect to retain their jobs if they do so.

f. *Trafficking in Persons.*—No law was known specifically to prohibit trafficking in persons; however, there were laws, including laws against abduction, that prohibited some aspects of trafficking.

Trafficking in women and children is a severe problem. Burma is a source country for thousands of women and young girls who are trafficked into the commercial sex industries of neighboring countries. There are reliable reports that many women and children in border areas, where the Government's control is limited, were forced or lured into working as prostitutes in Thailand and China. It is unknown how many young women have been induced or coerced into working as prostitutes, but a common practice is to lure young women to Thailand with promises of employment as a waitress or domestic servant.

Government efforts to stop trafficking in young women are limited and relatively ineffective. In recent years the Government has made it difficult for women to obtain passports or marry foreigners in order to reduce the outflow of women both as victims of trafficking and for other reasons (see Sections 1.f. and 2.d.). However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports. It is illegal to leave Burma without government authorization.

Child prostitution of girls, especially from the Shan ethnic minority sent or lured to Thailand, continued to be a major problem.

CAMBODIA

Cambodia is a constitutional monarchy. Political stability, achieved through the coalition Government formed following the 1998 national elections, continued through year's end. Hun Sen of the Cambodian People's Party (CPP) is Prime Minister, Prince Norodom Ranariddh of the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) is President of the National Assembly, and Chea Sim of the CPP was president of the Senate, which was created in March. The 1998 electoral campaign and its aftermath were marred by protests, voter intimidation, and partisan violence, some of it government-directed. Despite these events, the formation of the new Government reflected the will of the electorate. King Norodom Sihanouk remains the constitutional monarch and Head of State. Most power lies within the executive branch and, although its influence grew within the new coalition structure, the National Assembly does not provide a significant check to executive power. For the first time in 30 years, the Khmer Rouge was not a political or military threat. The judiciary is not independent; it frequently is subject to legislative and executive influence, and suffers from corruption.

The National Police, an agency of the Ministry of Interior, have primary responsibility for internal security, but the Royal Cambodian Armed Forces (RCAF), including the military police, also have domestic security responsibilities. Government efforts to improve police and RCAF performance no longer were hampered significantly by political factionalism within the forces but remained hampered by budgetary limitations. Members of the security forces committed numerous documented human rights abuses.

Cambodia is an impoverished country. It has a market economy in which approximately 80 percent of the population of 11.4 million engage in subsistence farming, with rice as the principal crop. Economic deprivation and poor health characterize life for most citizens. Annual per capita gross domestic product is approximately $300. Average life expectancy is only 50 years. Foreign aid is an important component of national income. The stagnant economy of previous years began to improve following the formation of the coalition Government in late 1998, and business activity and tourism increased significantly during the year.

There continued to be serious problems in the Government's human rights record; however, there were marked improvements in several areas. The military forces and police were responsible for dozens of extrajudicial killings, and impunity remains a problem since the Government rarely prosecuted the perpetrators of such killings. However, unlike the previous year, there were no reports of politically motivated killings. There were credible reports that members of the security forces tortured, beat, and otherwise abused persons in custody, often to extract confessions. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention.

In August the Government repealed civil service legislation that previously made it difficult to arrest and prosecute members of the police and security forces for criminal activity. Courts began to prosecute some members of the security forces for human rights abuses; however, immunity for those who committed human rights abuses remains a problem. The Government, and local government officials, generally continued to lack the political will and financial resources to act effectively against security force officials suspected of being responsible for human rights abuses. Democratic institutions, especially the judiciary, remain weak. The judiciary is subject to influence by the executive branch and is marred by inefficiency, a lack of training, a shortage of resources, and widespread corruption related to low wages. Politically related crimes rarely were prosecuted, and citizens without defense counsel often effectively were denied the right to a fair trial. The Government's respect for freedom of the press, assembly, and association improved, and the Government generally respected these rights.

Societal discrimination against women is a problem. Domestic violence against women and abuse of children are common. Discrimination against the disabled is a problem. The ethnic Vietnamese minority continued to face widespread discrimination by the Khmer majority, and this enmity was exploited by the political opposition. Labor conditions generally improved. The Government took steps to ease the creation and registration of trade unions; however, the Government does not enforce effectively legal provisions on wages, overtime labor, rest time, and protection of workers' rights to organize. Trafficking in women and girls for the purpose of forced prostitution is a serious problem.

Mob violence, not ethnically directed, resulted in some killings. Land mines killed or wounded over 800 persons.

The mass Khmer Rouge defections that began in 1996 and ended in late 1998 with the surrender of senior Khmer Rouge leaders Nuon Chea and Khieu Samphan resulted in complete cessation of the guerrilla insurgency against the Government. In March Ta Mok, the sole remaining Khmer Rouge leader at large following the mass defections, was arrested at the Thai border. Efforts to bring Ta Mok and senior Khmer Rouge leaders to justice for crimes committed from 1975 through 1979 remained underway.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Unlike previous years, there were no reports of politically motivated killings by the government forces; however, the military forces and police committed dozens of extrajudicial killings. The United Nations Center for Human Rights (UNCHR) documented many such nonpolitical killings.

On February 2, Cheng Srey, a 19-year-old woman working in a Phnom Penh karaoke bar was killed following a dispute with a customer. According to witnesses, Cheng Srey had refused a proposition made by the customer, who then shot the victim in the forehead. Witnesses identified a police officer as the assailant, but he escaped without being apprehended. A warrant for his arrest was issued in July.

On October 13, Bith Poeun was arrested in Phnom Penh following a series of robberies. After interrogation and a search of the residence in which he and his accomplices lived, the local police retrieved stolen merchandise and brought it outside the house. They thereafter released Bith Poeun in front of the house, where an angry crowd had gathered. The crowd kicked and beat Bith Poeun severely as the police watched; he was shot and killed by police when he attempted to flee. The Government took no action against the police.

On March 26, opposition party member Chhum Doeun was killed in Kandal province during a nighttime burglary at his home by several persons, including a local village chief who had long been involved in a dispute with the victim. Chhum Doeun was shot at least 11 times; the gunmen then took jewelry and money belonging to the victim's wife and relatives. The UNCHR determined that Chhum Doeun's death was attributed to personal, not political, factors.

Two prisoners from the Sihanoukville prison, Chen Vibol and Nguyen Yang Yong, were killed by prison officials on June 17 after an unsuccessful escape attempt by over 30 prisoners. Chen Vibol and Nguyen Yang Yong were among the first prisoners recaptured after the escape attempt and were returned to the prison. Chen Vibol was taken to the prison director's office and Nguyen Yang Yong was brought to the prison yard. Shortly thereafter, they were executed by prison guards. The Government took no action against the prison guards.

Early in the year, there were a number of apparently racially motivated grenade attacks in which 1 person was killed and approximately 30 were injured (see Section 5). There also were killings that may have been ethnically motivated (see Section 5).

In some cases, police or military forces acquiesced in or encouraged mob violence against suspected criminals, which resulted in killings. The Government did not arrest the vigilantes for committing such killings. The Government also has not prosecuted most of those responsible for the numerous political or extrajudicial killings committed during the term of the previous government and reported by the UNCHR in 1997 and 1998. Through year's end, 1,005 civilians and military personnel were killed or wounded by land mines deployed by the Khmer Rouge or various government forces during previous conflicts. The number of such casualties declined by approximately 40 percent from 1998.

In March Ta Mok, the sole remaining Khmer Rouge leader at large, was arrested at the Thai border. Efforts continued to bring Ta Mok and other senior Khmer Rouge officials to justice for mass killings and other crimes committed from 1975

through 1979 (see Section 1.e.). The Government thereafter charged Ta Mok with illegal membership in the Khmer Rouge and genocide.

In April the Government arrested Kiang Kek Iev ("Duch"), the former director of the Khmer Rouge prison Tuol Sleng. In May he was charged with murder.

In June Nuon Paet, a former Khmer Rouge commander, was sentenced to life imprisonment for his role in the 1994 train ambush in Kampot province that resulted in the deaths of 3 foreigners and at least 13 citizens. Later, charges were brought against Sam Bith and Chouk Rin, former Khmer Rouge commanders who are officers in the RCAF and who allegedly were involved in the ambush as well. By year's end, however, neither Bith nor Chouk had been arrested.

b. *Disappearance.*—Unlike previous years, there were no reports of politically motivated disappearances. One local human rights nongovernmental organization (NGO) reported that the whereabouts of four persons were unknown following their arrests during the year by local police or security officials for various crimes, including robbery and theft. By year's end, all remained missing, and NGO efforts to establish their whereabouts continued.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and physical abuse of prisoners; however, torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem. The problem is compounded further by government impunity, whereby perpetrators of torture and abuse frequently are protected from prosecution or disciplinary action by local government authorities, despite some central government efforts to curtail or eliminate violations of prisoners' rights and to address problems of accountability.

There were credible reports that military and police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. According to the UNCHR, the Serious Crimes Department of the municipal police in Phnom Penh beat or tortured persons routinely, but less frequently than during the previous year. Dozens of detainees interviewed in Siem Reap, Sihanoukville, and Banteay Meanchey provinces reported beatings in police custody. One domestic human rights NGO received 8 formal complaints of torture and recorded 94 other cases of new physical assaults through October. At the youth rehabilitation center in Phnom Penh, 13 of 48 detainees interviewed claimed torture or mistreatment by police.

Following intervention by the UNCHR in May, the Government instructed police throughout the country to cease any activity that might violate the law or the rights of citizens and informed them that any violations would be punished. The National Police thereafter investigated and provided detailed accounts of 32 instances of torture in Battambang province that had been reported by the UNCHR in 1997. It is not known whether anyone was prosecuted, nor whether there were further investigations of 1998 abuses. After intervention by human rights organizations, the situation involving torture by local police in Koh Kong province improved during the year.

There were credible reports that police harassed members of opposition parties (see Section 1.f.). There were also reports that police took the proof of citizenship of persons of Vietnamese ethnicity.

In April the Government arrested the former head of a Khmer Rouge prison and torture center (see Section 1.a.).

Prison conditions remained harsh, and government efforts to improve prison conditions and implement new regulations were hampered by lack of funds and weak enforcement. However, conditions improved due to construction and renovation of some prison buildings, the timely disbursement of monthly government allocations for food and operating costs, and the adoption of new prison regulations that require the application of international standards of detention. Human rights organizations cited a number of serious problems, including overcrowding, health problems, food and water shortages, malnutrition, and poor security. Use of shackles and the practice of holding prisoners in small, dark cells continued in some prisons after escape attempts. Government ration allowances for purchasing prisoners' food remain inadequate, exacerbating their malnutrition.

The Government continued to allow domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGO's reported occasional limited cooperation from provincial authorities (see Section 4).

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the Government continued to arrest and detain citizens arbitrarily. A penal code drafted by the U.N. Transitional Authority for Cambodia in 1992 remains in effect, as does a 1993 criminal procedure law. The criminal procedure law in principle provides for adequate protection for criminal suspects; how-

ever, in practice the Government sometimes ignored these provisions during the year. One human rights NGO recorded 17 complaints of unlawful detention and arrest by police, military, or local government authorities through October.

Although lengthy detention without charge is illegal, suspects often are held by authorities for long periods before being charged or brought to trial or released. According to the UNCHR, such prolonged detention largely is a result of a growing prison population and the limited capacity of the court system. Accused persons legally are entitled to a lawyer, although in practice they often have limited access to legal representation. Prisoners are held routinely for several days before gaining access to a lawyer or family members. Although there is a bail system, many prisoners, particularly those without legal representation, often have no opportunity to seek release on bail. The introduction in 1998 into the legal system of newly trained lawyers, who frequently received supplemental training by NGO's, resulted in significant improvements during the year for those defendants who were provided with counsel, including a reduction in pretrial detention period and improved access to bail.

In August the Parliament amended the law to extend the maximum period of pretrial detention to 3 years for alleged Khmer Rouge war crimes in order to permit the continued detention of Ta Mok and "Duch" until a Khmer Rouge tribunal is formed.

The Government does not use forced exile, and no persons were in self-imposed exile during the year.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Government does not respect this provision in practice. The courts are subject to influence by the executive, and there is widespread corruption among judges, virtually none of whom receives a living wage.

The court system consists of lower courts, an appeals court, and a Supreme Court. The Constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of Magistracy, which appoints and disciplines judges. The composition of both of these bodies is viewed widely as favorable to the Cambodian People's Party, resulting in complaints by other political parties of its institutional dominance. There is a separate military court system.

Trials are public. Defendants have the right to be present and to consult with an attorney, to confront and question witnesses against them, and to present witnesses and evidence on their own behalf. However, trials are typically perfunctory, and extensive cross-examination usually does not take place. The serious shortage of attorneys—especially outside of Phnom Penh—remains a significant impediment to broader implementation of the right to counsel in practice. Persons without the means to secure defense counsel often effectively are denied the right to a fair trial.

Defendants also are entitled by law to the presumption of innocence and the right of appeal. However, because of excessive corruption, defendants often are expected to bribe the judge for a favorable verdict, therefore effectively being denied the presumption of innocence. Citizens' rights to appeal sometimes are limited by the logistic difficulties in transferring prisoners from provincial prisons to the appeals court. Many appeals thus are heard in the absence of the defendant.

A serious lack of resources and poor training contribute to corruption and inefficiency in the judicial branch and in practice the Government does not ensure due process. For example, judges often have no legal training and lack copies of the laws on which they are expected to rule. As a result of these weaknesses, citizens often effectively were denied a fair trial.

The courts often pressure victims of crimes to accept small cash settlements from the accused instead of seeking prosecution of the guilty. When a case does make its way to court, the verdict sometimes is determined by a judge before the case is heard, often on the basis of a bribe paid by the accuser or the defendant. Sworn, written statements from witnesses and the accused usually are the extent of evidence presented in trials. Such statements by the accused sometimes result from beatings or threats by investigation officials, and illiterate defendants often are not informed of the content of written confessions that they are forced to sign. In cases involving military personnel, military officers often exert pressure on judges to have the defendant released without a trial or other due process.

In August the National Assembly and Senate amended Article 51 of the Common Statute on Civil Servants that previously had made it difficult to arrest and prosecute members of the police and security forces for criminal activity. Subsequently, the courts began to prosecute some members of the security forces for human rights abuses, but immunity for those who commit human rights abuses remains a problem. The Government and local government officials generally continued to lack the

political will and financial resources to act effectively against security force officials suspected of being responsible for human rights abuses.

In November the Government formed a legal committee headed by the Minister of Justice to investigate court corruption. In December the Ministry of Justice suspended two senior municipal court officials for corruption and detained and rearrested several criminals or suspects who had been released previously by them. Although several of those rearrested admitted that they had bribed the court to secure their release, some criticized the Government's actions as procedurally invalid.

There is ongoing cooperation between the Government, many foreign donors, and NGO's to improve the legal system. Assistance programs had been suspended after violence in July 1997.

In an avowed action to remove official impunity for crimes committed by government authorities, the Government in August amended the 1994 law on civil servants to remove the requirement that the courts seek advance government permission to prosecute a member of the civil service, which includes the police. Cited as a positive step by the UNCHR, this reform removed the legal bar to prosecutions of civil servants, and some successful prosecutions of police and security officials began in August. Nonetheless, court delays or corrupt practices often allow those accused of crimes to flee or otherwise escape prosecution, effectively leading to effective impunity for some government officials who commit crimes.

In March Ta Mok, the one remaining senior Khmer Rouge leader still at large was arrested and remains in prison pending trial. In April the Government arrested Duch, the director of the former Khmer Rouge prison Tuol Sleng; he also remains in prison pending trial. During the year, following an initiative by the U.N. Secretary General and agreement by the Government to permit the participation of foreign judges and prosecutors in the domestic legal system, the Government drafted new legislation to create a legal and judicial framework to bring these and other Khmer Rouge leaders to justice. In September it sought expert legal advice from the international community to develop a plan to seek credible justice and accountability for crimes committed during the Khmer Rouge regime in a fashion consistent with the Constitution and international standards of justice. However, despite continued diplomatic efforts, the Government and the U.N. had not reached agreement over a framework for a tribunal by year's end. In August the Parliament amended the law to extend the maximum period of pretrial detention to 3 years for alleged Khmer Rouge war crimes in order to permit the continued detention of Ta Mok and "Duch" until a Khmer Rouge tribunal is formed.

Two employees of the human rights NGO LICADHO, arrested in 1998 following violent demonstrations against a toxic waste dump in Sihanoukville, were tried in July. At the end of a 3-day trial, all charges against the two human rights workers and eight other defendants were dismissed for lack of evidence. Despite some procedural irregularities, most observers found the trial to be generally fair, with active participation by defense counsel (see Section 4).

In September the UNCHR received reports that Prey Veng provincial authorities had granted immunity from prosecution to 15 persons who had confessed to crimes that included murder and robbery. In October Prey Veng authorities granted further extraconstitutional amnesties from prosecution to a group of brothel owners. Many suspected that bribery played a decisive role in these cases.

The military court system suffers from deficiencies similar to those of the civilian court system. Moreover, the legal distinction between the military and civil courts often is ignored in practice; several persons arrested for crimes that appear to have no connection with military offenses have been detained for trial by the military court.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution contains provisions protecting the privacy of residence and correspondence and includes a provision against illegal search; however, the police routinely conducted warrantless searches and seizures. There were no reports that the Government monitored private electronic communications.

Citizens generally were free to live where they wished; however, there were continued reports of land disputes between residents, local authorities, and business persons. Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership is often unclear, and adequate land titles do not exist. Moreover, with the end of the Khmer Rouge insurgency, the rush to gain possession of former Khmer Rouge lands on or near potentially lucrative cross-border trade routes has exacerbated the land ownership problem caused by lack of documentation.

In response to the prevalence of land disputes, several provinces created land dispute settlement committees chaired by one of the deputy provincial governors; these

committees resolved several disputes, although sometimes they encountered difficulty in resolving disputes that involved military officials. The Government is drafting a land law with the help of international organizations and NGO's.

In June and July, almost 300 families were removed from land on which they had resided in Banteay Meanchey province amid claims by local military officials and business persons that they were squatters illegally occupying land owned by the Government or other persons. Although some accepted compensation packages through mediation by provincial officials, others claim that they lost the land unjustly and mounted protests at the National Assembly in Phnom Penh to deter use of the land for business and commercial activity or new infrastructure developments to be constructed in the area.

In August 500 families were removed from their homes in the former military resistance stronghold of O'Smach in Oddar Meanchey province. In most cases, the families had occupied the area since they returned from refugee camps in Thailand earlier in the year and were relocated to a newly demined residential building site 1.2 miles away (see Section 2.d.). The Government claimed that a new market and commercial area would be developed on the cleared land, which is at the Thai-Cambodian border; the Government and Thai companies building the complex paid compensation and distributed roofing materials to the displaced families, but many complained that the compensation was inadequate.

In November approximately 600 residents of a floating village on the Bassac River in Phnom Penh were evicted by municipal authorities as illegal Vietnamese immigrants and forced to float down river toward Vietnam. Although most lacked identity documents, some residents claimed that they were Cambodian citizens of Vietnamese ethnicity and that proof of their citizenship was confiscated by police officials in the days prior to their eviction. The Government claimed that police investigated their residency status and displaced only those without legitimate documents (see Section 5).

The Government does not coerce or forbid membership in political organizations systematically; however, there were several credible cases in which members of the opposition Sam Rainsy party (SRP) complained of being harassed by police or other local officials. In other cases, including the arrest of two persons with ties to the SRP for their roles in the 1998 rocket attack against the Prime Minister's motorcade and the kidnaping for ransom of a SRP parliamentarian, opposition claims of government-sponsored political harassment could not be verified by the UNCHR.

Unlike the previous year, there were no reports that military officers forcibly conscripted adults and children.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression, press, and publication, and the Government generally respects this right in practice, unlike the previous year when it sometimes limited press freedom. However, the Constitution implicitly limits free speech by requiring that speech not adversely affect public security. The Constitution also declares that the King is "inviolable." The Press Law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for expressing opinion. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. Unlike the previous year, there were no reports that journalists practiced self-censorship. The number of news items critical of the Government was high and included frequent vituperative personalized criticism of the Prime Minister and president of the National Assembly.

Although limited in circulation, newspapers are a primary source of news and expression of political opinion. All major political parties have reasonable and regular access to the print media. The press remained somewhat partisan but, unlike the past year, the only major newspapers receiving substantial financial support from a political party were a few opposition newspapers. As a result, the number of Khmer-language newspapers declined. There are approximately 16 Khmer-language newspapers published regularly. Of these, 11 are considered to be progovernment journals, 4 are considered to support the opposition Sam Rainsy Party, and one is considered to be antimonarchy. In addition there is one French-language daily, one English-language daily, and two other English newspapers published regularly. Many of the Khmer-language newspapers frequently publish articles translated from the English-language newspapers.

Most newspapers criticize the Government frequently, and Prime Minister Hun Sen and National Assembly President Prince Ranariddh frequently came under strong attack by opposition newspapers. Unlike the previous year, there were no in-

stances of government intimidation or retribution against newspapers for reporting critical of the Government.

In September the Ministry of Information suspended an antimonarchy newspaper, Republic News, for 30 days due to publication of an article critical of King Sihanouk. In at least three other instances, the Ministry of Information sent warning letters to other newspapers for publishing articles critical of the King, citing the constitutional prohibition against such acts.

The Government, the military forces, and political parties continued to dominate the broadcast media. The government-sponsored television network inaugurated live coverage of National Assembly sessions at the initiative of Prince Ranariddh, the National Assembly President. According to a report by the U.N. Center for Human Rights (UNCHR), the procedures for licensing and allocation of radio and television frequencies to the media were not impartial.

In March the Government authorized the opposition Sambok Khmum (beehive) radio station to resume broadcasting. In August the FUNCINPEC Party was permitted to resume control of its radio station which had been confiscated in 1997. National radio and television stations regularly broadcast some human rights, social action, public health, and civil society programming produced by domestic NGO's.

The Government respects academic freedom. In January students protested the lack of available jobs. In February university students demonstrated peacefully to protest low budget allocations for education and to support teachers' demands for higher salaries; the Government subsequently agreed to modest increases in teacher salaries. In December students again mounted a public demonstration over dormitory issues.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and, unlike the previous year, the Government generally respected this right in practice. Numerous groups assembled peacefully, including workers protesting labor conditions, political opposition activists supporting a tribunal for Khmer Rouge leaders or other issues, students protesting lower budget allocations and dormitory problems, teachers rallying to demand higher wages, and other groups protesting land seizures or border encroachments, all without incident.

The Government requires a permit to be obtained in advance of a march or demonstration. The Government often did not issue a requested permit, or took no action on a permit application, but these actions did not have any practical effect since the assemblies were held anyway. Unlike the previous year, there were no incidents in which security forces disrupted or ended marches or demonstrations.

The Constitution provides for freedom of association, and unlike the previous years, the Government generally respected this right in practice. There were no reports of interference with political party offices. The Government proposed a revised draft NGO law that eliminated many provisions previously opposed by the NGO community but retained some registration and reporting requirements for domestic NGO's and associations; by year's end, the National Assembly had not debated or acted on the new draft law.

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

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

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not restrict domestic or international travel, although the presence of land mines and bandits makes travel in some areas of the country dangerous.

Monks can move internally without restriction.

All Cambodian refugees remaining in temporary refugee camps in Thailand returned to the country following the formation of the coalition Government in late 1998; over 37,000 refugees returned either spontaneously or through the U.N. High Commissioner for Refugees' (UNHCR's) voluntary repatriation program during the first 4 months of the year. All refugee camps at the Thai border subsequently were closed.

There were no reports of refugees being forced by Thai authorities to return to Cambodia involuntarily, according to the UNHCR, nor were there any reports of persecution or discrimination against those who returned from any country. Internally displaced persons also were allowed to resettle in other areas of the country.

The Government allows noncitizens to apply to the UNHCR for refugee status. The Government cooperated with the UNHCR and other humanitarian organizations to prepare for and assist in the repatriation of the returning refugees from Thailand. The Government has not formulated a policy regarding asylees or first asylum, and it did not provide asylum during the year.

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

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

The Constitution provides citizens with the right to change their government peacefully, and most citizens exercised this right by participating in the 1998 national elections. In July 1998, in the first national elections since 1993, the CPP won a plurality of votes. The electoral campaign and its aftermath were marred by protests, voter intimidation, and partisan violence, some of it government-directed. Despite such incidents, the formation of the new Government reflected the will of the electorate. Most international and domestic observer groups certified the election as acceptable.

The coalition Government formed in late 1998 between the Cambodian People's Party and FUNCINPEC, the two parties that won the largest number of votes and National Assembly seats in the 1998 election, achieved renewed political stability. The coalition agreement provided for roughly equal power sharing between the parties, with Hun Sen of the CPP as Prime Minister and Prince Ranariddh of FUNCINPEC as President of the National Assembly. The coalition agreement also provided for the creation of a Senate, which was formed in March with Chea Sim of the CPP as President. The Senate's function is to review and provide advice on the laws passed by the National Assembly; the National Assembly retains final authority over whether to modify legislation based upon the Senate's recommendations.

Although growing in influence, the legislature remained weak in comparison with the executive branch. The coalition Government appointed the provincial governors and their deputies, who generally are divided between the CPP and FUNCINPEC parties, as well as district officials. Commune level officials were appointed by the previous government; most of these officials are appointees from the previous regimes, the People's Republic of Kampuchea and the State of Cambodia. Elections for new commune councils were not held in 1999 as planned, and are scheduled for late 2000. The National Assembly has not yet enacted the communal election law or commune administration law.

Although traditional cultural practices inhibit the role of women in government, women took an active part in the 1998 national election and participate actively in the coalition Government. There are 10 women among the 122 members of the National Assembly, 8 women among the 61 members of the Senate, and 2 ministers and 4 state secretaries in the Cabinet, which includes a Ministry of Women's and Veterans Affairs. There are several members of ethnic and religious minorities in the Cabinet and the National Assembly (see Section 5).

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

The large domestic and international human rights community remained active and engaged in diverse activities. Numerous human rights organizations and the UNCHR conducted monitoring activities and human rights training for provincial officials, military officers, villagers, the legal community, and other groups. These organizations operated relatively freely throughout the country. There are approximately 40 NGO's involved in human rights activities, but only a small portion were involved actively in organizing training programs or investigating abuses. The Government generally cooperated with human rights workers in performing their investigations, but some domestic NGO's reported occasional limited cooperation from some provincial authorities in conducting inspections of prison conditions.

In July two human rights workers from the NGO LICADHO who were arrested in 1998 following violent demonstrations against a toxic waste dump in Sihanoukville were acquitted in a trial that most observers found to be credible (see Section 1.e.). Although some NGO's expressed concern that the arrest of these workers would have a negative effect on human rights work, no similar arrests were reported during the year.

In September the Government and the UNCHR agreed to an extension until March 2002 of the UNHCR's activities in the country, although the formal memorandum of understanding was not signed by year's end. The UNCHR maintains a head office in Phnom Penh and has six provincial offices. The U.N. Special Rep-

resentative for Human Rights met with government representatives at all levels, as well as with representatives of political parties and NGO's.

By year's end, the government-established Cambodian Human Rights Committee had published the results of only a few of its investigations of the human rights abuses that had been reported by the UNCHR in previous years. The Committee, which was established in June 1998, also is charged with improving the administration of justice and drafting a law to establish an independent permanent national human rights commission. By year's end, the commission had not been established.

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

The Constitution prohibits discrimination based on race, color, sex, language, religious beliefs, or political views. Although the Government does not engage in discrimination systematically, it sometimes fails to protect these rights in practice.

Women.—Domestic and international NGO workers report that violence against women, including rape and domestic violence, is common. Although there were reports of rape and domestic abuse, accurate statistics are not available. Authorities normally decline to become involved in domestic disputes, and the victims frequently are reluctant to complain.

Prostitution and trafficking in women are serious problems (see Section 6.f.). Due in part to budgetary limitations, the Government has not enforced effectively a 1996 law against prostitution and trafficking in women. Despite sporadic government crackdowns during the year on brothel operators in Phnom Penh, the prostitution trade continues to flourish. A survey by a local human rights NGO found that three-fourths of women and girls who work as prostitutes do so voluntarily, while one-fourth have been forced to work as prostitutes or have been deceived into prostitution.

According to NGO reports, women comprise 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force, and 60 percent of all service sector workers. Women often are concentrated in low-paying jobs in these sectors and largely are excluded from management positions.

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women have equal property rights with men, have the same status in bringing divorce proceedings, and have equal access to education and some jobs. However, cultural traditions continue to limit the ability of women to reach senior positions in business and other areas. There are a large number of women's NGO's that train poor women and widows and address social problems such as spousal abuse, prostitution, and trafficking. An active Women's Media Center NGO produces and broadcasts programming on women's issues.

Children.—The Constitution provides for children's rights, and ensuring the welfare of children is a specific goal in the Government's political program. The Government relies on international aid to fund most social welfare programs targeted at children, resulting in only a modest flow of funds to ameliorate problems that affect children. Children frequently suffer from the inadequacy of the health care system. Infant mortality is reported at 89.4 per thousand, and 12 percent of children do not live to the age of 5 years. Child mortality from preventable diseases is high.

Children also are affected adversely by an inadequate educational system. Despite an extensive government school construction program, schools are overcrowded and short of equipment. Less than 5 percent of primary school teachers have completed high school. The Government does not deny girls equal access to education but in practice families with limited resources often give priority to educating boys.

Child abuse is believed to be common, although there are no statistics available on the extent of the problem. Poverty and domestic violence often drive children onto the streets; domestic NGO's estimate there are more than 10,000 street children in Phnom Penh alone, who are easy targets for sexual abuse and exploitation.

Although sexual intercourse with a minor under the age of 15 is illegal, child prostitution and trafficking in children were common (see Section 6.f.). In July the Government adopted a 5-year plan against child sexual exploitation that emphasizes prevention through information and protection through law enforcement.

In November in a demonstration organized by domestic and foreign NGO's marking the anniversary of the signing of the Convention on the Rights of the Child, 300 child marchers between the ages of 10 and 18 marched peacefully through Phnom Penh to demand that the Government take further steps to protect their rights.

People with Disabilities.—The Government does not require that buildings or government services be accessible to the disabled. According to the Government, approximately 1 in 250 citizens is missing at least one limb. This statistic reflects the

continuing effects of land mine detonations. Programs administered by various NGO's have brought about substantial improvements in the treatment and rehabilitation of amputees. However, amputees face considerable societal discrimination, particularly in obtaining skilled employment.

Religious Minorities.—Muslims are the largest religious minority and experience little or no discrimination in practice; however, occasional tensions have been reported among the various branches of Islam, which receive monetary support from groups in Saudi Arabia, Kuwait, Malaysia, or Indonesia depending on the tenets of the particular branch.

The small Christian community has not experienced serious or systematic discrimination; however, occasional tensions have been reported when Christian evangelists have attempted to remove Buddhist images or religious items in private homes. Christian missionary groups have not encountered significant difficulties in performing their work.

National/Racial/Ethnic Minorities.—Citizens of Vietnamese and Chinese ethnicity have long constituted the largest ethnic minorities. Ethnic Chinese citizens are well accepted in society. However, fear and animosity continue among many Khmer citizens toward ethnic Vietnamese, who are seen as a threat to the Cambodian nation and culture. The rights of minorities under the 1996 Nationality Law are not explicit; constitutional protections are extended only to "Khmer people," that is, Cambodians.

In July in Ratankiri province, a group of armed bandits killed and injured several persons from five remote hill tribe villages. A total of 14 persons were killed, including 13 ethnic Jarai villagers and 1 ethnic Vietnamese. The motive of the killers remains unclear, but it appears that the villages in which the victims lived were targeted specifically.

Unlike 1998 there were no reports of ethnic violence supported by opposition politicians during which ethnic Vietnamese citizens or residents were killed, despite continued anti-Vietnamese statements by the political opposition.

In at least five separate attacks during February and March, hand grenades were thrown into cafes and residences owned by ethnic Vietnamese in one Phnom Penh district, killing one person and injuring approximately 30 others. Although the motive for the attacks was not established, a number of the victims believe that they were racially motivated.

In October approximately 600 residents of a floating village on the Bassac River in Phnom Penh were evicted by municipal authorities as illegal Vietnamese immigrants and forced to float down river toward Vietnam. Although most lacked identity documents, some residents claimed that they were Cambodian citizens of Vietnamese ethnicity and that proof of their citizenship was confiscated by police officials in the days prior to their eviction (see Section 1.f.).

Section 6. Worker Rights

a. *Right of Association.*—The 1997 Labor Law provides workers with the right to form professional organizations of their own choosing, without prior authorization, and all workers are free to join the trade union of their choice; however, the Government's enforcement of these rights was uneven, and some unions complained that the procedures for registration were burdensome. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations; however, the Ministry of Labor has accepted the charter of at least one union that requires workers to obtain permission before they can withdraw.

During the year, the Government issued decrees and subdecrees clarifying the Labor Law in a number of areas, including the registration of labor unions, the election of shop stewards, the registration of collective bargaining agreements, and the calculation of overtime pay rates. However, despite these legal advances, the Government's enforcement efforts were hampered by a lack of resources, little knowledge of the law by factory managers, and a lack of qualified labor inspectors. Unions also suffer from a lack of resources, training, and experience.

There were 85 strikes during the first 10 months of the year, none of which were carried out in accordance with the law. The Government allowed all peaceful strikes and demonstrations to take place, although police intervened in violent strikes in garment factories on at least two occasions in October. In the first incident, police fired shots into the air to disperse a violent confrontation between striking and nonstriking workers at a garment factor in Kandal province. Another violent, unannounced strike at a garment factory in Phnom Penh was stopped following peace police intervention.

The Labor Law requires unions and employer organizations to file a charter and lists of officers with the Ministry of Social Affairs, Labor, Vocational Training, and

Youth Rehabilitation. Since the Labor Law went into effect, the Ministry registered 77 unions and 4 labor federations. Thirteen new unions were registered through August. Although all unions collect dues from members, none has been able to operate without outside sources of support. None of the unions has the capacity to negotiate with management as an equal.

In October 1998, the Ministry issued a new subdecree relaxing union registration procedures. The Ministry registered one opposition-party linked union in December 1998 after a long delay, even though that union did not comply technically with the requirements of the Labor Law. The vast majority of the other registered unions often failed to meet one or more legal requirements. Unions and other observers still complain of the difficulty and cost associated with assembling the necessary paperwork from other government agencies in registering union officers, particularly the "letter of no criminal record." During the year, there were no credible complaints of political bias in union registration.

In another October 1998 subdecree, the Ministry clarified the role of labor unions in nominating candidates for shop stewards, provided for elections to remove nonperforming shop stewards, and required factories to furnish the Ministry with minutes of shop steward elections. The Ministry reported that it received such minutes for 82 enterprises through September. Shop stewards in some factories began to represent workers effectively to management. However, in a significant number of factories, election irregularities, or irregularities in choosing candidates for election, resulted in the selection of pliant or promanagement shop stewards.

Most workers are subsistence rice farmers and have little knowledge of trade unions. Nearly all trade union activity was concentrated in the rapidly growing garment sector. Although there is an expanding service sector, most urban workers are engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. The Labor Law does not apply to workers in the public sector.

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

b. *The Right to Organize and Bargain Collectively.*—The Labor Law provides for the right to organize and bargain collectively; however, the Government's enforcement of these rights has been uneven.

Since enactment of the Labor Law in 1997, there has been confusion over the overlapping roles of labor unions and shop stewards. The Labor Law gives unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. However, the law gives shop stewards the right to represent the union to the company director and to sign collective bargaining agreements. Legal ambiguities also exist in the process for unions to nominate shop stewards.

In practice very little collective bargaining takes place. A February 1998 strike at a Phnom Penh cigarette factory still represents the only instance in which an officially registered trade union held a strike that generally conformed to the Labor Law and yielded one of the few collective bargaining agreements.

The Labor Law specifically protects shop stewards from dismissal without permission from the Ministry and provides union members protection from discrimination on the basis of union membership.

The Government observes neither of these provisions adequately. Illegal dismissals led to several strikes during the year, only some of which ended with reinstatement.

Wages in the private sector are set by market conditions, although the Ministry has the right to set minimum wages based on recommendations from the tripartite Labor Advisory Committee that was established in May 1998. The Government sets wages for civil servants.

There are no export processing zones.

c. *Prohibition on Forced or Compulsory Labor.*—The Labor Law prohibits forced or compulsory labor, including forced labor by children; however, the Government does not enforce these prohibitions adequately.

Mandatory overtime is widespread in the garment industry, with workers in some factories facing fines, dismissal or loss of premium pay if they refuse, even occasionally. There were numerous reports that women and girls were trafficked into prostitution. A 1995 survey of prostitution made by a local NGO indicated that 31 percent of female prostitutes were between the ages of 12 and 17. Up to half of the girls involved were sold by their families, then forced to work as prostitutes. There were also reports that children were kidnaped and forced to work in the illegal sex trade (see Sections 5 and 6.f.).

Although the institution of bonded labor does not appear to be widespread, there were reports of it in the wood-processing, rubber, and brick making industries. Although the Labor Law prohibits the collection of recruitment fees from new workers,

some garment workers reported that they paid fees in excess of 2 months' salary to various middlemen, inside or outside the factory, in order to gain employment or pass their probation periods.

There were no reports of forced conscription, unlike in 1998.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Law establishes 15 years as the minimum age for employment. However, the law permits children between 12 and 15 years of age to engage in "light work," that is, work that is not hazardous to their health and that does not affect school attendance. The Labor Advisory Committee, which held its first meeting in October, is responsible for specifying occupations that are hazardous to the health, safety, or morality of adolescents, as well as consulting with the Ministry to determine which types of employment and working conditions constitute "light work." Children under 15 are about 43 percent of the population. According to the Government, about 17 percent of children between the ages of 5 and 17 are active economically, the vast majority of whom fall toward the upper end of the age range, and 80% of whom are engaged in agriculture. Few children are engaged in industrial work. Some children work in brick factories and on rubber plantations. With assistance from the International Labor Organization (ILO), the Ministry of Social Affairs, Labor, Vocational Training, and Youth Rehabilitation in 1995 established a child labor unit to investigate and suppress child labor. However, the Ministry is hampered by inadequate resources, staff, and training. In August the Government ratified seven ILO conventions, including Convention 105 (abolition of forced labor) and Convention 138 (minimum age).

The Labor Law prohibits forced or compulsory labor, including forced labor by children; however, the Government does not enforce the law effectively, and children are trafficked and forced to work as prostitutes (see Sections 5, 6.c., and 6.f.).

e. *Acceptable Conditions of Work.*—The Labor Law requires that minimum wages be established for each sector of the economy based on recommendations by the Labor Advisory Committee. To date a minimum wage has been set only in the garment sector, where workers must receive at least $40 (151,000 riel) per month (based on 26 8-hour days) at the conclusion of their training. Most garment factories pay in excess of this wage, but prevailing wages in the industry are not sufficient to provide a worker and family with a decent standard of living.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime hours, and double time if overtime work occurs at night, on Sunday, or on a holiday. The Government does not enforce these standards adequately. Workers frequently complain of overtime in excess of 2 hours per day and of being forced to work 7 days per week. Many factories do not pay the legally mandated premiums for overtime (150 percent) and night or holiday work (200 percent) properly, and there is legal ambiguity over which hours constitute night work. Another common complaint is that management violates the law by paying the overtime rate only for the salary component of workers' pay, leaving piece rates unchanged regardless of the number of hours worked.

The Labor Law states that the workplace should have health and safety standards adequate to ensure workers' well-being. The Government enforces existing standards inconsistently, in part because it lacks staff, equipment, and training. Work related injury and health problems are common. Conditions in small-scale factories and cottage industries are generally poor and often do not meet international standards. The Government issued several instructions on workplace standards during the year, and more detailed regulations awaited approval by the Labor Advisory Committee at year's end. Penalties are specified in the Labor Law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who remove themselves from unsafe working conditions risk loss of employment.

f. *Trafficking in Persons.*—The 1996 Law on the Exploitation and Trafficking of Humans prohibits these abuses, but the Government does not enforce the law effectively in practice. Trafficking in women and children for the purpose of forced prostitution remained a serious problem, and government prosecution of traffickers is rare. The law established a jail sentence of up to 20 years for any person convicted of trafficking; however, its enforcement is hampered in part by budget limitations and a lack of implementing subdecrees.

Surveys conducted by domestic NGO's in 1995 indicated that 40 to 50 percent of young women who were trafficked were victimized by a close relative or friend of the family for money or on promises of a better life. Poverty and ignorance at the village level is a major factor contributing to the trafficking problem.

Child prostitution and trafficking in children were common. There were reliable reports that children were lured from or kidnaped in some provinces and forced into

the illegal sex trade, both in Cambodia and abroad. Other children were smuggled into Thailand to become beggars.

In July the Government adopted a 5-year plan against child sexual exploitation that emphasizes prevention through information and protection through law enforcement. In September the Prime Minister instructed the Cabinet to develop additional measures to fight trafficking of women and children, including speedy promulgation of subdecrees and signing bilateral extradition treaties to bring traffickers to justice. In September, in the country's first trial on cross-border trafficking, Seng Savoeun was sentenced to 15 years in prison in Banteay Meanchey province for trafficking a 2-year old girl, a 4-year old boy, and a 7-year old girl into Thailand to work as beggars.

CHINA

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. At the national and regional levels, Party members hold almost all top government, police, and military positions. Ultimate authority rests with members of the Politburo. Leaders stress the need to maintain stability and social order and are committed to perpetuating the rule of the CCP and its hierarchy. Citizens lack both the freedom peacefully to express opposition to the Party-led political system and the right to change their national leaders or form of government. Socialism continues to provide the theoretical underpinning of Chinese politics, but Marxist ideology has given way to economic pragmatism in recent years, and economic decentralization has increased the authority of regional officials. The Party's authority rests primarily on the Government's ability to maintain social stability, appeals to nationalism and patriotism, Party control of personnel and the security apparatus, and the continued improvement in the living standards of most of the country's 1.27 billion citizens. The Constitution provides for an independent judiciary; however, in practice, the Government and the CCP, at both the central and local levels, frequently interfere in the judicial process, and decisions in a number of high profile political cases are directed by the Government and the CCP.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army, and the state judicial, procuratorial, and penal systems. Security policy and personnel were responsible for numerous human rights abuses.

China is making a difficult transition from a centrally planned to a market-based economy. The economy continues to expand. The country is a leading world producer of coal, steel, textiles, and grains. Trade and foreign investment are helping to modernize the economy. Major exports include electronic goods, toys, apparel, and plastics. According to official government statistics, the official gross domestic product (GDP) growth rate during the year was just over 7 percent, but the actual rate was widely considered to be lower by experts. The economy faces growing problems, including state enterprise reform, unemployment, underemployment, and regional economic disparities. Rural unemployment and underemployment combined are estimated to be over 30 percent. Tens of millions of peasants have left their homes in search of better jobs and living conditions. Demographers estimate that between 80 and 130 million persons make up this "floating population," with many major cities counting 1 million or more such persons. Urban areas also are coping with millions of state workers idled on partial wages or unemployed as a result of industrial reforms. In the industrial sector, downsizing in state-owned enterprises prompted 6 million layoffs in the first half of 1999, bringing the total number of urban unemployed to well over 15 million. Industrial workers throughout the country sporadically protested layoffs and demanded the payment of overdue wages and benefits. Overall, however, economic reforms have raised living standards for many, provided greater independence for entrepreneurs, and diminished state control over the economy and over citizens' daily lives. Despite serious economic difficulties in the state sector, individual economic opportunities expanded in the nonstate sectors, resulting in increased freedom of employment and mobility. A constitutional amendment passed in March recognized the private sector as equal in status to the state sector. The total number of citizens living in absolute poverty continues to decline; estimates range from official figures of 42 million to World Bank figures of 150 million. However, the income gap between coastal and interior regions, and between urban and rural areas, is wide and growing. Chinese economists put the ratio of urban to rural income at 12 to 1. Urban per capita disposable income for 1998 was $656, while rural per capita net income was $261.

The Government's poor human rights record deteriorated markedly throughout the year, as the Government intensified efforts to supress dissent, particularly organized dissent. A crackdown against a fledgling opposition party, which began in the fall of 1998, broadened and intensified during the year. By year's end, almost all of the key leaders of the China Democracy Party (CDP) were serving long prison terms or were in custody without formal charges, and only a handful of dissidents nationwide dared to remain active publicly. Tens of thousands of members of the Falun Gong spiritual movement were detained after the movement was banned in July; several leaders of the movement were sentenced to long prison terms in late December and hundreds of others were sentenced administratively to reeducation through labor in the fall. Late in the year, according to some reports, the Government started confining some Falun Gong adherents to psychiatric hospitals. The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms. These abuses stemmed from the authorities' extremely limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms. The Constitution and laws provide for fundamental human rights; however, these protections often are ignored in practice. Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Prison conditions at most facilities remained harsh. In many cases, particularly in sensitive political cases, the judicial system denies criminal defendants basic legal safeguards and due process because authorities attach higher priority to maintaining public order and suppressing political opposition than to enforcing legal norms. The Government infringed on citizens' privacy rights. The Government tightened restrictions on freedom of speech and of the press, and increased controls on the Internet; self-censorship by journalists also increased. The Government severely restricted freedom of assembly, and continued to restrict freedom of association. The Government continued to restrict freedom of religion, and intensified controls on some unregistered churches. The Government continued to restrict freedom of movement. The Government does not permit independent domestic nongovernmental organizations (NGOs) to monitor publicly human rights conditions. Violence against women, including coercive family planning practices—which sometimes include forced abortion and forced sterilization; prostitution; discrimination against women; trafficking in women and children; abuse of children; and discrimination against the disabled and minorities are all problems. The Government continued to restrict tightly worker rights, and forced labor in prison facilities remains a serious problem. Child labor persists. Particularly serious human rights abuses persisted in some minority areas, especially in Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified.

Beginning in the spring, Communist Party leaders moved quickly to suppress what they believed to be organized challenges that threatened national stability and Communist Party authority. In the weeks before the 10th anniversary of the June 4 Tiananmen massacre, the Government also moved systematically against political dissidents across the country, detaining and formally arresting scores of activists in cities and provinces nationwide and thwarting any attempts to commemorate the sensitive anniversary. Authorities in particular targeted the CDP, which had already had three of its leaders sentenced to lengthy prison terms in December 1998. Beginning in May, dozens of CDP members were arrested in a widening crackdown and more of the group's leaders were convicted of subversion and sentenced to long prison terms in closed trials that flagrantly violated due process. Others were kept detained for long periods without charge. In one August week alone, CDP members Liu Xianbin, She Wanbao, Zha Jianguo, and Gao Hongming were sentenced to prison terms of 13, 12, 9, and 8 years, respectively. Dissidents also were rounded up in large numbers before the October 1 National Day celebrations. In addition, the press reported that the Government rounded up 100,000 or more persons and sent them out of Beijing under the custody and repatriation regulations prior to the October 1 National Day celebrations, to ensure order.

Control and manipulation of the press by the Government for political purposes increased during the year. After authorities moved at the end of 1998 to close a number of newspapers and fire several editors, a more cautious atmosphere in general pervaded the press and publishing industries during the year. As part of its crackdown against the popular Falun Gong spiritual movement, the Government employed every element of the state-controlled media to conduct a nationwide anti-Falun Gong propaganda campaign reminiscent of the campaigns against the democracy movement that followed the Tiananmen massacre of 1989. The press continued to report on cases of corruption and abuse of power by some local officials.

Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference, repression, and persecution. The Government continued to enforce 1994 State Council regulations requiring all places of religious activity to register with the Government and come under the supervision of official, "patriotic" religious organizations. There were significant differences from region to region, and even locality to locality, in the attitudes of government officials toward religion. In some areas, authorities guided by national policy made strong efforts to control the activities of unapproved Catholic and Protestant churches; religious services were broken up and church leaders or adherents were harassed, and, at times, fined, detained, beaten, and tortured. At year's end, some remained in prison because of their religious activities. In other regions, registered and unregistered churches were treated similarly by the authorities. Citizens worshiping in officially sanctioned churches, mosques, and temples reported little or no day-to-day interference by the Government. The number of religious adherents in many churches, both registered and unregistered, continued to grow at a rapid pace. The Government launched a crackdown against the Falun Gong spiritual movement in July. Tens of thousands of Falun Gong members were reported detained in outdoor stadiums and forced to sign statements disavowing Falun Gong before being released; according to official sources, practitioners of Falun Gong had 35,000 confrontations with police between late July and the end of October. A number of practitioners were detained multiple times. An unknown number of members who refuse to recant their beliefs remain detained; others are serving prison or re-education-through-labor sentences. An intensive proatheism, "antisuperstition" media campaign also accompanied the suppression of Falun Gong. In October, new legislation banning cults was passed. Adherents of some unregistered religious groups reported that these new laws are used against them.

Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in violation of international human rights instruments for peacefully expressing their political, religious, or social views. Persons detained at times during the year included political activists who tried to register an opposition party; leaders of a national house church movement; organizers of political discussion groups that exceeded what the Government deemed to be the permissible level of dissent; and members of the Falun Gong movement. Some minority groups, particularly Tibetan Buddhists and Muslim Uighurs, came under increasing pressure as the Government clamped down on dissent and "separatist" activities. In Tibet the Government expanded and intensified its continuing "patriotic education campaign" aimed at controlling the monasteries and expelling supporters of the Dalai Lama. In Xinjiang authorities tightened restrictions on fundamental freedoms in an effort to control independence groups.

The authorities released fewer political prisoners before their terms were over than in recent years, although three were released early. In February the journalist Gao Yu was freed 6 months early, after having served 5½ years in prison. In September Internet dissident Lin Hai was released 6 months early. Shi Binhai, co-editor of the controversial book "Political China," who had been detained without charge since September 1998, was released in March. Liu Xiaobo was freed in October after having completed his 3-year reeducation term. However, at year's end several thousand others, including Bishop An Shuxin, Cai Guihua, Chen Lantao, Chen Longde, Han Chunsheng, Li Bifeng, Li Hai, Liu Jingsheng, Peng Ming, Qin Yongmin, Shen Liangqing, Wang Youcai, Pastor Xu Yongze, Xu Guoxing, Xu Wenli, Yang Qinheng, Zhang Lin, Zhang Shanguang, Zhao Changqing, Zhou Yonjun, Ngawang Choephel, Abbot Chadrel Rinpoche, Jigme Sangpo, and Ngawang Sangrol (see Tibet addendum)—remained imprisoned or under other forms of detention for the peaceful expression of their political, social, or religious views. Some of those who completed their sentences and were released from prison—such as Bao Tong, senior aide to former Communist Party leaders—were kept under surveillance and prevented from taking employment or otherwise resuming normal lives. There were also reports of increasing surveillance of dissidents.

During the year, the Government continued efforts to reform the legal system and to disseminate information about new legislation. Initiatives to improve the transparency and accountability of the judicial and legal systems continued. The Government also expanded efforts to educate lawyers, judges, prosecutors, and the public on the provisions of new laws. A number of statutes passed in recent years—e.g., the Administrative Litigation Law, the Lawyers Law, the State Compensation Law, the Prison Law, the Criminal Law, and the Criminal Procedure Law—if enforced effectively hold the potential to enhance citizens' rights. The revised Criminal Procedure Law, which came into effect in 1997, provided for the defendant's right to legal

counsel, an active legal defense, and other rights of criminal defendants recognized in international human rights instruments. If fully implemented, this law would bring criminal laws closer toward compliance with international norms. However, enforcement of the new statute is poor, and the law routinely is violated in the cases of political dissidents.

Despite intensified suppression of organized dissent, some positive trends continued. Nongovernmental-level village committee elections proceeded, giving citizens choices about grassroots representatives, as well as introducing the principle of democratic elections. Additional experiments with higher level township elections were conducted without fanfare (or official approval by the central Government). Social groups with economic resources at their disposal continued to play an increasing role in community life. As many as 8.9 million citizens had access to the Internet, although the Government increased its efforts to try to control the content of material available on the Internet. Most average citizens went about their daily lives without significant interference from the Government, enjoying looser economic controls, increased access to outside sources of information, greater room for individual choice, and more diversity in cultural life. However, authorities significantly stepped up efforts to suppress those perceived to be a threat to government power or to national stability, and citizens who sought to express openly dissenting political and religious views continued to live in an environment filled with repression.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—The official press reported a number of instances of extrajudicial killings, but no nationwide statistics are available. In October a Falun Gong website reported that Zhao Jinhua, a Falun Gong member in Shandong, died from being beaten while in police custody. However, the official media reported that Zhao died of a heart attack (see Section 2.c.). Two other Falun Gong practitioners also reportedly died while in police custody; the authorities stated that they died of injuries received after jumping from moving trains (see Sections 1.c. and 2.c.). In February a domestic publication reported that a local government worker, suspected of embezzlement, died after 29 hours of police interrogation and torture. There were reports that persons held in custody and repatriation centers (where persons may be detained administratively to "protect urban social order") were beaten while detained, and that some have died as a result (see Sections 1.c and 1.d).

In January the Western press reported that police killed one protester and injured more than 100 others while dispersing villagers in Hunan province (see Section 2.b.). In late October, police killed 6 Uighurs (see Section 5).

There continued to be numerous executions carried out after summary trials. Such trials can occur under circumstances where the lack of due process protections borders on extrajudicial killing (see Section 1.e.). In February, for example, a government radio station in the Xinjiang Uighur Autonomous Region reported that eight "violent terrorists," who "had taken part in many illegal religious terrorist activities in recent years in a vain attempt to split the motherland," had been sentenced to death in public trials. According to the report, the eight were executed immediately after sentencing (see Sections 1.e. and 5).

In March the Western press reported a 1997 case in which police executed four farmers in rural Guangdong over a monetary dispute. Despite an attempted coverup by local officials, the families of the victims persisted in their demands for justice, lodging 27 separate complaints with the Government, while securing the assistance of a Beijing lawyer and the interest of the country's largest circulation newspaper on legal affairs. The resulting investigation by the Legal Daily finally forced provincial authorities to act. A Hong Kong-based human rights organization reported that seven policemen were arrested in December 1998 for the farmers' murders.

Early in the year, there were a number of apparently unrelated bombings in Liaoning, Guangdong, Changsha, Hunan, Henan, Tibet, Sichuan, and Jiangsu, some of which resulted in death. Based on available evidence, it was not possible to establish links to political or separatist activity; bombs are sometimes used in personal or economic violence.

b. *Disappearance.*—There were no new reports of disappearances. However, the Government still has not provided a comprehensive, credible accounting of those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations. There were more reported incidents of long incommunicado detentions than in 1998 (see Section 1.d.).

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, police and other elements of the security appa-

ratus employed torture and degrading treatment in dealing with detainees and prisoners. Former detainees and the press reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse against detained men and women. Prominent dissident Liu Nianchun, who was released in December 1998, reported that guards used an electric stun gun on him. Persons detained pending trial were particularly at risk during pretrial detention due to systemic weaknesses in the legal system or lack of implementation of the revised Criminal Procedure Law.

In February a domestic publication reported that an engineer in Liaoning province, suspected of theft, suffered brain damage as a result of hours of beatings while in police custody. The police eventually determined that the engineer was innocent and released her. She later sued the local government. Chinese reporters who attended her trial said that there were efforts in court to intimidate them. Also in February, a government-owned television station in Sichuan broadcast film taken secretly of city police officers beating and spitting on suspects in an effort to coerce confessions and to extort bribes. In June a Hong Kong human rights group reported that labor activist Guo Xinmin was beaten repeatedly and hung by his tied hands by police interrogators trying to extract a confession. The same human rights organization also received a letter from a former vice mayor of Harbin, which had been smuggled out of prison, in which he claimed to have been beaten and given electric shocks while in custody. According to Amnesty International, some adherents of Falun Gong were tortured with electric shocks, as well as by having their hands and feet shackled and linked with crossed steel chains. There were reports that persons held in custody and repatriation centers were beaten while detained, and that some died as a result (see Sections 1.a and 1.d.).

In January police killed one protester and injured more than 100 others while dispersing villagers in Hunan province. In March police beat demonstrators in Sichuan province (see Section 2.b.). Police at times used force to disperse Falun Gong practitioners (see Section 2.c.).

Wang Wanxing, who protested in Tiananmen Square in 1992, continued to be held in a psychiatric hospital on the outskirts of Beijing until late August, when he was released for a trial period of 3 months. He reportedly was detained again on November 23, 4 days after he told the hospital director that he might hold a news conference to discuss the conditions he endured in the hospital (see Section 1.d.). Late in the year, according to some reports, the Government started confining some Falun Gong adherents to psychiatric hospitals.

After meeting briefly with a foreign diplomat on November 30, Fu Sheng, a member of the CDP, was detained for 6 days, questioned, and beaten in Beijing (see Section 1.d.).

The Government has stated that "the Chinese judiciary deals with every complaint of torture promptly after it is filed, and those found guilty are punished according to law." As part of its campaign to address police abuse, the Government in 1998 for the first time published national torture statistics, along with 99 case studies, in a volume entitled "The Law Against Extorting a Confession by Torture." The book, which was published by the Supreme People's Procuratorate, stated that 126 persons had died during police interrogation in 1993 and 115 in 1994. Most cases of torture are believed to go unreported.

One overseas human rights group reported in January that there had been some 9,000 cases of mishandling of justice discovered in 1998 and that 1,200 police officers had been charged with criminal offenses. Authorities continued a nationwide crackdown on police corruption and abuses. Government statistics released in March showed that in 1998 corruption prosecutions were up 10 percent, to over 40,000 investigations and 26,000 indictments of officials. In January there were reports that Public Security Bureau Deputy Minister Li Jizhou was detained for corruption. Several other high-ranking Party officials also were prosecuted on corruption charges during the year. Late in the year, National People's Congress Standing Committee Chairman Li Peng issued a warning on police corruption.

Conditions in penal institutions for both political prisoners and common criminals are generally harsh and frequently degrading. Conditions in administrative detention facilities (including re-education-through-labor camps and custody and repatriation centers) are reportedly similar to those in prisons. According to released political prisoners, it is standard practice for political prisoners to be segregated from each other and placed with common criminals. There are credible reports that common criminals have beaten political prisoners at the instigation of guards. Zhang Lin, a dissident living overseas who secretly had returned to China in 1998, was arrested in November 1998 and sentenced to 3 years in a labor camp. While he was conducting a hunger strike to protest harsh camp conditions, fellow inmates at the order of camp guards reportedly beat him. His sentence was extended by an addi-

tional year following the incident, according to human rights organizations. Guards in custody and repatriation centers reportedly rely on "cell bosses" to maintain order; these individuals frequently beat other detainees and have been known to steal their possessions. Prominent political prisoners sometimes receive better treatment. Dissident Liu Xiaobo, recently released after 3 years in a labor camp in Dalian, told one foreign diplomat that he had never been beaten and that his treatment was in general better than that of non-political prisoners. The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights. The Government's stated goal is to convert one-half of the nation's prisons and 150 reeducation-through-labor camps into "modernized, civilized" facilities by the year 2010. According to credible sources, persons held in new "model" prisons receive better treatment than those held in other prison facilities. (For conditions in prisons in Tibet, see the Tibet Addendum.)

Adequate, timely medical care for prisoners continues to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Nutritional and health conditions can be grim. At year's end, political prisoners who reportedly had difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community, included Chadrel Rinpoche, Chen Lantao, Chen Longde, Chen Meng, Fang Jue, Hu Shigen, Kang Yuchun, Liu Jingsheng, Ngawang Sangdrol, Peng Ming, Qin Yongmin, Wang Guoqi, and Zhang Shanguang. Xu Wenli, despite repeated pleas by his family, was denied treatment for hepatitis. Xu tested positive for the disease during a prison hospital examination. Prison officials told Xu's family that the hepatitis had been contracted before his incarceration and was no longer active. However, his family reported that Xu was chronically fatigued and appeared jaundiced; he also reportedly is in need of dental care. Yu Dongyue, who defaced the portrait of Mao Zedong in Tiananmen Square during the 1989 student protests, reportedly is suffering severe mental illness from repeated beatings and mistreatment in a Hunan prison. According to press reports, Hua Di, a Stanford researcher, was sentenced to 15 years in prison in early December but the Government only acknowledges that he was arrested for suspicion of deliberately seeking state secrets. According to credible reports, his health is poor. According to one credible report in 1998, there have been instances in which women in reeducation-through-labor camps found to be pregnant while serving sentences were forced to submit to abortions (see Section 1.f.).

The Government does not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remain largely inaccessible to international human rights organizations. Talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons remain stalled. The Government suspended discussions with a prominent foreign businessman and human rights monitor on prisoner accounting, in response to a proposed resolution critical of China at the U.N. Human Rights Commission. Prison visits with family members and others are monitored closely.

d. *Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remain serious problems; there were more reports of long incommunicado detentions than in 1998. Because the Government tightly controls information, it is impossible accurately to determine the total number of persons subjected to new or continued arbitrary arrest or detention. The Government reported in March that prosecutors had censured police officers 70,992 times in 1998 for detentions that exceeded the legal time limit. According to estimates, thousands more remain incarcerated, charged with other criminal offenses, detained but not charged, or sentenced to reeducation-through-labor. Amnesty International documented 241 specific cases of persons who remain imprisoned or on medical parole for activities related to the 1989 Tiananmen protests alone. Official government statistics report that there are some 230,000 persons in reeducation-through-labor camps, sentenced to up to 3 years through administrative procedures, not a trial. It has been estimated that as many as 1.7 million persons per year were detained in a form of administrative detention known as custody and repatriation before 1996; the number of persons subject to this form of detention reportedly has been growing since that time. According to one report, Liu Xin, who was a 15-year-old junior high school student at the time of his arrest in 1989, remains in a Hunan jail serving a 15-year sentence for arson. Liu had apparently handed a box of matches to his brother-in-law during a demonstration in Shaoyang city in 1989. According to an April report in the Western press, Lu Decheng, one of three men jailed for throwing paint on the portrait of Mao Zedong in Tiananmen Square, was released in 1998 after serving 9 years of his original 16-year sentence. However, his two colleagues, Yu Dongyue and Yu Zhijian, remain in jail, both reportedly in solitary confinement. Chen Ziming remained under house arrest at year's end. Wang Wanxing, who protested in Tiananmen Square in 1992,

was released from a psychiatric hospital near Beijing in late August but was detained and returned to the hospital on November 23, after informing the hospital director that he might hold a news conference on the conditions he endured in the hospital (see Section 1.c.). Late in the year, according to some reports, the Government started confining some Falun Gong adherents to psychiatric hospitals.

The amendments to the Criminal Procedure Law, which came into effect in 1997, represented a significant improvement in the statutes governing arrest and detention. The amendments provide for earlier and greater access for defendants to legal counsel and the abolition of a regulation that allowed summary trials in certain cases involving the death penalty. Under the old system, defendants were not allowed to consult an attorney until 7 days before trial, usually precluding the possibility of mounting an effective defense. The amended law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation. However, police often use loopholes in the law to circumvent a defendant's right to seek counsel and political activists in particular still have significant problems obtaining competent legal representation of their own choosing.

While the new criminal procedure law represents an improvement over past practice, anecdotal evidence indicates that implementation of the new Criminal Procedure Law remains uneven and far from complete, especially in politically sensitive cases. Differing interpretations of the law taken by different judicial and police departments have contributed to contradictory and incomplete implementation. The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security, the Ministry of Justice, and the Legal Work Committee of the National People's Congress in 1998 issued supplementary implementing regulations to address some of these weaknesses. During the year, the Government continued its efforts to educate lawyers, judges, prosecutors, and especially the public on the provisions of this and other new laws. In June the Ministry of Justice announced that 500,000 ministry officials would undergo training over the next 3 years as part of "a massive effort to improve the quality of all judicial workers in the country." In March the President of the Supreme People's Court announced that all senior judges in the nation's courts would attend training courses within the next 3 years, with an emphasis on new laws and regulations.

Even if fully implemented, the Criminal Procedure Law still would fall short of international standards in many respects. For example, while the statute precludes a presumption of guilt, it includes no explicit recognition of the presumption of innocence; has insufficient safeguards against use of evidence gathered through illegal means such as torture; the appeals process it provides for fails to provide sufficient avenue for review; and there are inadequate remedies for violations of defendants' rights. However, the law did abolish an often criticized form of pretrial detention known as "shelter and investigation" that allowed police to detain suspects for extended periods without charge. Nonetheless, in some cases police still can detain unilaterally a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect is arrested, the revised law allows police and prosecutors to detain him for months before trial while a case is being "further investigated." Few suspects are released on bail or put in another form of noncustodial detention pending trial.

The Criminal Procedure Law also stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, in practice timely notification remains a serious problem, especially in sensitive political cases. Under a sweeping exception, officials need not provide notification if it would "hinder the investigation" of a case. In January Che Hongnian, who had been held incommunicado for nearly 3 months, was sentenced to 3 years of labor in Shandong province, apparently for writing a letter asking how to contact a human rights organization in Hong Kong. His appeal was denied in March.

Police continue to hold individuals without granting access to family or a lawyer, and trials continue to be conducted in secret. For example, the family of China Development Union (CDU) founder Peng Ming was not allowed to see him for weeks after his detention. Police initially dismissed the family's requests to see Peng by claiming they did not have to allow visitation since Peng had not been "formally arrested"—i.e., charged with a specific crime. In July Wang Yingzheng, a 19-year-old activist in Jiangsu Province, was tried in secret for writing an article criticizing official corruption. Wang's family was not notified of the trial until several weeks afterward. In June labor activist He Chaohui also was tried in June at a closed courtroom in Hunan.

As the government broadened and intensified its campaign to eliminate the China Democracy Party, the number of detentions, either temporary or leading to formal arrest, increased significantly. CDP members Dai Xuezhong, Li Guotao, Fu Shenping, Li Zhiying, and He Bowei all were picked up in 1 week in January, inter-

rogated, and later released. In February four CDP members in Wuhan—Lu Xinhua, Chen Zhonghe, Xiao Shichang, and Jiang Hansheng—were arrested for trying to organize the Wuhan Human Rights Forum. Hangzhou CDP member Lai Jinbiao was detained for 5 days in March for trying to organize an "illegal" rally. In the weeks before the sensitive 10th anniversary of the June 4, 1989, Tiananmen Square massacre the Government detained or otherwise confined scores of CDP members. Six CDP activists in the northeastern town of Acheng were picked up on May 2 while holding a meeting to plan commemorative events for June 4. At least 15 other CDP members were detained around the country during the same week. Wu Yilong, Li Bagen, Mao Qingxiang, Li Xi'an, Wang Rongqing, Zhu Yufu, Lai Jinbiao, and Yu Tielong in Hangzhou; Yang Tao in Guangzhou; Wang Wenjiang, Kong Youping, and Wang Zechen in Anshan; He Depu, Wang Zhixin, Gao Hongming and Zha Jianguo in Beijing; Liu Xiaoming and Li Chun in Wuhan; Liao Shihua in Changsha; Zhang Baoqin in Fujian; and Li Jinhong, Liu Shili, and Chen Guojin were among those detained for varying periods of time in the weeks before June 4. Some, such as Gao Hongming and Zha Jianguo, subsequently were sentenced to lengthy prison terms. One Hong Kong nongovernmental organization (NGO) reported more than 160 detentions of political activists in the month before the Tiananmen anniversary.

The campaign intensified after June 4, as detentions continued and a number of those arrested were put on trial or sentenced administratively to reeducation-through-labor (see Section 1.d.). Hebei CDP member Yu Feng was taken away by police on June 8. Tong Shidong, a CDP organizer and physics professor in Hunan, was arrested on June 11 and charged with trying to "overthrow state power" on June 15. On June 19, police rounded up eight CDP activists in Hangzhou—Zhu Yufu, Han Shen, Wang Rongqing, Mao Qingxiang, Yan Zhengxue, Jiang Tanyun, Li Cunrong and Li Bagen—reportedly ransacking Zhu's home in the process and confiscating his computer, address book, and documents. Zhu, Mao, and Xu were tried on October 25 and sentenced to prison terms of 7, 8, and 5 years, respectively. During the week of June 25, Li Xian and Xu Guang were detained in Hangzhou, while Zhang Jian and Liu Jin were held in Hebei. In July Guo Chengming, a lawyer in Shenyang, formally was placed under arrest. Sichuan CDP members Chen Wei and Ouyang Yi were arrested at their homes in August. Five CDP activists—Dai Xuezhong, Wang Wenjiang, Chen Zhonghe, Xiao Shichang, and Quan Li—all were detained in the first week of September. Li Guotao was briefly detained in October. On November 30, Fu Sheng, a member of the CDP, was detained, questioned, and beaten in Beijing 2 days after meeting briefly with a foreign diplomat. He was released on December 5.

There were also frequent detentions of non-CDP dissidents during the year. Shenzhen activist Miao Xike was arrested in March after he announced the founding of a "Chinese Rights Party." Chengdu poet Liao Yiwu was detained on his wedding day in March. In April Hangzhou activist Su Huibing was detained after he tried to sweep the graves of Tiananmen Massacre victims during the Qingming holiday in accordance with the holiday's tradition. Police detained dissident Wang Ke in April in Hainan Province before the anniversary of the death of former national leader Hu Yaobang. Also in April, journalist Ma Xiaoming was arrested in Shaanxi province while trying to report on a tax protest by farmers. Detentions and harassment of non-CDP dissidents reportedly increased in the weeks leading up to the June 4 anniversary, apparently in an attempt to forestall any commemoration activities. In mid-May, activist and former Tiananmen Square student leader Jiang Qisheng was detained by authorities in Beijing for authoring and attempting to distribute essays about the 1989 massacre. He was held for several weeks before his family was informed of his whereabouts. In early May, two students at Zhongnan Politics and Law Academy reportedly were arrested for putting up posters to commemorate another student protest; six activists in the northeast and 12 in Changsha also were detained in early May. Police in Changsha reportedly detained Tan Li, Zhou Min, and Yao Xiaozhou in April after they refused to sign agreements stating that they would not hold any commemorations on or around June 4; Tan and Zhou reportedly were detained for a few hours, but Yao remained in detention. Their relatives reportedly were harassed by the authorities at work, and were ordered to try to persuade the dissidents to comply with the authorities' demands. Two persons attempting to demonstrate were detained quickly by police on or near Tiananmen Square on June 4; seven journalists near one of the protesters also were detained briefly and their film was confiscated. Yuan Yongbo, a college student in Hubei province, was arrested in June for putting up posters commemorating the 10th anniversary of the Tiananmen massacre. The China Development Union (which works for environmental and political reform) virtually was shut down by arrests of its members during the year.

In August Xinjiang businesswoman Rebiya Kadeer, her son, and her secretary were detained in Urumqi, the capital of the Xinjiang Uighur Autonomous Region. Kadeer, who was detained while on her way to meet a visiting foreign delegation, was charged in September with passing state secrets to foreigners. Kadeer's husband has criticized the Government's treatment of Uighurs in Xinjiang on broadcasts of the Voice of America and Radio Free Asia.

Authorities detained a number of members of house churches (see Section 2.c.). After the authorities banned Falun Gong in July, tens of thousands of its adherents were detained by the authorities and held for varying periods in stadiums around the country. Most were released after signing statements in which they recanted their beliefs; however, arrests of Falun Gong adherents continued through year's end (see Section 2.c.). In July, the designer and operator of a Falun Gong website in Jilin was arrested; his website reportedly was shut down (see Sections 1.f. and 2.c.). In late October a new anti-cult law was passed, shortly after Falun Gong was declared a "cult" (see Sections 1.e. and 2.c.). In early November, the Government announced that six Falun Gong leaders, some of whom reportedly had been detained since July, were charged with violating the new law. In December, four were sentenced to long prison terms (see Section 2.c.). Hundreds of other adherents were sentenced administratively for terms of up to 3 years in reeducation-through-labor camps. On November 8, the authorities confirmed the formal arrest of 111 Falun Gong members, who were charged with, among other things, disturbing social order and stealing state secrets. This new legislation also was used against members of unregistered churches and religious groups (see Section 2.c.).

Members of the foreign and Hong Kong press also were detained during the year, often for reporting on subjects that met with the Government's disapproval (see Section 2.a.).

Author Wang Lixiong was detained in Xinjiang on February 4 while collecting information for a book on the region (see Section 2.a.). He was released on March 1 without charge. Visiting academic researcher and librarian Song Yongyi was detained on August 7 in Beijing. After months of detention and interrogation, he was charged on December 24 with "the purchase and illegal provision of intelligence to persons outside China; he was charged on December 24, and remained in custody at year's end. Song, an expert on the Cultural Revolution, traveled to the country to collect materials such as newspaper articles, books, and other publicly available information on that period, as he had on several previous occasions (see Section 2.a.). Song's wife was detained with him in August but was released 2 months later.

In addition, the press reported that the Government rounded up 100,000 or more persons and sent them out of Beijing under the custody and repatriation regulations prior to the October 1 National Day celebrations, to ensure order.

Under the revised Criminal Procedure Law, detained criminal suspects, defendants, their legal representatives, and close relatives are entitled to apply for a guarantor to enable the suspect or defendant to await trial out of custody. In practice, the police, who have sole discretion in such cases, usually do not agree.

In theory, the Administrative Litigation Law of 1989 permits a detainee to challenge the legality of administrative detention, but lack of timely access to legal counsel inhibits the effective use of this law. Persons serving sentences in the criminal justice system can request release under Article 75 of the Criminal Procedure Law or appeal to the Procuratorate, but have no recourse to the courts to challenge the legality or length of criminal detention. In June 1998, Xinhua News Agency reported that Beijing prosecutors had found that 143 criminal suspects in the city had been detained illegally for more than one year. The prosecutors reportedly ordered 141 of them released. There are documented cases in which local officials and business leaders illegally conspired to use detention as a means of exerting pressure in commercial disputes involving foreign businessmen. In February officials reportedly detained Hong Kong businessman Yiu Yun-Fai, after a dispute erupted when he went to check on goods his company ordered. There were also cases in which foreign businessmen had their passports confiscated during such disputes. A Beijing court was to investigate the case of businessman Lok Yuk-shing, a resident of Hong Kong who was detained in Inner Mongolia and held for 8 months because of a debt his employer owed. Australian businessman James Peng, who had been detained since 1994, was released in November.

The State Compensation Law provides a legal basis for citizens to recover damages for illegal detentions. Although many citizens remain unaware of this 1995 law, there is evidence that it is having a growing, if still limited, impact. In February a Hong Kong NGO reported that more than 12,000 villagers from 45 villages in Shaanxi province had filed a lawsuit against the local township government to protest excessive taxation. In September the press reported that a man in Shanxi, who had served a 1-year reeducation term even though he was innocent, had been

awarded $966 (8,000 rmb) in damages. Throughout the year, the official press published numerous articles to raise public awareness of recent laws meant to enhance the protection of citizens' rights, including the Criminal Law, Criminal Procedure Law, State Compensation Law, Administrative Procedure Law, and Lawyers Law.

A major flaw of the new Criminal Procedure Law is that it does not address the reeducation-through-labor system, which permits authorities to sentence detainees administratively without trial to terms of 1 to 3 years in labor camps. Local Labor Reeducation Committees, which determine the term of detention, may extend an inmate's sentence for an additional year. According to the latest available official statistics, there were some 230,000 persons in reeducation-through-labor camps in 1997. More political dissidents were given reeducation sentences in 1999 than during the previous year. In February Peng Ming, the founder of the China Development Union, was sentenced to 18 months of reeducation-through-labor, allegedly for soliciting prostitution. Peng's family and supporters maintained that Peng was framed in retaliation for his political activities. Peng Cheng, who solicited signatures in Shandong for a petition calling on the Government to reverse its stance on the student demonstrations of 1989, was arrested and sentenced in August to 3 years of labor. Zhou Yongjun, an overseas activist who had returned in December 1998, was found in June to be serving a 3-year sentence in a reeducation camp in Guangdong. Returned dissident Zhang Lin had his reeducation sentence extended by 1 year. China Democracy Party members Cai Guihua and Han Lifa, arrested in the fall of 1998, remain in labor camps; their sentences were extended during the year. Chen Longde remained in a labor camp. Defendants legally are entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. Persons can gain a reduction in, or suspension of, their sentences after appeal, but appeals are usually not successful because of problems such as short appeal times and inadequate legal counsel that weaken the effectiveness of the law in preventing or reversing arbitrary decisions. Authorities ignored CDU founder Peng Ming's wrongful detention appeal, and he continues to serve his sentence. There have been cases of individuals successfully appealing their reeducation sentences through the courts, though the exact number of successful cases is unknown.

The new Criminal Procedure Law also does not address custody and repatriation, which allows the authorities to detain persons administratively without trial to "protect urban social order." Persons who may be detained under this provision include the homeless, the unemployed, petty criminals, and those without permission to live or work in urban areas; such persons may be returned to the locality in which they are registered. If the location to which they are to be repatriated cannot be determined, or if they cannot be repatriated, such persons may be sent to "resettlement farms." Those unable to work may be sent to "welfare centers." Until they are repatriated, those detained may be held in custody and repatriation centers, and may be required to pay for the cost of their detention and repatriation by working while in detention. Relatives and friends of detainees in these centers reportedly are often able to secure a detainee's release through the payment of a fee. Provincial regulations on custody and repatriation in some cases have expanded the categories of persons who may be detained. In Beijing, for example, those who may be detained specifically include the mentally ill and mentally disabled, and "those who should be taken into custody according to government regulations." Many other persons are detained in similar forms of administrative detention, known as custody and education (for prostitutes and their clients) and custody and training (for minors who have committed crimes). Persons reportedly may be detained for long periods under these provisions, particularly if they cannot afford to pay for their release (see Sections 1.a., 1.c., 1.e., 2.d, 5, 6.c., 6.d., and 6.f.).

By one estimate, more than 1.7 million persons per year might be detained under custody and repatriation or similar regulations. According to the NGO Human Rights in China, the reasons for such detentions are rarely made clear to detainees. There are reports that persons with documentation allowing them to live or work in urban areas have been detained illegally under these provisions; but, because they are not entitled to a trial, they have little recourse if the detaining officials cannot be persuaded to allow their release. Some are reportedly forced to confess that they were living and working without permits in the urban area in which they were detained, despite having the appropriate documentation; in some cases, such documentation reportedly is destroyed. During the last week of October, a Communist Party official told the foreign press that 3,000 persons from other parts of the country were detained in police sweeps of nonresidents in Beijing. By some estimates, police forced 100,000 or more non-residents out of Beijing prior to October 1 through the custody and repatriation program (see Section 2.d.).

The Government also continued to refuse reentry to citizens who were dissidents and activists (see Section 2.d.). In April dissident Wang Xizhe was denied entry to

the country to attend his father's funeral. The Government's denial of permission to some former reeducation-through-labor camp inmates to return to their homes constitutes a form of internal exile (see Section 2.d.).

There were no reports that the Government forcibly exiled citizens; however, dissidents released from prison on medical parole in earlier years continue to be unable to return to the country.

e. *Denial of Fair Public Trial*.—The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently; however, in practice, the judiciary is subject to policy guidance from both the Government and the Communist Party, whose leaders use a variety of means to direct courts on verdicts and sentences in politically sensitive cases. At both the central and local levels, the Government and the CCP frequently interfere in the findings of the judicial system and dictate court decisions. Corruption and conflicts of interest also affect judicial decisionmaking. Judges are appointed by the people's congresses at the corresponding level of the judicial structure, which can result in undue influence by local politicians over the judges they appoint. During a May 1998 conference at a Beijing university, according to informed sources, one expert estimated that more than 70 percent of commercial cases in lower courts were decided according to the wishes of local officials rather than the law. State-run media published numerous articles calling for an end to such "local protectionism" and for the development of a judiciary independent of interference by officials.

The Supreme People's Court (SPC) stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts. There are special courts for handling military, maritime, and railway transport cases.

During the year, the Government continued a campaign to correct systemic weaknesses in the judicial system and make it more accountable to public scrutiny. The law requires that all trials be held in public; however, in practice, many trials are not. In March the Supreme People's Court issued regulations requiring all trials to be open to the public, except for those involving state secrets, personal privacy, or minors; divorce cases in which both parties request a closed trial; and cases involving commercial secrets. The official media reported in February that all Beijing municipal courts had opened their trials to the public. The media report claimed that some 6,518 cases were tried openly in one month, with some 10,000 citizens observing the trials and 1,000 journalists reporting on them. The Shanghai Intermediate Court also opened its trials in February, except for those involving state secrets, privacy, or minors. Under the new regulations, "foreigners with valid identification" are to be allowed the same access to trials as citizens. However, requests by at least one foreign mission to send an observer to politically sensitive trials have been ignored consistently by the Government. Moreover, none of the numerous trials involving political dissidents were open to the general public. The legal exception for cases involving state secrets, privacy, and minors has been used to keep proceedings closed to the public and even family members in some sensitive cases (see Section 1.d.).

In June 1998, the President of the Supreme People's Court, Xiao Yang, called for courts to come under the "supervision" of citizens and the media, and in July 1998 state-run television carried the first live broadcast of a trial, a case involving intellectual property. National newspapers gave both events extensive coverage. Programs featuring actual court proceedings have since become a regular television feature, meant in part to educate the public and in part to build greater confidence in the judicial system. In March the Fuzhou City Intermediate People's Court began broadcasting a television program called "Court and Society," featuring live and recorded coverage of actual cases, in an effort to "ensure impartial administration of justice and implement the system of open trials."

The Government continued a self-proclaimed "unprecedented internal shake-up" of the judiciary, which began in 1998. In March the Supreme People's Court reported that 2,512 judges and staff had been punished for misconduct in 1998. The Supreme People's Procuratorate reported that 1,401 prosecutors and staff either had been disciplined or prosecuted in 1998. In October the Procuratorate reported that 1,179 local prosecutors had been dismissed in 1999 for lack of qualifications. In January Procurator General Han Zhubin reported that a former head of the Anticorruption Bureau of the Supreme People's Procuratorate was dismissed for corruption. The Government also reported that 4,200 unqualified judicial workers had been dismissed nationwide, and that 12,045 verdicts had been overturned on appeal by higher courts. The court and procuratorate continued to operate hot lines established in 1998 for the public to report illegal activities by judges and prosecutors. In August a vice president of the Supreme People's Court announced that in the

first half of the year the number of court workers who had to be disciplined had dropped 36 percent from the same period the year before.

Police and prosecutorial officials often ignore the due process provisions of the law and of the Constitution. For example, police and prosecutors can subject prisoners to severe psychological pressure to confess, and coerced confessions frequently are introduced as evidence. In May 1998 the top prosecutor, Han Zhubin, said in an interview that use of illegal methods by prosecutors had become "very serious" in some areas. He acknowledged that some prosecutors employed torture to extract confessions and used interrogation rooms like "prison cells" to hold suspects beyond the legal detention period. The Criminal Procedure Law forbids the use of torture to obtain confessions, but one weakness of the law is that it does not expressly bar the introduction of coerced confessions as evidence. Traditionally, defendants who failed to show the correct attitude by confessing their crimes were sentenced more harshly. The conviction rate in criminal cases is over 90 percent, and trials can be little more than sentencing hearings. In most politically sensitive trials, guilty verdicts were handed down immediately following court proceedings that rarely lasted more than several hours. There is an appeals process, but appeals rarely reverse verdicts.

The revised Criminal Procedure Law was designed to address many of these deficiencies and give defense lawyers a greater ability to argue their clients' cases. The amendments abolish a form of pretrial detention called "shelter and investigation," expand the right to counsel, put limits on nonjudicial determinations of guilt, and establish a more transparent, adversarial trial process. However, the amendments do not bring the country's criminal procedures into full compliance with international standards. For example, in "state secrets" cases, the revised Criminal Procedure Law authorizes officials to deny suspects access to a lawyer while their cases are being investigated. The definition of state secrets is broad and vague and subject to independent interpretation by police, prosecutors, and judges, at different stages in a criminal case. Uncertainty regarding the scope and application of this statute has created concern about a detainee's right to legal assistance.

Nevertheless, there are signs that members of the public are beginning to use the court system and the new legal remedies available to it to protect their rights and to seek redress for a variety of government abuses. The Supreme People's Court reported in March 1998 that citizens had filed 90,000 lawsuits against government officials in 1997. In May Leng Wanbao sued the Jilin Province Supreme People's Court for $136,000 (1.13 million rmb) for wrongly being jailed for "counterrevolutionary crimes" stemming from his involvement in the 1989 Tiananmen protests. In September a Shanxi court awarded a man $966 (8,000 rmb) in compensation for having been sentenced unjustly to 1 year of reeducation. Nonetheless, in politically sensitive cases, a decision in favor of the dissident remains rare. Shanghai resident Lin Hai, who was arrested in March 1998, was convicted in January and sentenced to a 2-year prison term for "inciting subversion of state power." Lin's crime had been providing e-mail addresses to an overseas Internet web magazine critical of the Government. A higher court rejected his subsequent appeal. Lin was released on September 23, 6 months before the end of his term. In March, police held activist Lai Jingbiao for 5 days; in June a court in Hangzhou dismissed his wrongful detention suit against the police. In June political essayist Fang Jue received a 4-year prison sentence for "economic crimes" and his subsequent appeals were denied.

The first Lawyers' Law, designed to professionalize the legal profession, took effect in 1996. Subsequently the Ministry of Justice drafted relevant regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. It also granted lawyers formal permission to establish law firms, set educational requirements for legal practitioners, encouraged free legal services for the general public, and provided for the disciplining of lawyers. Government officials state that there is an insufficient number of lawyers to meet the country's growing needs. The Justice Ministry set a target of 150,000 lawyers, 30,000 notaries, and 40,000 grassroots legal service centers by the year 2000. In March Justice Minister Gao Changli said that the country has over 110,000 lawyers. According to official reports, there are some 9,000 law offices. Lawyers are organizing private law firms that are self-regulating and do not have their personnel or budgets determined directly by the State. More than 60 legal aid organizations have been established around the country, and the Ministry of Justice is establishing a nationwide legal services hot line.

Defendants frequently have found it difficult to find an attorney willing to handle sensitive political cases. Government-employed lawyers still depend on official work units for employment, housing, and other benefits, and therefore many may be reluctant to represent politically sensitive defendants. In January dissident Wang Ce

was tried and defended himself, reportedly because lawyers recommended by the court refused to take his case. Nonetheless, a Beijing lawyer who had represented Wei Jingsheng, Xu Wenli, and Fang Jue in the past, agreed to represent Jiang Qisheng, who remained in detention at year's end. In December 1998, authorities blocked attempts by prominent dissidents Wang Youcai and Qin Yongmin to hire lawyers of their own choosing. There were no new reports of the Government revoking the licenses of lawyers representing political defendants, as it sometimes has done in the past. However, Liu Jian, a criminal defense attorney, reportedly was detained in July 1998 after most of the witnesses he had called refused to testify at the trial of a local official charged with taking bribes; Liu was charged with "illegally obtaining evidence" and was detained for 5 months. Liu reportedly was held incommunicado for 10 days, and was beaten and tortured in detention in an effort to force a confession. He eventually pled guilty in exchange for a light sentence, but his criminal record prevents him from practicing law.

Lawyers who try to defend their clients aggressively often have problems with police and prosecutors. In 1998 the Secretary General of the All China Lawyer's Association said that in the previous 3 years the group had received 59 complaints from lawyers who had been threatened or harassed by law enforcement officials. He predicted that it would take 3 to 5 years for the new Criminal Procedure Law to take root in the legal system. He called for better protection of lawyers and their legitimate role in the adversarial process.

The lack of due process is particularly egregious in death penalty cases. The number of capital offenses has increased from 26 to 65 as amendments were added to the 1979 Criminal Law. They include financial crimes such as counterfeiting currency. A higher court nominally reviews all death sentences, but the time between arrest and execution is often days and sometimes less, and reviews consistently have resulted in the confirmation of sentences. In March the state-run press reported that the Supreme People's Court had upheld the death sentences for two Zhejiang farmers convicted of issuing fake value-added tax invoices worth tens of millions of dollars (several hundred million rmb). Also in March, a banker in Hunan province was sentenced to death for embezzling $24.4 million (202 million rmb). The death sentence reportedly was suspended for 2 years. On May 12, seven high-ranking Communist Party officials were sentenced to death for smuggling or corruption. Six of the officials were executed on June 7. In late June, 58 persons reportedly were executed for drug trafficking. In September public sentencing rallies reportedly were held in Guangdong prior to the National Day celebrations on October 1; 818 violent criminals were sentenced in this manner, 238 of them to death. Minors and pregnant women are expressly exempt from the death sentence, and only those theft cases involving banks or museums warrant capital punishment. Based on a review of Chinese press accounts, Amnesty International (AI) reported that in 1998 2,701 persons were sentenced to death (compared with over 3,152 in 1997 and 6,100 in 1996 in the midst of the anticrime "Strike Hard" campaign) and 1,769 executions were carried out (compared with 1,876 in 1997 and 4,367 in 1996). AI believes that actual figures were higher because not all death penalties or executions are reported, and the authorities can manipulate such information. Officials say that new safeguards placed on sentencing and execution have reduced the number of death penalty cases. The number of executions that were reported in the Xinjiang Uighur Autonomous Region was particularly high; according to AI, scores of Uighurs, many of whom were reportedly political prisoners, have been sentenced to death and executed in Xinjiang since 1997 (see Section 1.e.).

In recent years, credible reports have alleged that organs from some executed prisoners were removed, sold, and transplanted. Officials have confirmed that executed prisoners are among the sources of organs for transplant but maintain that consent is required from prisoners or their relatives before organs are removed. There is no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. In February 1998, two Chinese nationals were charged in a foreign court with attempting to sell human organs allegedly taken from the bodies of executed prisoners; the charges were dropped in November. At least one Western country has asked repeatedly for information on government investigations of alleged organ trafficking, but to date no information has been released. There have been credible reports in the past that patients from abroad had undergone organ transplant operations on the mainland, using organs removed from executed criminals.

The authorities sentence persons administratively without trial to terms of 1 to 3 years in reeducation-through-labor camps. According to international press reports, some 230,000 persons are serving sentences in reeducation through labor camps. By one estimate, 1.7 million persons per year may also be detained under custody and repatriation or similar regulations, which allow "undesirable" persons

in urban areas to be detained administratively and/or returned to their registered place of residence (see Section 1.d.). Defendants legally are entitled to challenge re-education-through-labor sentences under the Administrative Litigation Law. Persons can gain a reduction in, or suspension of, their sentences after appeal, but appeals are usually not successful because of problems such as short appeal times and inadequate legal counsel that weaken the effectiveness of the law in preventing or reversing arbitrary decisions.

Government officials deny that China holds any political prisoners, asserting that authorities detain persons not for their political or religious views, but because they violate the law. However, the authorities continued to confine citizens for political and religious reasons. It is estimated that thousands of political prisoners remain incarcerated, some in prisons and others in labor camps.

The 1997 Criminal Law replaced "counterrevolutionary" offenses, which often, in the past, had been used against the Government's political opponents, with loosely defined provisions barring "crimes endangering state security." In September 1998, officials said that there were 1,946 individuals in prisons serving sentences under the Counterrevolutionary Law. Persons detained for such offenses included Hu Shigen, Kang Yuchun, Liu Wensheng, Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. Several foreign governments urged the Government to review the cases of those charged with counterrevolution, given that the crime was no longer on the books, and release those who had been jailed for nonviolent offenses under the old statute. Officials have indicated that a case-by-case review of appeals filed by individual prisoners is possible under the law, and there is one known case of a successful appeal. However, the Government indicated that it would neither initiate a broad review of cases nor grant a general amnesty, arguing that "crimes" covered by the law on counterrevolution still are considered crimes under the Law on State Security. Those charged with counterrevolutionary crimes continue to serve their sentences.

The Government released early at least two political prisoners. Journalist Gao Yu was released in February after serving more than 5 years in prison. Also in February, Sun Weiban was released after serving 9½ years of a 12-year-sentence for his activities during the 1989 prodemocracy movement. In September Internet dissident Lin Hai was released 6 months before the end of his term. However, many others, including Cai Guihua, Chadrel Rinpoche, Chen Lantao, Fan Zhongliang, Han Chunsheng, Jigme Sangpo, Li Bifeng, Li Hai, Ngawang Choephel, Ngawang Sangdrol (see Tibet Addendum), Qin Yongmin, Shen Liangqing, Wang Youcai, Xu Guoxing, Xu Wenli, Xu Yongze, Yang Qinheng, Zhang Lin, Zhang Shanguang, Zhao Changqing, and Zhou Yongjun remained imprisoned or under other forms of detention during the year. In addition the authorities summarily tried and sentenced a large number of political dissidents to long prison terms. In March Guo Shaokun was given a 2-year sentence, reportedly for informing overseas human rights groups and media of a protest by farmers. In July a court in Gansu sentenced labor activists and CDP members Yue Tianxiang, Guo Xinmin, and Wang Fengshan for subversion to 10, 2, and 2 years, respectively. In 1 week in August, courts in Beijing and Sichuan sentenced CDP activists Gao Hongming to 8 years, Zha Jianguo to 9 years, She Wanbao to 12 years, and Liu Xianbin to 13 years—all for alleged subversion. Also in August, poet Yu Xinjiao, who had founded the "Literary Renaissance Party," was sentenced to 7 years for alleged rape. Four members of the Falun Gong spiritual movement were sentenced to prison terms ranging from 7 to 18 years in December (see Sections 1.d. and 2.c).

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

f. *Arbitrary Interference With Privacy, Family, Home, Correspondence.*—Government interference in daily personal and family life continues to decline for the average citizen. In urban areas, most persons still depend on government-linked work units for housing, permission to have a child, approval to apply for a passport, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social or political control.

Despite legal protections, authorities often do not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently has been ignored; moreover, the Public Security Bureau and the procuratorate can issue search warrants on their own authority. The Constitution states that "freedom and privacy of correspondence of citizens are protected by law." However, in practice, authorities often monitor telephone conversations, facsimile transmissions, electronic mail, and Internet communications of foreign visitors, businessmen, diplomats, and journalists, as well as dissidents, activists, and others. The security services routinely monitor and enter the residences and offices of foreigners to gain access to computers, telephones, and fax machines. All major hotels have a sizable internal security presence. Authorities also open and censor domestic and international mail. Han Chunsheng, a Voice of America (VOA) listener who allegedly sent over 20 letters critical of the Government to a VOA mailbox, remains in prison on an 8-year sentence for counterrevolutionary incitement and propaganda. Government security organs monitor and sometimes restrict contact between foreigners and citizens.

Some dissidents are under heavy surveillance and routinely had their telephone calls with foreign journalists and diplomats monitored; there were reports that surveillance of dissidents increased during the year. Before he was arrested and sentenced to 8 years in prison for alleged subversion, Beijing CDP member Gao Hongming's meetings with foreign diplomats often were monitored and sometimes even videotaped by security personnel. Some dissidents were blocked from meeting with foreigners during politically sensitive periods. Ding Zilin, an organizer of relatives of victims of the Tiananmen massacre, was prevented on at least one occasion from meeting a foreign diplomat when police restricted her and her husband to their Beijing home. The sister of one jailed dissident was ordered not to meet with a foreign diplomat on the eve of October 1 celebrations marking the 50th anniversary of the founding of the People's Republic of China. Dissidents routinely are warned not to speak with the foreign press. Authorities also harassed and monitored the activities of relatives of dissidents. For example, security personnel keep close watch on relatives of prominent dissidents such as Chen Ziming, particularly during sensitive periods. Security personnel followed He Xintong, the wife of Xu Wenli, and Wei Xiaotao, the brother of Wei Jingsheng, to meetings with Western reporters and diplomats on numerous occasions. Internet dissident Lin Hai's father and wife were reportedly under police supervision at a local hotel in January during Lin's trial (see Section 1.e.). In August the wife of Wu Yilong reportedly was detained; the authorities confiscated a computer, books, and other items from her. On the day the Nobel Peace Prize was announced in Sweden, relatives of Wei Jingsheng and Wang Dan, both of whom were nominated for the prize, were detained.

Government harassment has prevented relatives of Chen Ziming, Qin Yongmin and other dissidents from obtaining and keeping steady employment. In April police visited the wife of jailed CDP leader Xu Wenli to warn her not to "stir up trouble" while Chinese Premier Zhu Rongji was visiting the United States. Xu's daughter, who is a student in the United States, recently had published an open letter in a major American newspaper calling for her father's release. In mid-June, the NGO Human Rights In China (HRIC) sent a $20,000 wire transfer, made up of funds raised from within the overseas Chinese community, to a bank account in China. The funds were intended to help victims of the June 4, 1989 Tiananmen massacre, as well as the families of dissidents. In late July, Li Ling, the intended recipient of the funds, was detained by public security officers and interrogated. Public security officials forced Li Ling to withdraw the money from the bank and confiscated it. By year's end, the money had not been returned. The Government continued to freeze a bank account kept by activist Ding Zilin to help the families of Tiananmen massacre victims, an action criticized by dissidents within China and human rights organizations abroad. Police sometimes detained the relatives of dissidents (see Sections 1.d. and 2.a.).

The Government continued to encourage expansion of the Internet and other communications infrastructure and put more official information online, and the number of sites increased from 25 to 2400; however, the Government increased monitoring of the Internet during the year, and placed restrictions on information available on the Internet. Internet use is expanding exponentially, creating a potentially powerful channel of information to the computer literate. The Government reported that 2.1 million persons and 744,000 computers were connected to the Internet as of the end of 1998. By the end of the year, actual users were believed to number as many as 8.9 million.

The Government has special Internet police units to monitor and increase control of Internet content and access. In January the Ministry of State Security, Information Industry, and Culture, along with the State Administration of Industry and

Commerce, issued a circular requiring Internet bars and cafes—locations where customers can rent time on Internet computers—to register. The circular also required managers of such bars to curtail access to information on the Internet that is prohibited by law or regulation, and to monitor and report on customers who use the terminals. In February the Government announced the creation of a new committee charged with "protecting government and commercial confidential files on the Internet, identifying net users, and defining rights and responsibilities." The new entity was created to "guard individual and government users, protect information by monitoring and keeping it from being used without proper authorization." One human rights group reported a national police directive ordering the special units to monitor Internet bulletin boards for "reactionary" notices. According to the directive, if such a posting were discovered, police were to contact the bulletin board service to seek assistance in tracing the message. Bulletin boards that did not stop such "seditious" messages from being posted would be shut down. A spokesman for the Government denied the existence of any such directive. Nevertheless, a popular bulletin board called "Everything Under the Sun," which had carried messages discussing the 10th anniversary of the Tiananmen massacre, was shut down in January, several days after a government newspaper criticized it for attacking government policies and leaders. Another popular bulletin board, the "New Wave Network," which featured political discussion, also was closed in February. In May at least one bulletin board related to the bombing of the Chinese Embassy in Belgrade was shut down. In the period prior to the sensitive Tiananmen anniversary, at least one web site based in Beijing closed its chat rooms as a preventive, self-censorship measure. In May the press reported that Shanghai authorities had issued a notice that restricted pager services and Internet access providers, among others, from transmitting "political information" or information that could harm social stability. On October 7, the Government issued State Council Order Number 273, which required firms using encryption products or equipment with encryption technology to register with the Government by January 31, 2000. The order provided that after the initial registration, firms using encryption technology would be required to provide the names, phone numbers, and e-mail addresses of all persons using such technology. In addition, the order limited the import or sale of foreign encryption technology within the country. At year's end, it was unclear whether these regulations would be enforced effectively.

Authorities have blocked at various times politically "sensitive" web sites, including those of dissident groups and some major foreign news organizations, such as the Voice Of America, the Washington Post, the New York Times, and the British Broadcasting Corporation (BBC). Web pages run by Falun Gong followers were targeted specifically by the Government as part of its crackdown against the group that began in July. According to one Western press report, an attack against a foreign-based Falun Gong web site was traced back to government security departments. In October a Hong Kong-based human rights organization reported that Zhang Haitao, a computer engineer in Jilin who had designed and operated a Falun Gong website, was arrested on July 29. Zhang's website reportedly was shut down on July 24. In August the official press announced that police were using the Internet to wage "war on the web" against criminals, reportedly employing the Internet to apprehend criminals. Nonetheless, a number of human rights web pages continue to be accessible, including that of the Tibet government-in-exile. The Government's efforts to block content and control usage have had only limited success because sophisticated users can bypass site blocking, and, more importantly, the number of Internet sites that provide outside information and news is growing so rapidly. In October new rules restricted Chinese news sites from creating links to foreign news sites. The links disappeared temporarily, but were back in December. Further, censorship of the Internet appears to be applied inconsistently, and some Internet service providers practice self-censorship.

E-mail and e-mail publications are more difficult to block, although the Government attempts to do so by at times blocking all e-mail from overseas Internet service providers used by dissident groups. The VOA Chinese-language e-mail news server was blocked beginning in April, except for a brief period in July. There also have been reports that the Government is trying to develop an e-mail filtration system to block antigovernment messages from entering the country; a project on such a system at Shenzhen University in Guangdong reportedly is sponsored by the Ministry of Education. Human Rights Watch reports that in May the Ministry of Labor and Social Security (MOLSS) installed monitoring devices at the facilities of Internet service providers that can track individual e-mail accounts. The authorities also target some e-mail users and read their e-mail. Dissident groups abroad use e-mail to send publications and disseminate information to readers in China, and a small but growing number of activists within the country communicate this way as well.

An e-mail magazine called VIP Reference News publishes articles mainly from overseas sources on many news stories not covered by the official media. In September Qi Yanchen of Hebei was arrested, most likely for having contact with VIP Reference News; his computer, fax, and notes were allegedly confiscated. At least one dissident has set up his own web site. Some dissident groups, including the China Democracy Party, have established web sites based overseas. When a dissident is harassed or detained, activists using e-mail, faxes, telephones, and pagers can spread the word quickly to colleagues around the country and to the international community.

There is no effective enforcement of 1997 State Council regulations requiring those involved in international networking to apply for licenses and provide details regarding the scope and nature of their activities. The State Council also promulgated a comprehensive list of prohibited Internet activities, including using the Internet to "incite the overthrow of the Government or the Socialist system" and "incite division of the country, harming national unification." The regulations, which came into effect in December 1997, provide for fines and other unspecified punishments to deal with violators. Shanghai businessman Lin Hai, convicted in January of trying to undermine state power for providing VIP Reference with some 30,000 e-mail addresses, was released in September, 6 months before the end of his term. The authorities continue to jam VOA broadcasts on an ad hoc basis, but the effectiveness of this interference varies considerably by region, with audible signals of the VOA and other short-wave broadcasters reaching most parts of the country (see Section 2.a.). Dissidents and average citizens in Beijing report varying degrees of difficulty in picking up VOA, but VOA believes that these reception problems are mainly technical and not due to intentional Government interference. Government jamming of Radio Free Asia (RFA) appears to be more frequent and effective (see Section 2.a.). In the absence of an independent press, overseas broadcasts such as VOA, BBC, RFA, and Radio France International have a large audience, including activists, ordinary citizens, and even government officials. Che Hongniang, a dissident in Jinan, was sentenced to reeducation, in part for two letters he wrote to the Hong Kong office of VOA.

The Government continued to implement comprehensive and often intrusive family planning policies. The State Family Planning Commission (SFPC) formulates and implements policies with assistance from the Family Planning Association, which has 83 million members in 1.02 million branches nationwide. Officials have predicted that the population will reach almost 1.6 billion in the year 2044 if current birth rates continue. Most Chinese demographers estimate fertility at 2.1 births per woman (although the official figure is 1.8)—indicating that the "one-child policy" is not applied uniformly to Chinese couples. Couples in urban areas are affected most by family planning guidelines, seldom receiving permission to have more than one child, although urban couples who themselves were only children may have two children. In general economic development—as well as factors such as small houses and high education expenses—in major urban centers has reached a level where couples often voluntarily limit their families to one child. There were signs that, due to the success of the one-child policy in urban areas, the Government was beginning to relax its policies in the cities. In May the official press reported that although couples in Beijing were still limited to one child, effective October 1 they were no longer required to obtain a family planning certificate before having their child. At year's end, the effect of this change was unknown. Unmarried women cannot get permission to have a child.

Outside the cities, exceptions to the "one-child policy" are becoming the norm. The average number of children per family in rural areas, where 70 percent of citizens still live, is slightly over two. Although rules can vary somewhat by province, in rural areas, couples generally are allowed to have a second child if the first is a girl, an exception that takes into account both the demands of farm labor and the traditional preference for boys. Families whose first child is disabled also are allowed to have another child. Ethnic minorities, such as Muslim Uighurs and Tibetans, are subject to less stringent population controls. Minorities in some rural areas are permitted to have as many as four children, but increasingly, authorities are pressuring minorities to limit births. Amnesty International reports that while members of the Uighur minority in Xinjiang are allowed to have 2 children in urban areas and 3 in rural areas, there has in fact been pressure for them to have only one. In remote areas, such as rural Tibet, there are no effective limits, but Tibetan government employees and Party members are encouraged to have only one child (see Section 5).

Population control policy relies on education, propaganda, and economic incentives, as well as on more coercive measures, including psychological pressure and economic penalties. The national family planning policy is implemented through

provincial and local regulations. According to local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine loop or implant. The regulations further require that women who use an intrauterine device undergo quarterly exams to ensure that it remains properly in place. If a couple has two children, those regulations require that either the man or woman undergo sterilization. According to a credible report, there was a significant increase in the number of couples undergoing sterilization procedures after giving birth to two children in at least one inland province. Rewards for couples who adhere to family planning policies include monthly stipends and preferential medical and educational benefits. In June the press in Guangzhou reported that Yangchun city had issued "certificates of preferential treatment" to 15,000 one-child families, and that city authorities purchased "old-age insurance" for 6,230 families to reward them for having only one child. Disciplinary measures against those who violate policies can include fines (sometimes called a "fee for unplanned birth" or a "social compensation fee"), withholding of social services, demotion, and other administrative punishments that sometimes result in loss of employment. Fines for giving birth without authorization vary, but they can be a formidable disincentive. According to the State Family Planning Commission (SFPC) 1996 Family Planning Manual, over 24 million fines were assessed between 1985 and 1993 for children born outside family planning rules. In Quanzhou, Fujian province, the fine for violating birth quotas is three times a couple's annual salary, to be paid over a 12 to 13 year period. In Shanghai the fine is also three times the combined annual salary of the parents. In Zhejiang province, violators are assessed a fine of 20 percent of the parents' salary paid over 5 years. According to Guizhou provincial family planning regulations published in July 1998, families who exceed birth quotas are to be fined two to five times the per capita annual income of residents of their local area. The regulations also stipulate that government employees in Guizhou who have too many children face the loss of their jobs. In many provinces, penalties for excess births in an area also can be levied against local officials and the mother's work unit, thus creating multiple sources of pressure. In Guizhou, for example, regulations state that officials in an area in which birth targets are not met cannot be promoted in that year. Unpaid fines sometimes have resulted in confiscation or destruction of homes and personal property by local authorities. In June Anhui province promulgated amended family planning rules that stated that each couple "is encouraged" to have only one child, that second births are "strictly controlled," and that "unplanned births are forbidden." Childbearing-age couples are required periodically to take part in pregnancy tests and "practice effective contraceptive measures." Couples already having a child should adopt long-term birth control measures. In the cases of families that already have two children, one of the parents "is encouraged to undergo sterilization." In addition, the rules state that "unplanned pregnancies must be aborted immediately."

Central government policy formally prohibits the use of force to compel persons to submit to abortion or sterilization; however, intense pressure to meet family planning targets set by the Government has resulted in documented instances in which family planning officials have used coercion, including forced abortion and sterilization, to meet government goals. During an unauthorized pregnancy, a woman often is paid multiple visits by family planning workers and pressured to terminate the pregnancy. In 1998 a former Fujian province local family planning official stated that local authorities in a Fujian town systematically used coercive measures such as forced abortion and sterilization, detention, and the destruction of property to enforce birth quotas. After the Fujian allegations were made public, the SFPC sent a team led by a senior official to investigate the charges. In a meeting with foreign diplomats, the senior official did not deny that abuses may have occurred, but insisted that coercion was not the norm, nor government policy, nor sanctioned by central authorities in Beijing. There were reports that, after the central government's investigation, local officials in Fujian scaled back the intensity of their family planning enforcement efforts. The Government provided more information on cases of local officials who had been punished for carrying out coercive family planning measures, including to a delegation representing a foreign country's parliament. Senior officials have said repeatedly that the Government "made it a principle to ban coercion at any level." They acknowledge that problems persist and insist on the Government's determination to address such problems. The SFPC states that it has issued circulars nationwide prohibiting family planning officials from coercing women to undergo abortions or sterilization against their will. Under the State Compensation Law, citizens also can sue officials who exceed their authority in implementing family planning policy, and there are a few instances in which individuals have exercised this right.

Corruption related to family planning fines is a widespread problem. In March the press reported that one city in Henan province had punished 879 party members and government officials for corruption in family planning. One study reported in January that a survey of nine towns in Jiangsu province revealed that a total of $717,000 (5.907 million rmb) in "unplanned-birth fees" had been levied in 1997. The study reported that the collection of unfair and unregulated unplanned-birth fees "aroused the resentment of the masses."

In late 1998, the United Nations Population Fund (UNFPA) launched a 4-year pilot project in 32 counties to address family planning and reproductive health issues solely through the use of voluntary measures on an experimental basis, emphasizing education, improved reproductive health services, and economic development. The SFPC worked closely with the UNFPA to prepare informational materials and to provide training for officials and the general public in the project counties. In particular, in order to meet the conditions established by the UNFPA for the implementation of the program, the SFPC and the UNFPA jointly prepared a pamphlet for distribution to all households in the 32 project counties to inform them about the UNFPA program, including the requirement that birth quotas be eliminated in those counties. Although it is still too early for an overall assessment of this program, it is clear from visits to selected counties by foreign diplomats that progress in implementing the program has been mixed. Some counties have made appreciable progress in implementing the program, while others have made relatively little. Notably, some counties have informed the general public about the UNFPA program and have eliminated the system of strict, government-assigned birth quotas; other counties have not yet done so, or have only begun to do so. However, the Government has welcomed foreign delegations to inspect the UNFPA project counties. Although access to these areas has varied from province to province, foreign diplomats visited several counties during the year, and a group of foreign parliamentary staff inspected two counties, one in Guizhou province and another in Chongqing municipality, in September.

Regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the traditional preference for male children, particularly in rural areas, some families have used ultrasound to identify female fetuses and terminate pregnancies. Use of ultrasound for this purpose is prohibited specifically by the Maternal and Child Health Care Law, which came into effect in 1995 and calls for punishment of medical practitioners who violate the provision. According to the SFPC, a handful of doctors have been charged under this law. Government statistics put the national ratio of male to female births at 114 to 100; the World Health Organization estimates the ratio to be 117 to 100. The statistical norm is 106 male births to 100 female births. These skewed statistics reflect both the underreporting of female births so that parents can keep trying to conceive a boy, and the abuse of sonograms and the termination of pregnancies based on the sex of the fetus. Female infanticide, abandonment, or the neglect of baby girls that results in lower female survival rates are also factors. State-run media is paying increasing attention to unbalanced birth ratios, and the societal problems, such as trafficking in women, which they cause (see Section 6.f.). In the cities the traditional preference for sons is changing.

There reportedly have been instances in which pregnant prisoners in reeducation-through-labor camps were forced to submit to abortions (see Section 1.c.).

The Maternal and Child Health Care Law requires premarital and prenatal examinations to determine whether couples have acute infectious diseases or certain mental illnesses (not including mental retardation), or are at risk for passing on debilitating genetic diseases. The Ministry of Health implements the law, which mandates abortion or sterilization in some cases, based on medical advice. The law also provides for obtaining a second opinion and states that patients or their guardians must give written consent to such procedures (see Section 5). At least five provincial governments have implemented local regulations seeking to prevent persons with severe mental disabilities from having children. In August 1998 the Government issued an "explanation" to provincial governments clarifying that no sterilization of persons with genetic conditions could be performed without their signed consent.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution states that freedom of speech and of the press are fundamental rights to be enjoyed by all citizens; however, the Government restricts these rights in practice. The Government interprets the Communist Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government does not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenge Communist Party rule. The Party and Government continue to control many—and, on occasion,

all—print and broadcast media tightly and use them to propagate the current ideological line. There are more than 10,000 openly distributed publications, including 2,500 newspapers. All media employees are under explicit, public orders to follow CCP directives, and "guide public opinion" as directed by political authorities. Both formal and informal guidelines continue to require journalists to avoid coverage of many politically sensitive topics. Journalists also must not divulge "state secrets" in accordance with the State Security Law. These public orders, guidelines, and statutes greatly restrict the freedom of broadcast journalists and newspapers to report the news and lead to a high degree of self-censorship. Overall, during the year press freedom deteriorated further. During the early part of the year, newspaper closures or suspensions increased; efforts by the authorities to block the reception of foreign news also increased during the year, particularly prior to sensitive anniversaries.

More than in recent years, the press was exploited by the Government as an effective propaganda tool to disseminate an official line. For example, in its press coverage of NATO's action against Serbia, NATO was depicted as bent on using the conflict in Kosovo as an excuse to expand its influence. Casualties caused by NATO attacks on Serb forces received prominent coverage, but there was almost no mention of the plight of ethnic Albanian Kosovars. The Government's manipulation of the press to mold public opinion had violent results when demonstrators targeted foreign diplomatic facilities in Beijing after NATO's mistaken bombing of the Chinese embassy in Belgrade.

Journalists were given explicit instructions during the year to minimize coverage of negative issues and emphasize positive achievement in preparation for the October 1 celebration of the 50th anniversary of the founding of the PRC. The general worsening of the political atmosphere greatly increased the tendency of journalists, writers, and publishers to censor themselves.

In July and August, the Government mobilized the official media in a nationwide crackdown against the Falun Gong spiritual movement. Some citizens commented privately that the unrelenting diatribe against Falun Gong was reminiscent of Cultural Revolution era propaganda campaigns. Falun Gong was banned on July 22. For weeks anti-Falun Gong propaganda dominated the nightly news, which consisted almost solely of details of Falun Gong's alleged crimes and the effectiveness of the Government's campaign to crush the illegal group. Special programs were broadcast about Falun Gong's alleged "evil nature", including testimonials by people claiming to be former Falun Gong practitioners, who recounted how they had been duped by the "cult." At year's end, the campaign against the Falun Gong in the media continued, with articles appearing regularly in the media, though with far less frequency than at the campaign's height.

The Government strictly regulates the establishment and management of publications. As in previous years, the Government continued to close down publications and punish journalists for printing material deemed to be too sensitive. Newspaper editors may be suspended and sent to the Propaganda Bureau for "rectification", after which they can generally can return to work in the publishing industry. In the early part of the year, the Government began to tighten its control of the press. Liberal publications in particular were targeted. In January alone, the Guangzhou-Hong Kong Daily News reportedly was ordered by authorities to dismiss its management staff, after the newspaper challenged the official economic growth rate and mentioned the lack of accountability among the country's leaders; two Guangdong newspapers, the New Weekly and the Shenzhen Pictorial Journal, were suspended for mentioning the June 4, 1989 Tiananmen Square incident; and six Guangdong newspapers, including New Stage, Chic, and Street, were closed (at least one of these reportedly was closed for printing controversial articles). In March, the Government ordered the closure of a popular Beijing-based intellectual magazine, Fangfa, because it continued to publish articles calling for political reform. The Government stopped issuing permits for new magazines or newspapers in March, and in September ordered the closure or merger of many smaller periodicals, ostensibly in an effort to reduce the number of unprofitable publications, but also to exercise more effective control over the content of existing publications. Some publishers found ways to circumvent the restrictions and publish new newspapers or magazines, often as weekend or monthly supplements to already existing publications. In April, the Hong Kong-based newspaper Ming Pao reported that the Communist Party committee in southern Guangdong had banned all articles about the events of June 4, 1989 and the improper use of material from the Internet. In May the Government ordered the recall and destruction of thousands of copies of the journal "Beijing Literature" because it advocated democratic reform. In early June, the editorial pages of international newspapers were removed before delivery. In September an edition of Time magazine that commemorated the country's 50th anniver-

sary was banned and pulled from the shelves; it contained articles by exiled dissidents Wei Jingsheng and Wang Dan. Editions of Asiaweek and Newsweek editions also were banned around that time. With the Government's consent and even open support, the press continued to publish stories related to official corruption, official misconduct and gross abuses, particularly by law enforcement officials, citizens' rights, and legal reform. In January the state-run media reported that the former chief and deputy of the Anticorruption Bureau of the Supreme People's Procuratorate had been dismissed for corruption. The press published numerous articles and interviews with senior officials, such as Supreme People's Court President Xiao Yang, calling for further reform and improvement of the judicial system and an end to corruption in the courts.

Hong Kong and foreign journalists were subjected to harassment and detention during the year. According to reports, Gao Shaokun, a policeman, was sentenced to 2 years in prison for telling the foreign press about a peasant protest in March. In April journalist Ma Xiaoming was arrested in Shaanxi province while trying to report on a tax protest by farmers. In mid-June, 10 Hong Kong journalists were detained in Beijing. They were covering the visit of three Federation of Students representatives to petition the Standing Committee of the People's National Congress regarding its interpretation of the Basic Law. The journalists' film and videotape reportedly were seized by the authorities, and they reportedly were required to write letters stating that they understood the rules for reporting on the mainland, including a ban on reporting near Tiananmen Square, before their release.

A combination of government repression and rising nationalism created a tense political atmosphere that took its toll on the relatively open debate among intellectuals—often at public seminars and political salons— that the government had tolerated for most of 1997 and 1998. CDU founder Peng Ming remained in a labor camp serving an 18-month sentence. The CDU's open discussion of economic, political, and social issues ended due to government pressure. In early March, a weekly book discussion group at a popular independently owned bookstore was terminated by the owners after they were told that they would need police permission to hold gatherings in the store in the future. On May 4, the authorities prevented 30 dissidents from holding a seminar to discuss the spirit of May 4 in Changchun. Intellectuals, along with others, were required to attend political study sessions that propagated the Government's views on the Falun Gong, NATO action in Kosovo, and the "Three Stresses" campaign, which emphasized loyalty to the CCP. The few intellectual groups that continued to meet kept a far lower profile than in the previous 2 years, when the Government tolerated a greater range of debate, or stuck to less controversial subjects for discussion. Many writers chose to defer publication of books on sensitive topics such as political reform, in the hope that the political climate would relax at some future date.

During the year, there was an increase in Government censorship of the publishing industry. The publishing industry consists of three kinds of book businesses: Roughly 500 government-sanctioned publishing houses, smaller independent publishers that cooperate with official publishing houses to put out more daring publications, and an underground press. The 500 government-approved publishing houses are the only organizations legally permitted to print books. The Government exerts control by issuing a limited number of publishing licenses, which are required for each edition of a book. A party member at each publishing house monitors the content of the house's publications, using the allocation of promotions, cars, travel and other perquisites to encourage editors to exercise "proper" judgement about publications. Overt intervention by the State Publications Administration and Party Propaganda Bureau is strictly post-publication. Independent publishers take advantage of a loophole in the law to sign contracts with government publishing houses to publish politically sensitive works. These works generally are not subjected to the same multi-layered review process as official publications of the publishing houses. Underground printing houses, which are growing in number, publish the books that are the most popular among the public. These underground printing houses are the main target of a campaign initiated at the end of 1998 to stop all illegal publications (including pornography and pirated computer software and audiovisual products), which has restricted the availability of politically sensitive books. Many street vendors who sell sensitive works apparently have a tacit understanding with the authorities that they will look the other way when the vendors sell other illegal publications if the vendors stop selling politically sensitive books. However, in March the press reported that two street vendors were sentenced to 2½ to 3 years in prison for selling illegal political publications. Many illegal works are printed by police or military-affiliated organizations, which often are not targeted for investigation. While governmental efforts have made it somewhat more difficult to find these books, they are still available. Pirated software, music compact discs, and VCD's are

widely and openly available. On February 4 author Wang Lixiong was detained in Xinjiang while collecting information for a book on the region, and reportedly was released on March 1 without charge (see Section 1.d.). There were reports early in the year that several politically sensitive books were ordered off bookstore shelves, including "Political China," "Selected Writings on Liberation," and "Shouts." However, the enforcement of the order appeared to be uneven, as these books remained on bookstore shelves. On May 11, Liu Xianli reportedly was sentenced to a 4-year prison term for attempting to publish a work about well-known dissidents.

In December 1998, a new interpretation of the Publications Law by the Supreme People's Court took effect. The majority of provisions in the new regulations concern intellectual property rights violations and the publication of pornographic material. However, one provision specifically criminalizes under the State Security Law the "publication, distribution, or broadcast" of material containing content intended to "incite national division, damage national unity, incite subversion of national authority, or incite the overthrow of the socialist system."

In the first several months of the year, some dissidents remained active despite the Government's preoccupation with stability. In March Liaoning dissident Jiang Lijun organized a petition signed by 44 dissidents from three northeastern provinces calling on the National People's Congress (NPC) to abolish the system of reeducation-through-labor. In the same month, seven branches of the CDP in Guizhou province sent an open letter to the NPC calling on the parliamentary body to reassess the Tiananmen massacre. Ding Zilin led a group of 20 relatives of Tiananmen victims in writing open letters to the President and Premier demanding a full accounting of the Tiananmen tragedy. Also in March, Beijing CDP member Gao Hongming established a group to demand government compensation for Tiananmen victims and their families. In April 82 dissidents from 6 provinces signed a petition calling for the release of Xuzhou-based dissidents Wang Yingzheng and Guo Shaokun. Bao Tong, the most senior government official jailed after Tiananmen, sent a letter in March to government and party leaders calling for a reassessment of the 1989 events.

The Government's crackdown on dissent, particularly organized dissent, begun in 1998, continued. By the middle of the year a series of politically sensitive events and anniversaries—the May 8 embassy bombing in Belgrade, the June 4 10th anniversary of the Tiananmen massacre, and the July crackdown against Falun Gong—were the background to the Government's adoption of a policy of near-zero tolerance of dissent. As scores of activists around the country were arrested and leading dissidents sentenced to lengthy prison terms (see Sections 1.d. and 1.e.), almost all dissident activity effectively was halted. Open calls for government action became for the most part limited to relatives of imprisoned dissidents who called for their release. In July the sister of jailed activist An Jun wrote an open letter to U.N. Secretary General Kofi Annan seeking assistance in persuading the Government to free her brother. The wife of Wang Zechen wrote in June to President Jiang Zemin pleading for her husband's release.

The Government kept tight control over the foreign press during the year and continued efforts to prevent its "interference" in internal affairs. The authorities continued to jam Chinese- and Tibetan-language broadcasts of Voice of America and Radio Free Asia, particularly the latter, with varying degrees of success. In May an official circular ordered the dismantlement of all satellite receivers unless the Government granted specific permission; hotels, tourist sites, and compounds for foreigners were among those to be allowed to have receivers. In Fujian on May 6, hundreds of privately owned satellite dishes and decoder boxes were confiscated. In May the press reported that Shanghai authorities had issued a notice that restricted pager services and Internet access providers, among others, from transmitting "political information" or information that could harm social stability. Access of the foreign community to Cable News Network (CNN) was cut (except at diplomatic compounds) on June 1, and remained inaccessible until June 8. In October several foreign journalists were questioned by the authorities after attending a clandestine press conference given by members of Falun Gong; their press credentials and residence permits were confiscated temporarily (see Section 2.c.). Also in October, a Japanese journalist was expelled from the country; in November a German journalist was expelled, allegedly for possessing documents containing state secrets. In February dissident journalist Gao Yu was released on medical parole, after spending over 5 years in prison, reportedly on the condition that she not speak to foreign journalists.

Authorities have blocked at various times politically "sensitive" web sites, including those of dissident groups and some major foreign news organizations (see Section 1.f.).

Despite tighter government control of the press, information about the nation and the world continued to flow into the country at an increasing rate. Residents in

Guangdong and other southern provinces have wide access to Hong Kong television programs and newspapers. Throughout the country, a lively tabloid sector is flourishing. Radio talk shows remain popular, and, while avoiding the most politically sensitive subjects, they provide opportunities for citizens to air grievances about public issues. Despite licensing requirements and other restrictions, a small but rapidly growing segment of the population has access to the Internet. Most of the population has the means to own and use short-wave radios, and the Government does not place restrictions on their use.

The Government continues to impose ideological controls on political discourse at colleges, universities, and research institutes. Scholars and researchers report varying degrees of control regarding the issues that they may examine and the conclusions that they may draw. Censorship of written material comes at the time of publication, or when intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercise self-censorship. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate.

Visiting academic researcher and librarian Song Yongyi was detained on August 7 in Beijing. After months of detention and interrogation, he was charged on December 24 with "the purchase and illegal provision of intelligence to persons outside China." Song, an expert on the Cultural Revolution, traveled to the country to collect materials such as newspaper articles, books, and other publicly available information on that period, as he had on several previous occasions (see Section 2.a.). This detention raised concerns about a possible chilling effect on other Chinese researchers, whether resident in the country or abroad. There also was concern that collaborative research with foreigners may become more difficult.

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

At times police used force against demonstrators. In January the Western press reported that one protester was killed and more than 100 others injured when police dispersed some 3,000 villagers in Hunan province protesting corrupt government and high taxes. In March police in Suining, Sichuan province reportedly beat demonstrators to disperse a 3-day protest by machinery factory workers over unpaid benefits. In April two groups of CDP members in Hangzhou attempted to lay wreaths for victims of the Tiananmen massacre in two different parks. Police reportedly dispersed one group, and arrested three participants. The other group was able to hold its vigil. In October a violent protest reportedly broke out in Panzhihua in Sichuan province after police refused to help a robbery victim who subsequently was knifed by his attackers. Many of those protesting were injured in clashes with the police; 10 persons reportedly were arrested. In late October, police in Ganzi township, Ganzi Tibetan Autonomous Region, western Sichuan reportedly clashed with up to 3,000 ethnic Tibetans protesting the detention of 3 monks, including the respected Buddhist teacher Sonam Phuntsok, from nearby Dargye monastery a few days before (see Section 2.c.). The police reportedly fired upon the crowd, injuring some protestors. It is unknown whether any persons were killed. Up to 80 ethnic Tibetans reportedly were detained in connection with the incident.

Despite restrictions in Beijing and elsewhere, the number of demonstrations nationwide continued to grow, especially those related to economic grievances and official corruption. Demonstrations related to family planning continued. Many protests were handled with restraint by the authorities. In March the victim of an alleged fraudulent housing project staged a lone protest in front of the National People's Congress, which was meeting at the time. Police reportedly removed her from the front of the parliament building and told her to hand in her petition to the complaints section of the NPC. Also in March some 400 laid-off workers in Xian reportedly staged a daylong demonstration, until a provincial vice governor arrived at the scene to hear their concerns and convince them to disperse peacefully. On April 25, a demonstration by some 10,000 Falun Gong members in front of the Government's leadership compound in Beijing caught authorities by surprise; it continued for more than 12 hours before the protesters were convinced to disperse. In July the Government banned the Falun Gong movement; however, many of its members continued to hold or attempt to hold peaceful demonstrations. Authorities stated that some 35,000 confrontations between police and Falun Gong practitioners took place between July 22 and October 30; (the Government later clarified this with the statement that the figure represented the total number of confrontations that police had had with adherents of Falun Gong, pointing out that many persons had multiple

encounters with police). Many practitioners were detained while attempting to protest; police reportedly used force in some cases (see Section 2.c.). In June one human rights group reported that about 150 peasants gathered in front of the Fuzhou municipal government office to protest corruption, blocking traffic in the process. Some 50 police reportedly took the demonstrators to the complaints bureau of the provincial government, where officials held talks with them. The demonstrators dispersed peacefully that afternoon.

The Constitution provides for freedom of association; however, the Government restricts this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevent the formation of truly autonomous political, human rights, religious, labor, and youth organizations that directly challenge government authority. According to Human Rights Watch, in November An Jun, an attorney who formed an organization called "Corruption Watch" to expose local corruption, was put on trial. No verdict had been announced by year's end. An had attempted to register the organization legally with the Ministry of Civil Affairs, but it was banned.

There are no laws or regulations that specifically govern the formation of political parties. The government moved decisively, using detentions and prison terms, to eliminate the China Democracy Party, which activists around the country had tried since 1998 to organize into the country's first opposition political party (see Sections 1.e. and 3).

In 1998 there were 1,500 national-level, quasi-nongovernmental organizations, and 200,000 social organizations and 700,000 nonprofit organizations registered with the Ministry of Civil Affairs. Although these organizations all came under some degree of government control, they were able to develop their own agendas. Many had support from foreign secular and religious NGO's. Some sought advocacy roles in less controversial public interest areas such as women's issues, the environment, and consumer rights. In October 1998 the Government promulgated a revised and more complete set of regulations on the registration of NGO's. The new rules require that all NGO's must reregister under the revised regulations, a process that may be used to further restrict the numbers and types of NGO's. To register, local-level groups must have an official office and at least $3,600 (30,000 rmb) in funds. National-level groups must have at least $12,000 (100,000 rmb). Applications must be vetted by the Government, which has 2 months in which to grant approval. Once established, groups are required to submit to regular oversight and "obey the constitution, laws, and national policies;" they must not "violate the four cardinal principles, damage national unity, or upset ethnic harmony." Violators (groups that disobey guidelines or unregistered groups that continue to operate) may face administrative punishment or criminal charges. It is difficult to estimate how many groups may have been discouraged from organizing NGO's due to the new regulations. However, preexisting groups report little or no additional interference by the Government since the new regulations came into effect.

c. *Freedom of Religion*.—The Constitution provides for freedom of religious belief; however, the Government seeks to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. During the year, some unregistered religious groups were subjected to increased restrictions—and, in some cases, intimidation, harassment, and detention—although the degree of restrictions varied significantly from region to region, and the number of religious adherents, in both registered and unregistered churches, continued to grow rapidly. Over the past 20 years, there has been a loosening of government controls and a resurgence of religious activity. According to an official government white paper there are over 200 million religious adherents with a great variety of beliefs and practices. Most profess eastern faiths but millions adhere to Christianity. The Criminal Law states that government officials who deprive citizens of religious freedom may be sentenced to up to 2 years in prison in serious cases. However, there are no known cases of persons being punished under this statute.

The State Council's Religious Affairs Bureau (RAB) is responsible for monitoring and judging the legitimacy of religious activity. The RAB and the Communist Party United Front Work Department (UFWD), both of which are staffed by officials who are rarely religious adherents, provide policy "guidance and supervision" over implementation of government regulations on religious activity, as well as the role of foreigners in religious activity.

The Government continued, and, in some areas, intensified a national campaign to enforce 1994 State Council regulations and subsequent provincial regulations that require all places of worship to register with government religious affairs bu-

reaus and to come under the supervision of official "patriotic" religious organizations. The Government officially permits only those Christian churches affiliated with either the Catholic Patriotic Association/Catholic Bishops Conference or the (Protestant) Three-Self Patriotic Movement/Chinese Christian Council to operate openly. There are six requirements for the registration and establishment of venues for religious activity: Possession of a meeting place; citizens who are religious believers and who regularly take part in religious activity; qualified leaders and an organized governing board; a minimum number of followers; a set of operating rules; and a legal source of income. There are five officially recognized religions—Catholicism, Protestantism, Buddhism, Islam, and Taoism.

At the end of 1997, the Government reported that there were more than 85,000 approved venues for religious activities. Some groups registered voluntarily, some registered under pressure, while authorities refused to register others. Unofficial groups claimed that authorities often refuse them registration without explanation. The Government contends that these refusals were mainly the result of inadequate facilities and meeting spaces. Many religious groups have been reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they reveal, as required, the names and addresses of church leaders and members. In some areas, efforts to register unauthorized groups are carried out by religious leaders and civil affairs officials. In other regions, registration is performed by police and RAB officials, concurrently with other law enforcement actions. Police closed many "underground" mosques, temples, seminaries, Catholic churches and Protestant "house churches," many with significant memberships, properties, financial resources, and networks. Some were destroyed. Leaders of unauthorized groups are often the targets of harassment, interrogations, detention, and physical abuse.

In certain regions, government supervision of religious activity is minimal, although local implementing regulations in other places, such Zhejiang, Guangxi, Shanghai, and Chongqing call for strict government oversight. In some parts of the country, registered and unregistered churches are treated similarly by authorities, existing openly side by side, and many congregants worship in both types of churches. In other areas, particularly where considerable unofficial and unregistered religious activity takes place, local regulations call for strict government oversight of religion and authorities have cracked down on unregistered churches and their members. The relationship between unregistered and registered churches can be tense. Some house church members maintained that authorities had continued efforts during the year to register house churches and to harass those who resist, especially in Henan and Shandong provinces. Throughout the year, the Government moved swiftly against houses of worship outside its control that grew too large or espoused beliefs that it considers threatening to "state security."

The law does not prohibit religious believers from holding public office; however, most influential positions in government are reserved for party members, and Communist Party officials state that party membership and religious belief are incompatible. Party membership also is required for almost all high level positions in government and in state-owned businesses and organizations. The Communist Party reportedly issued a circular in 1997 ordering party members not to adhere to religious beliefs. This followed a 1995 document circulated to party organizations at the provincial level ordering the expulsion of party members who belong to religious organizations, whether open or clandestine. There were reports that the Government issued a circular early in the year to remind Party cadres that religion was incompatible with Party membership, a theme reflected in authoritative media during the summer. Muslims allegedly have been fired from government posts for praying during working hours. The "Routine Service Regulations" of the People's Liberation Army (PLA) state explicitly that servicemen "may not take part in religious or superstitious activities." There is no available evidence indicating whether party or PLA military personnel were expelled under such regulations. According to government officials, 20 to 25 percent of Communist Party officials engage in some kind of religious activity in certain localities. Most officials who practice a religion are Buddhist or practice a folk religion. Religious figures, who are not members of the CCP, are included in national and local government organizations, usually to represent their constituency on cultural and educational matters. The National People's Congress (NPC) includes several religious leaders, including Pagbalha Geleg Namgyai, a Tibetan "living Buddha," who is a vice chairman of the Standing Committee of the NPC. Religious groups also are represented in the Chinese People's Political Consultative Conference, a forum for "multiparty" cooperation and consultation led by the Chinese Communist Party, which advises the Government on policy.

The authorities permit officially sanctioned religious organizations to maintain international contacts that do not entail "foreign control." What constitutes "control" is not defined. Regulations enacted in 1994 codified many existing rules involving foreigners, including a ban on proselytizing by foreigners, but for the most part allow foreign nationals to preach to foreigners, bring in religious materials for their own use, and preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Foreigners are not permitted to conduct missionary activities, but foreign Christians currently are teaching English and other languages on college campuses with minimum interference from authorities as long as their proselytizing is low key. There were reports that early in the year the Government issued a circular to tighten control over foreign missionary activity in the country, and that foreign missionaries were detained in Fujian province in March for engaging in missionary activities with an unregistered church.

According to an official government white paper, there are over 200 million religious adherents, 3,000 religious organizations, 300,000 clergy, and 74 religious colleges. Official religious organizations administer local Bible schools, 54 Catholic and Protestant seminaries, 9 institutes to train imams and Islamic scholars, and institutes to train Buddhist monks. Students who attend these institutes must demonstrate "political reliability" and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. In May the Nanjing Union Theological seminary reportedly ordered three students to leave the seminary "voluntarily" because they opposed curriculum changes. The three students, who were nearing graduation, initially refused to accept this expulsion, but later left voluntarily in protest. The Government permitted some Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs is provided by foreign organizations. Both official and unofficial Christian churches have problems training adequate numbers of clergy to meet the needs of their growing congregations. However, due to government prohibitions, unofficial churches have particularly significant problems training clergy or sending students to study overseas, and many clergy receive only limited and inadequate preparation.

Approximately 8 percent of the population are Buddhist, approximately 1.4 percent are Muslim, an estimated 0.4 percent belong to the official patriotic Catholic Church, an estimated 0.4 to 0.8 percent belong to the unofficial Vatican-affiliated Catholic Church, an estimated 0.08 percent to 1.2 percent are registered Protestants, and perhaps 2.4 to 6.5 percent worship in house churches that are independent of government control. There are no available estimates of the number of Taoists. However, according to a 1997 government publication, there are over 10,000 Taoist monks and nuns and over 1,000 Taoist temples.

The traditional folk religion (worship of local gods, heroes, and ancestors) of 75 percent of the population has revived in recent years and is tolerated to varying degrees as a loose affiliate of Taoism, or as an ethnic minority cultural practice; however, folk religion has been labeled as "feudal superstition" and local authorities have destroyed thousands of local shrines.

Buddhists make up the largest body of organized religious believers. The Government estimates that there are more than 100 million Buddhists, most of whom are from the dominant Han ethnic group. However, it is difficult to estimate accurately the number of Buddhists because they do not have congregational memberships and often do not participate in public ceremonies. The Government reports that there are 13,000 Buddhist temples and monasteries and more than 200,000 nuns and monks. In some areas, local governments enforced strictly regulations on places of worship, particularly on illegally constructed Buddhist temples and shrines. During a May 1998 conference in Hunan on provincial religious work, a senior provincial party official said that goals for the coming year were to "Tighten management of places of religious activities, properly handle issues concerning the indiscriminate establishment of temples and the setting up of outdoor Buddha statues, and crack down on heretical religious organizations and illegal religious activities."

Tibetan Buddhists outside of the Tibet Autonomous Region (TAR) seem to have fewer restrictions than those in the TAR, but they still face significant restrictions and are subject to patriotic education campaigns. In June two Tibetan Buddhist monks reportedly were arrested at Ganzi monastery, Ganzi Tibetan Autonomous Region in western Sichuan (Tibetan Kham); they were charged with handing out leaflets supporting Tibetan independence. On October 24, three Tibetan Buddhist monks, Sonam Phuntsok, Agya Tsering, and Sonam, were arrested at Dargye monastery in western Sichuan province. The three reportedly were suspected of being in contact with exile groups, and of supporting the Dalai Lama. These arrests reportedly were linked to the bombing of a medical clinic on October 7. Their detention sparked a large local protest later in the month, during which police reportedly

fired into the crowd and injured demonstrators (see Section 2.b.). (A discussion of government restrictions on Tibetan Buddhism in the TAR can be found in the Tibet addendum to this report.)

In the past, official tolerance for religions considered to be traditionally Chinese, such as Buddhism and Taoism, has been greater than that for Christianity. As these non-Western faiths have grown rapidly in recent years, there are signs of greater Government concern and new restrictions, especially on syncretic sects.

According to government figures, there are 20 million Muslims, 35,000 Islamic places of worship, and more than 45,000 imams. In some areas where ethnic unrest has occurred, particularly among Central Asian Muslims (and especially the Uighurs) in Xinjiang, officials continue to restrict the building of mosques and the religious education of youths under the age of 18. After a series of violent incidents in Xinjiang in 1997, police cracked down on Muslim religious activity and places of worship, and local authorities issued regulations further restricting religious activities and teaching. During the year, several Islamic fundamentalists from other countries were expelled for proselytizing.

Restrictions on religious practices in Xinjiang were tight, and the Government dealt harshly with religious adherents accused of separatist activities. Some young Uighur Muslims are being trained outside of the country in Muslim religious schools. Amnesty International reported that a group of four men and four children, all of whom were Muslim Uighurs from Xinjiang, were returned forcibly to China from Kazakhstan in late 1998. Two of the men, Yasim Karim and Abla Karim, are mullahs. Both men reportedly refused to acknowledge publicly the merits of government policies in their mosques. The children allegedly were released after 18 days, but the four men were believed to remain in detention in Kashgar as of January. Amnesty International reported in January that Ibrahim Ismael was executed in Ili prefecture, Xinjiang. Ismael was a religious scholar known for holding private religious classes for Muslim youth in his home in Memyuzi village, near Gulja, Ili prefecture, Xinjiang. He had been arrested in 1997. Officials stated that he had joined a reactionary organization in 1991, participated in illegal religious activities, helped to organize protests in 1995 and 1997, and helped to organize an attack in 1997 in which five persons died (see Section 5). Three Uighur men from Xinjiang were repatriated forcibly to China on February 11, after having been detained since they were apprehended crossing the border into Kazakhstan in August 1998. The three, Hemit Memet, Kasim Mahpir, and Ilyas Zordun, fled Xinjiang after wanted posters went up listing them as separatists. In July a court in Nonshishi reportedly sentenced 18 men to prison terms ranging from 10 to 15 years for, among other things, allegedly destroying the Party's religious policy. In April 1998, the Urumqi Evening news reported that 56 mosques in Egarqi had been searched by police. In May 1998, a report on Xinjiang People's Radio quoted a senior provincial official accusing separatists of having "carried out subversion and sabotage in the region in the name of religious activities." The official said that the Government must "resolutely oppose illegal religious activities" and that religious practice must "uphold the dignity of laws, the interest of the people, the unification of the motherland, and the unity of the nationalities. Any violation will not be tolerated by the people's democratic dictatorship."

The Government permits, and in some cases subsidizes, Muslim citizens who make the hajj (pilgrimage) to Mecca. According to government statistics, more than 45,000 Muslims have made the pilgrimage in recent years—5,000 in 1998. However, government sensitivity to concerns of the Muslim community is limited. In 1998 a Qing dynasty mosque, which was the center of Muslim life in Chengdu, was destroyed in the city's Muslim quarter to make way for a boulevard near an expanded city square, despite strong opposition from the city's Muslim population. The construction of a new mosque over a complex of retail establishments further offended the community. At year's end, no construction upon the site of the Qing dynasty mosque had yet occurred; the imam, or leader, of the mosque that was demolished was ordered to leave Chengdu and has been forbidden to engage in religious work. The new officially sanctioned mosque over the retail complex has been attended only lightly since its opening.

The unofficial, Vatican-affiliated Catholic Church claims a membership far larger than the 5 million persons registered with the official Catholic Church. Precise figures are difficult to determine, but Vatican officials have estimated that there are as many as 10 million adherents. According to official figures, the government-approved Catholic Church has 69 bishops, 5,000 clergy and about 5,000 churches and meeting houses. There are 60,000 baptisms each year. The Government so far has refused to establish diplomatic relations with the Holy See, and there is no Vatican representative in the country. Some bishops in the official Catholic Church are not recognized by Rome, although many have been recognized unofficially. The Govern-

ment's refusal to allow the official Catholic church to recognize the authority of the Papacy in matters of faith and morals has led many Catholics to refuse to join the official Catholic church on the grounds that this refusal denies one of the fundamental tenets of their faith.

The Government maintains that there are between 10 and 15 million registered Protestants, 18,000 clergy, over 12,000 churches, and some 25,000 meeting places. According to foreign experts, perhaps 30 million persons worship in house churches that are independent of government control, although estimates by some house church groups range as high as 80 million.

The growth of unofficial churches has caused concern among many government and Communist Party officials who perceive unregulated religious gatherings as a potential challenge to their authority, a threat to public order, and an alternative to Socialist thought. Authorities in some areas continued a concerted effort to crack down on the activities of unapproved Catholic and Protestant churches. In some areas, security authorities used threats, demolition of unregistered property, extortion of "fines," interrogation, detention (sometimes prolonged), and at times beatings and torture to harass Christian religious figures and followers. There also was a report in the Western press that authorities refused without explanation to issue a birth certificate for a child whose parents are active in the house church movement; without a birth certificate, a child cannot be registered, attend school or, later, work. Implementing regulations, provincial work reports, and other government and party documents continued to exhort officials to enforce vigorously government policy regarding unregistered churches. In March 1998, the Guangzhou Municipal People's Congress passed highly restrictive religious regulations. Zhejiang province also promulgated new religious affairs regulations that stipulated that "illegal" property and income would be confiscated from those who: (1) Preside over or organize religious activities at places other than those for religious activities or at places not approved by a religious affairs department; (2) do missionary work outside the premises of a place of religious activity; and (3) sponsor religious training activities without obtaining the approval of a religious affairs department at or above the county level. Regulations in Guangxi, Shanghai, and Chongqing also call for strict government oversight. In particular, authorities targeted unofficial religious groups in Beijing and the provinces of Henan and Shandong, where there are rapidly growing numbers of unregistered Protestants, and in Hebei, a center of unregistered Catholics. However, during the year there were reports that small family churches, generally made up of family members and friends, which conduct activities similar to those of home Bible study groups, may be tolerated by the authorities as long as they remain small and unobtrusive. Family churches reportedly encounter difficulties when their memberships become too large, when they arrange for the use of facilities for the specific purpose of conducting religious activities, or when they forge links with other unregistered groups.

There were many religious detainees and prisoners. In some cases, public security officials have used prison or reform-through-education sentences to enforce regulations. Prominent Protestant house church leader Xu Yongze continues to serve a 3-year reform-through-labor sentence in Pingyuan prison in Henan for allegedly disturbing public order. The Government's 1997 White Paper on Religious Freedom stated that Xu had violated the law by promoting a cult, preaching that the Apocalypse was near, and asking worshipers to wail in public spaces for several consecutive days. Group members deny these charges. Xu's colleagues Qin Baocai and Mu Sheng continue to serve reeducation-through-labor sentences. In September 1998 a group of leaders from house church networks met in Henan and issued a public communique calling on the Government to enter into a dialog with unofficial Protestant churches, to release all religious prisoners, and to redefine what constitutes a "cult." Another communique set forth a common theological creed and a joint position on relations with the Government.

In Hebei, where perhaps half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have been known to force many underground priests and believers to make a choice of either joining the "patriotic" church or facing punishment such as fines, job loss, periodic detentions, and, in some cases, having their children barred from school. The whereabouts of Roman Catholic Bishop Su Zhimin, whose followers reported that he was arrested in 1997, remained unclear. Underground Catholic sources in Hebei claimed that he still was under detention, while the Government denied having taken "any coercive measures" against him. Reliable sources reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained under detention in Hebei. In January Father Hu Duo reportedly was detained in Hebei; and according to a Human Rights Watch report, authorities that month also reportedly detained, beat, and fined an unknown number of underground Catholics in

Baoding, Hebei. In May Auxiliary Bishop Yan Weiping was found dead in Beijing, shortly after being released from detention. The circumstances surrounding his death are unclear. On August 24, 40 house church members reportedly were arrested in Fengcheng, Henan. Among those detained in Henan in August was David Zhang (Rongliang) of the Fengcheng church group; he and other house church leaders detained in August were sentenced to 1 to 3 years in a reeducation-through-labor camp. Underground Catholic Bishop Joseph Fan Zhongliang of Shanghai remained under surveillance and often had his movements restricted.

In May 500 Christians reportedly occupied Xian's largest church to prevent its demolition after the local Three-Self Patriotic Movement authorities allegedly sold the church to a local property developer (although those authorities had used the proceeds to purchase a new, larger church in a distant suburb). The Hong Kong press reported that the Guangdong provincial government had issued a circular ordering authorities to increase the monitoring of Christian and Muslim activities. In April Public Security personnel reportedly raided a house church service in Henan and detained 25 worshippers. There were reports that as many as 48 Christians, including Catholics and Protestants, were arrested in Henan in January. On August 18, eight house church leaders—Zhao Dexin, Yang Xian, Miao Hailin, Chen Zide, Li Wen, Han Shaorong, and two others—reportedly were arrested in Henan. On the same day in October, police disrupted services at two of Guangzhou's most prominent house churches—those of pastors Samuel Lamb and Li Dexian. Li and his wife, along with an Australian missionary, were detained for several hours, and Li stated that his church was ransacked by the police. Li also has been detained on other occasions and reports that in some instances he was beaten. Bibles also were confiscated from his congregation and members of the congregation reportedly were threatened. Roman Catholic Bishop Zeng Jingmu, released from a labor camp in 1998, reportedly remains under house arrest.

In some regions, coexistence and cooperation between official and unofficial churches, both Catholic and Protestant, is close enough to blur the line between the two. However, in some areas relations between the two churches remain hostile. In September police, allegedly at the instigation of the local official Catholic church in Wenzhou, instructed 12 underground Catholic church leaders—including Bishop Lin Xili, Chen Nailiang, and Wang Zhongfa—to go to a hotel, where they were pressured to join the official Catholic church. There also are reports of divisions within both the official Protestant church and the house church movement over issues of doctrine; in both the official and unofficial Protestant churches, there are groups with conservative views and groups with more unorthodox views. In some areas there are reports of harassment of churches by local RAB officials which is attributed, at least in part, to financial issues. For example, since regulations require local authorities to provide land to church groups, some local officials may refuse to do so by denying registration, thus avoiding the requirement to provide land. However, official churches also may face harassment if local authorities wish to acquire the land on which a church is located. In addition to refusing to register churches, there also are reports that RAB officials have requested "donations" from churches in their jurisdictions as a means of raising extra revenue.

The increase in the number of Christians has resulted in a corresponding increase in the demand for Bibles. During the year the Government approved the printing of more than 3 million Bibles, and there currently are more than 22 million Bibles in print. One printing company that is a joint venture with an overseas Christian organization printed over 2.3 million Bibles during the year, including Bibles in Braille and minority dialects, such as Korean, Jingbo, Lisu, Lahu, Niao, and Yao. Although Bibles can be purchased at some bookstores, they are not readily available and cannot be ordered directly from publishing houses by individuals. However, they are available for purchase at most officially recognized churches, and many house church members buy their Bibles from churches without incident. Nonetheless, some underground Christians hesitate to buy Bibles at official churches because such transactions sometimes involve receipts that identify the purchaser. Foreign experts confirm reports of chronic shortages of Bibles, mostly due to logistical problems in disseminating Bibles to rural areas. However, they note that the situation has improved in recent years due to improved distribution channels, including to house churches. Customs officials continue to monitor for the "smuggling" of Bibles and other religious materials into the country. There have been credible reports that the authorities sometimes confiscate Bibles in raids on house churches, such as during an April raid on a house church in Henan province.

Weekly services of the foreign Jewish community in Beijing have continued uninterrupted since 1995 and High Holy Day observances have been allowed for more than 15 years. During the fall of 1998, the foreign Jewish community in Shanghai began holding services in a local hotel. Members experienced initial difficulty in es-

tablishing worship services due to the fact that Judaism is not one of the five officially recognized religions, and meetings were suspended temporarily. However, the group since has reestablished its meetings at the hotel, with the approval of the local religious affairs bureau. In September, with the support of local authorities, the Shanghai Jewish community was allowed to hold a service in an historic Shanghai synagogue, which has been restored as a museum, for the first time since 1949. Local authorities indicated that the community could use the synagogue in the future for special occasions on a case-by-case basis.

Religious groups that preach beliefs outside the bounds of officially approved doctrine—such as the imminent coming of the Apocalypse—often are singled out for particularly severe harassment. Police continued their efforts to close down an underground evangelical group called the "Shouters," an offshoot of a pre-1949 indigenous Protestant group, which the authorities deem to be an antigovernment, counterrevolutionary "cult." Since the early 1980's, the authorities repeatedly have detained, fined, or imprisoned its members. During the year the authorities also initiated a general crackdown on groups considered to be "cults." The press reported that on April 21, police and members of the Public Security Bureau in Chengkuo county, Chongqing detained 71 members of Men Tu Hui (Disciples Sect); the authorities declared the group to be illegal and accused it of carrying out various reckless and criminal activities in recent years, including using heresy to spread rumors and stirring up quarrels and trouble among the masses. In May Hunan authorities initiated a crackdown against the "heretical cult" organization "God's Religion." In September 31 members of the "cold water religion" reportedly were arrested by authorities in Lianping county, Guangdong; 3 of the group's churches reportedly were destroyed. Liu Jiaguo, the leader of the Supreme Deity sect, was executed in October after being convicted of raping 11 women and defrauding cult members. The crackdown intensified later in the year, with press reports stating that restrictions would be tightened on several "cults" and various Christian groups. Many groups, especially those in house churches, reportedly are viewed by officials as "cults." Some observers have attributed the unorthodox beliefs of some of these groups to undertrained clergy. According to reports, the crackdown on the Falun Gong led to a tightening of controls on all non-officially sanctioned beliefs; some groups have been labeled as "cults."

Falun Gong (or Wheel of the Law, also known as Falun Dafa) blends aspects of Taoism, Buddhism, and the meditation techniques of Qigong (a traditional martial art) with the teachings of Li Hongzhi, who left the country in 1998. The Government estimates that there may be as many as 2.1 million adherents of Falun Gong; Falun Gong followers estimate that there are over 100 million adherents. Some experts estimate that the true number of Falun Gong adherents lies in the tens of millions. Falun Gong does not consider itself a religion and has no clergy or formal places of worship.

On April 25, more than 10,000 adherents of Falun Gong gathered in front of the Zhongnanhai leadership compound, where most of the country's top officials live and work, to protest the detention of some Falun Gong practitioners and to seek government acknowledgment of the legitimacy of their practice. The sudden appearance of such a large crowd of organized demonstrators caught the Government by surprise; however, it allowed the peaceful protest to continue for more than 12 hours and publicly stated that the organization was not illegal. Following the April demonstration, the Government decided that Falun Gong was a threat to stability. In June despite a government warning against disturbing social stability or holding large gatherings, Falun Gong practitioners continued to hold demonstrations in cities throughout the country. On July 22 the Government officially declared Falun Gong illegal and began a nationwide crackdown against the movement. Around the country, tens of thousands of practitioners were rounded up and detained for several days, often in open stadiums with poor, overcrowded conditions with inadequate food, water, and sanitary facilities. Practitioners who refused to renounce their beliefs were expelled from their schools or fired from their jobs. Some of those detained were government officials and Communist Party members. Some high-ranking practitioners were forced to disavow their ties to Falun Gong on national television. There also were reports that the Public Security Bureau forbade the renting of apartments to members of the Falun Gong, and that local government leaders and heads of institutions in the northeast were summoned to Beijing or fired if too many persons under their jurisdictions participated in Falun Gong demonstrations.

In addition to detaining Falun Gong practitioners, in July the Government also launched a massive propaganda campaign against the group and its leader (see section 2.a.).

As part of its crackdown on Falun Gong, the Government seized and destroyed Falun Gong literature, including over 1 million books, in well publicized sweeps of

homes and bookstores. A Falun Gong website designed and operated by computer engineer Zhang Haitao of Jilin province was shut down by the Government on July 24 (see Section 1.f.); Zhang himself reportedly was arrested on July 29. Police in Dandong city, Liaoning province reported that they had arrested six workers and a factory boss for printing outlawed Falun Gong material. On October 28, several Falun Gong practitioners held a clandestine press conference for foreign reporters in which they described an increase in harassment and in physical abuse by the police. Many of the practitioners involved later reportedly were arrested; the authorities questioned some of the foreign journalists who attended the press conference and temporarily confiscated their press credentials and residence permits.

In spite of the harshness of the crackdown, Falun Gong demonstrations continued around the country throughout the summer and into the fall. Authorities responded quickly by breaking up demonstrations—at times forcibly—and detaining demonstrators.

In September, the state-run press reported a raid on a gathering of 19 Falun Gong followers during which 5 were arrested formally. In mid-September, one NGO reported that at least 300 Falun Gong adherents were arrested in 9 cities over the course of 1 week. In late October, the pace of protests and detentions picked up as Falun Gong practitioners from around the country converged on Beijing and began a series of peaceful, low-key demonstrations in Tiananmen Square to protest a new anti-cult law being considered by the Standing Committee of the National People's Congress. Most of the protests were small and short-lived, as the police, who roamed the square in increased numbers, questioned persons and quickly arrested anyone who admitted to being or appeared to be a practitioner. On some days, scores of practitioners were arrested as they entered the square in small groups to protest. During the last week of October, a Communist Party official told the foreign press that 3,000 persons from other parts of the country were detained in police sweeps of Beijing for non-residents. On November 16, during a visit to Beijing by U.N. Secretary General Kofi Annan, more than a dozen Falun Gong practitioners who unfurled a Falun Gong banner were detained forcibly in Tiananmen Square. On November 30, Vice Premier Li Lanqing reportedly stated in a speech to Communist Party members that over 35,000 detentions of Falun Gong practitioners were made by the authorities between July 22 and October 30 (the Government later clarified Li's remarks by stating that this figure represented the total number of confrontations that police had with adherents of Falun Gong, pointing out that many persons had multiple encounters with police.)

Authorities also detained foreign practitioners. For example, on November 24, four foreign practitioners of Falun Gong were detained along with other practitioners in Guangzhou. The foreigners were released a few days later and expelled from the country; the Chinese citizens arrested with them remained in custody. On December 15, three Chinese nationals with foreign residency were detained in Shenzhen for visiting other Falun Gong practitioners; they were sentenced to 15 days of administrative detention.

There were credible reports of beatings and deaths of practitioners in detention who refused to recant their beliefs; according to Amnesty International, some adherents also were tortured by electric shocks and by having their hands and feet shackled and linked with crossed steel chains (see Sections 1.a and 1.c.). In October a Falun Gong website reported that a Falun Gong practitioner from Shandong province, Zhao Jinhua, died as a result of beatings received while in police custody. The official media reported that Zhao died of a heart attack while in custody. On October 27, police in Heilongjiang province stated that Chen Ying, an 18-year old practitioner of Falun Gong who died while in police custody in August, had jumped to her death from a moving train. Zhao Dong also allegedly jumped from a train while in police custody; he reportedly died in late September.

Although the vast majority of ordinary Falun Gong practitioners who were detained later were released, authorities acted more forcefully against practitioners it identified as leaders. On October 25, the official media reported that at least 13 Falun Gong leaders had been charged with stealing and leaking state secrets. On October 31, a new anti-cult law was passed, which specifies prison terms of 3 to 7 years for cult members who "disrupt public order" or distribute publications. Under the new law, cult leaders and recruiters can be sentenced to 7 years or more in prison. On November 3, the authorities used the new law to charge six Falun Gong leaders, some of whom, it is believed, were arrested in July. Also, on November 8, the Government confirmed that 111 Falun Gong practitioners had been charged with serious crimes including, among others, disturbing social order and stealing state secrets. The Government issued a warrant for the arrest of Falun Gong leader Li Hongzhi, and requested Interpol's assistance in apprehending him. Interpol declined to do so, on the ground that the request was political in nature.

Many others not formally arrested reportedly were sentenced administratively, without trial, to up to 3 years in reeducation-through-labor camps. For example, on October 12, authorities reportedly sentenced 5 Falun Gong practitioners to a 1-year sentence in a reeducation-through-labor camp for "disturbing the social order." The exact number of persons sentenced in this manner is unknown, although the Hong Kong-based Information Center of Human Rights and Democratic Movement in China reported that at least 500 persons were sentenced to terms of reeducation-through-labor. Late in the year, according to some reports, the Government started confining some Falun Gong adherents to psychiatric hospitals.

Some of the leaders of Falun Gong were brought to trial by year's end. On December 26, four practitioners of Falun Gong were sentenced by a Beijing court for using a cult "to obstruct justice, causing human deaths in the process of organizing a cult, and illegally obtaining state secrets." Li Chang, a former official at the Public Security Ministry, was sentenced to 18 years in prison; former Railways Ministry official Wang Zhiwen was sentenced to 16 years in prison. Two other high-ranking Falun Gong members, Ji Liewu and Yao Jie, were sentenced to 12 years and 7 years in prison. According to one international human rights organization, the Ministry of Justice required attorneys who wished to represent Falun Gong practitioners to obtain government permission.

There were reports that Qigong groups not associated with the Falun Gong have experienced an increase in harassment, as well, particularly since the ban on Falun Gong was announced in July.

Two leaders of such groups reportedly were arrested, and the Government banned the practice of Qigong exercises on public or government property. This has created an atmosphere of uncertainty for many, if not most, qigong practitioners.

d. *Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The effectiveness of the Government's national household registration/identification card system, used to control and restrict the location of individual residences, remained in place but continued to erode, and the ability of most citizens to move around the country to live and work continued to improve. The Government places some other restrictions on freedom of movement, and it increased these restrictions during the year, especially before politically sensitive anniversaries and to forestall Falun Gong demonstrations. The "floating population" of economic migrants leaving their home areas to seek work elsewhere in the country is estimated to be between 80 and 130 million. This group comprises not only migrant workers, but also includes a growing number of middle-class professionals attracted to large cities by hopes of better paying jobs in their fields. This itinerant population lacks official residence status, which is required for full access to social services and education. Unless such persons obtain resident status, they must pay a premium for these services. However, some cities, such as Beijing, are beginning to offer social services free of charge. In August 1998, the Public Security Ministry issued revised regulations that allow persons from the countryside to apply for permanent residence in a city if: (1) They have investments or property in a city; (2) they are elderly and have children who live in a city; or (3) their spouses live in a city.

Prior to sensitive anniversaries, authorities in urban areas rounded up and detained "undesirables," including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled. These persons often were detained or expelled under custody and repatriation regulations or similar administrative regulations (see Sections 1.d. and 1.e.). In March the Government enacted a set of measures aimed at reducing the number of migrant workers in the city without valid work permits by 10 percent before June 1. Measures taken included evicting persons from illegally rented housing, doubling the monthly fee for a temporary residence permit, and increasing the cost to employers of hiring migrant workers. On March 15, Beijing's Uighur Village was razed. There was speculation that these measures were undertaken to maintain order and to "tidy up" in a year of important anniversaries. From Chinese New Year to sometime in March there reportedly was a crackdown on migrant workers in Shanghai as well, with officials checking credentials and sending those with improper ones back to the provinces. Some reportedly were required to pay $121 (1,000 rmb) for a temporary work permit, up from $10 (80 rmb) previously. There were reports of spot checks of identification documents, housing raids, and harassment of migrants at train and bus stations in Beijing during the year, particularly prior to October 1. Some non-local residents found in Beijing, whatever their reason for being in the city, reportedly were escorted quickly to train stations and sent home by the police in the days prior to the National Day celebrations. Human Rights Watch reported in December that many persons without residence permits or permanent incomes were rounded up and sent out of the city; migrants, beggars, hawkers, food vendors, the homeless, the unemployed, the mentally ill,

prostitutes, and other undesirables also supposedly were targeted. It also reported that on September 6, the Public Security Bureau notified hotels, hostels, boarding houses, and private citizens that they would be penalized for housing illegal migrants, and that any non-resident entering Beijing needed a detailed letter of introduction. By some estimates, police forced 100,000 or more nonresidents out of Beijing prior to October 1 through a custody and repatriation program; during the last week of October, a Communist Party official admitted to the foreign press that 3,000 persons from other parts of the country were detained in police sweeps of Beijing for nonresidents (see Section 1.d.). The crackdown on illegal migrants reportedly continued after October 1, with 18,000 nonregistered residents of Beijing detained or returned to their registered places of residence in the last week of October.

Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods. In April, while Premier Zhu Rongji was visiting the United States, Xian dissident Fu Sheng was detained for 12 hours and prevented from visiting the grave of Hu Yaobang, whose 1989 death sparked the Tiananmen student protests. Beijing activist Ding Zilin and her husband were confined to their home numerous times during the year, including for 50 days during the period of the 10th anniversary of the Tiananmen Massacre.

As the crackdown on the Falun Gong began in July, the authorities tightly restricted travel into Beijing as Falun Gong members from around the country converged on the city to protest the ban on the group (see Section 2.c.).

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain inmates permission to return to their homes. Those inmates sentenced to more than 5 years in reeducation-through-labor camps also may lose their legal right to return home. For those assigned to camps far from their residences, this practice constitutes a form of internal exile. The number of prisoners subject to this restriction is unknown. Authorities reportedly have forced others to accept jobs in state enterprises where they can be monitored more closely after their release from prison or detention. Other released or paroled prisoners returned home but were not permitted freedom of movement. Chen Ziming, who was paroled on medical grounds in November 1996, remained confined to his home except for police-escorted visits to doctors. Former senior leader Zhao Ziyang remained under house arrest, and security around him was tightened routinely during sensitive periods, such as the anniversary of the Tiananmen massacre and during the visits of important foreign leaders. The authorities released Bao Tong, a former Zhao Ziyang aide in 1997, but continue to monitor closely Bao Tong's activities.

There is evidence that official poverty alleviation programs, and major state projects such as building dams and environmental/reforestation projects, include forced evacuation of persons.

The Government permits legal emigration and foreign travel for most citizens. The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad. The Government did not control privately sponsored students, who constitute the majority of citizens studying abroad; however, there were some reports that academics faced some travel restrictions around the year's sensitive anniversaries, especially June 4. Business travelers who wish to go abroad can obtain passports relatively easily. Permission for couples to travel abroad sometimes was conditioned on agreement to delay childbirth. In 1998 in Xinjiang, a businesswoman and former member of the Chinese People's Political Consultative Conference, Rebiya Kadeer, reportedly was deprived of her passport and could not leave Urumqi without police authorization. She was arrested in August (see Section 1.d.). Authorities reportedly confiscated the travel documents of Hong Kong prodemocracy legislator Fred Li, and barred him from entering the mainland on July 3. Two other Hong Kong legislators were denied permission to travel to Beijing earlier in the year to voice their views on the right of abode case in Hong Kong. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, frequently found it difficult to obtain passports and other necessary travel documents. The Government continued efforts to attract persons who had studied overseas back to China. Official media have stated in the past that persons who have joined foreign organizations hostile to China should quit them before returning home and refrain while abroad from activities that violate China's laws.

In 1998 Beijing activist Ren Wanding was denied a passport because his "political rights" still had not been restored after his release from prison. Bao Tong reportedly was refused a passport to visit his son abroad in 1998 and 1999.

There also were instances when the authorities refused visas or entry on apparent political grounds. International observers and human rights organizations reported that they had documents that substantiated claims that border control stations keep

background records of certain individuals who are to be denied entry. Authorities have denied these reports. In April foreign-based dissident Wang Xizhe was denied permission to return to China to attend his father's funeral. On two occasions, once in March and again in April, Lai Lai-Har, a prodemocracy activist from Hong Kong, was denied entry into the mainland. In July Chinese Democracy and Justice Party member Guo Hui, who returned to China to visit her ailing mother, was detained by police in Shanghai, interrogated for over 8 hours, and expelled the following day. In September the authorities detained Huang Ciping, a foreign-based human rights activist, who had hoped to visit her sick father, upon arrival at Shanghai airport and deported her soon thereafter. Also in September, the authorities denied prodemocracy activist and Hong Kong Legislative Council representative Margaret Ng a visa for entry to the mainland. Some foreign academics with contacts with the dissident community also have been refused entry visas repeatedly.

The Government does not provide first asylum. However, since the late 1980's, China has adopted a de facto policy of tolerance toward the small number of persons—fewer than 100 annually—from other nations who have registered with the Beijing office of the United Nations High Commissioner for Refugees (UNHCR) as asylum seekers. The Government has permitted these persons to stay in China while the UNHCR makes determinations as to their status and—if the UNHCR determines that they are bona fide refugees—while they await resettlement in third countries. As yet, China has no law or regulations that authorize the authorities to grant refugee status, but the Government reportedly continues to draft working rules on granting such status.

The Government has worked with Laos and Cambodia to facilitate the return of resettled individuals who have decided to return to their home countries. The Government denies having tightened its policy on accepting Vietnamese asylum seekers. Due to the stable situation in Vietnam with regard to ethnic Chinese and the increasingly porous border between the two countries, very few Vietnamese have sought resettlement in China in recent years.

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

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

Citizens lack the means to change their government legally and cannot freely choose or change the laws and officials that govern them. Citizens vote directly for local nongovernmental village committees and among party-reviewed candidates for delegate positions in town and township and county-level peoples' congresses. However, Peoples' Congress delegates at the provincial level are selected by county-level people's congresses, and in turn provincial-level people's congresses select delegates to the National People's Congress. Although the CCP vets all candidates, many county and provincial elections are competitive, with more candidates running than there are seats available.

According to the Constitution, the NPC is the highest organ of state power. Formally it elects the President and Vice President, selects the Premier and vice premiers, and elects the Chairman of the State Central Military Commission. In practice the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders; however, in some instances its actions have affected economic policy.

In general, the election and agenda of people's congresses at all levels remain under the firm control of the Communist Party, the paramount source of political authority. A number of small "democratic" parties that date from before the Communist takeover in 1949 play a minor consultative role and must pledge their allegiance to the Communist Party. The CCP retains a tight rein on political decisionmaking and forbids the creation of new political parties. The Government intensified efforts to suppress the China Democracy Party, an organization that had attracted hundreds, perhaps thousands, of members nationwide since its founding in 1998. Public security organs arrested nearly all of its most important leaders. Scores of party members were detained in cities throughout the country in the period prior to the 10th anniversary of the Tiananmen massacre (see Section 1.d.). The CDP's three best known leaders—Wang Youcai, Xu Wenli, and Qin Yongmin—all were sentenced in December 1998, to prison terms of 13, 12, and 11 years respectively. In July a court in Gansu sentenced CDP members Yue Tianxiang to 10 years, and Guo Xinmin, and Wang Fengshan to sentences of 2 years each for subversion. In 1 week in August courts in Beijing and Sichuan sentenced CDP activists Gao Hongming to 8 years, Zha Jianguo to 9 years, She Wanbao to 12 years, and Liu Xianbin to 13

years—all for alleged subversion. In late October Zhu Yufu, Mao Qingxiang, and another activist were sentenced to 7, 8, and 5 years, respectively. Prominent members such as Hangzhou's Wu Yilong remain detained without charge.

At the same time, democratic decisionmaking continued to grow as the local village committee elections program expanded. Under the 1987 Organic Law of the Village Committees, all of the country's approximately 1 million villages are expected to hold competitive, direct elections for village committees. The NPC Standing Committee in November 1998 passed a revised version of the law, which called for enhancements in the electoral process, including substantial improvements in the nominating process and the required use of voting booths. It also provided for improved transparency in village committee administration and appears to boost the authority of the village committees over communally owned properties. The revised law also explicitly transferred the power to nominate candidates to the villagers themselves, as opposed to village groups or party branches.

Both the Government and foreign observers estimate that more than 90 percent of villages have participated in elections for local leaders. According to the Ministry of Civil Affairs, the majority of provinces have carried out at least three or four rounds of village elections. Foreign observers who have monitored local village committee elections, including the Carter Center and the International Republican Institute, have judged the elections they observed, on the whole, to be fair. However, many villages have yet to hold truly competitive elections. The Government estimates that one-third of all elections have serious procedural flaws. Approximately another third are judged to have satisfied central government guidance and the law, which requires secret ballots to select candidates. Successful village committee elections have included secret ballots to select candidates, active campaigns by multiple candidates, platforms, and the use of secret ballots in the election itself. Some regions have experimented with a nominating process that gives this power completely to villagers, as opposed to village groups or party branches.

Candidates favored by local authorities have been defeated in some elections, although in general the party dominates the electoral process, and roughly 60 percent of the members elected to the village committees are Communist Party members. The final ballot is the culmination of an election process that includes government screening of candidates and an indirect vote that eliminates some candidates. Many observers caution that the village election system is not necessarily a precursor for democracy at higher levels of government, and village elections—as currently practiced—do not threaten to undermine the implementation of unpopular central policies or endanger the leading role of the Communist Party. The nongovernmental elected village committees are not part of the formal government structure. The powers of elected village committees vary from region to region. Most committees have the authority to mediate disputes between villagers, improve public order, and authorize small expenditures. The committees also carry out political work by serving as a channel of communication between villagers and the Government. The village committees have no power to tax, set fines or punishments independently, or hire or fire village enterprise managers. According to press reports, Zhang Mingjun and three others led a protest in front of the office of a corrupt local party boss in Yuzhuang village, Shandong. After the demonstration, the four became write-in candidates for local village deputies in Yuzhuang village and won. Zhang Mingjun was elected village chief. Two weeks after the election, Zhang and his three deputies were arrested by local police for having led the demonstration, and were charged with having attacked government offices. This allegedly was done to nullify the election.

The 1998 revised village election law authorized the establishment of "villager's representative assemblies" to oversee the performance of village committees. Such assemblies already existed for years in some provinces; in 1997, for example, an assembly in Zhaoxin county, Hebei province, reportedly removed 54 corrupt or incompetent village committee members and vetoed 72 "unreasonable" development projects. Township authorities in several provinces have held experimental elections to select local executive officials. Citizens of Sichuan's Buyun township on December 1998 held the first such vote. Despite central government expressions of concern that this election violated constitutional provisions requiring that the local people's congresses elect executive officials, the central government ultimately confirmed the vote. During another experimental township election during the year, the "two ballot" vote in Guangdong province's Dapeng township—explicitly authorized by the National People's Congress—attracted attention both at home and abroad. Under this arrangement, groups of 100 or more citizens were free to nominate candidates. A township-wide conference of local leaders from various institutes thereupon voted to select one of those candidates. The local people's congress confirmed the decision in a pro forma vote, thereby satisfying constitutional requirements.

The Government places no restrictions on the participation of women or minority groups in the political process; however, they are underrepresented in government and politics. Women freely exercise their right to vote in village committee elections, but only a small fraction of elected members are women. The Government and party organizations include approximately 12 million female officials out of 61 million party members. Women constitute 21.83 percent of the National People's Congress. The 15th Party Congress elected 22 women to serve as members or alternates on the 193-person Central Committee, an increase over the total of the previous committee. However, women still hold few positions of significant influence at the highest rungs of the party or government structure. One alternate member of the 22-member Politburo is a woman, and women hold 2 of 29 ministerial-level positions.

Minorities constitute 14 percent of the National People's Congress. All of the country's 56 nationalities are represented in the NPC membership. The 15th Party Congress elected 38 members of ethnic minorities to serve as members or alternates on the Central Committee, an increase over the total of the previous committee. However, minorities hold few senior party or government positions of significant influence.

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

There are no independent domestic NGO's that publicly monitor or comment on human rights conditions. However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information is disseminated to the outside world through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement and the New York-based Human Rights in China. The press regularly prints articles about officials who exceed their authority and infringe on citizens' rights. However, the Government remains reluctant to accept criticism of its human rights record by other nations or international organizations and criticizes reports by international human rights monitoring groups, maintaining that they are inaccurate and interfere with the country's internal affairs. The Government still maintains that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social situation, and level of economic development. In 1993 the Government established the China Society for Human Rights, a "nongovernmental" organization whose mandate is not to monitor human rights conditions, but to defend the Government's views and human rights record.

The Government has active human rights dialogs with a large number of countries, including Great Britain, France, Australia, Canada, Norway, Sweden, Brazil, and Japan, as well as the European Union (EU). However, these dialogs have not produced significant improvements in the government's human rights practices. The United States and China resumed their bilateral human rights dialog in January, but China suspended it in April. In recent years, the Government has expanded greatly the number and frequency of judicial and other types of legal exchanges with foreign countries.

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

There are laws designed to protect women, children, the disabled, and minorities. However, in practice, societal discrimination based on ethnicity, gender, and disability persists. The concept of a largely homogeneous Chinese society pervades the thinking of the Han majority.

Women.—Violence against women is a problem. Violence against women can be grounds for prosecution under the law. Sociologists note that there has been no detailed research on the extent of physical violence against women. However, anecdotal evidence suggests that the reporting of domestic abuse is on the rise, particularly in urban areas, because greater attention has been focused on the problem. Informal surveys by women's groups indicate that 20 percent of women may have been beaten by their husbands. Actual figures may be higher because spousal abuse still goes largely unreported. According to experts, the percentage of households in which domestic abuse has occurred is higher in rural areas than in urban centers.

In recognition of the seriousness of spousal abuse, some localities, such as Hunan province, have passed legislation to address the problem. However, some experts note that, even when appropriate legislation exists, local law enforcement authorities frequently choose not to interfere in what they regard as a family matter. There is no national spousal abuse law.

According to some estimates by experts, there are 4 to 10 million commercial sex workers in the country. The increased commercialization of sex and related traf-

ficking in women (see Section 6.f.) has trapped thousands of women in a cycle of crime and exploitation, and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in China is involved in prostitution, with the percentage higher in cities. Unsafe working conditions are rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. According to one estimate there are 70,000 prostitutes in Beijing alone. Research indicates that up to 80 percent of prostitutes in some areas have hepatitis. In light of this and, in particular, of the growing threat of AIDS among Chinese sex workers, the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee in December 1998 recommended that due attention be paid to health services for women in prostitution. Although the central Government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Thus far, actions to crack down on this lucrative business, which involves organized crime groups and business persons as well as the police and the military, largely have been ineffective.

There were credible reports of trafficking in persons, and the kidnaping of women for sale into prostitution or marriage is a serious problem (see Section 6.f.).

There is no statute that outlaws sexual harassment in the workplace, although there has been some discussion by legislators about the need for such legislation. The problem remains unaddressed in the legal system and often in society. However, experts state that more women are raising their concerns about sexual harassment because of greater awareness of the problem.

A high female suicide rate is a serious problem. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China (about 500 per day). The World Bank estimated the suicide rate in the country to be three times the global average; among women, it was estimated to be nearly five times the global average. Research indicates that the low status of women, the rapid shift to a market economy, and the availability of highly toxic pesticides in rural areas are among the leading causes.

The authorities have enacted laws and conducted educational campaigns in an effort to eradicate the traditional preference for sons; however, this preference remains strong in rural China. A number of provinces have sought to reduce the perceived higher value of boys in providing old-age support for their parents by establishing or improving pensions and retirement homes.

The Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life." The 1992 Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Women's economic and political influence has increased. Nonetheless, female activists are increasingly concerned that the progress that has been made by women over the past 50 years is being eroded and that women's status in society has regressed in the 1990's. They assert that the Government appears to have made the pursuit of gender equality a secondary priority as it focuses on economic reform and political stability. Social and familial pressure also has grown for women to resume their traditional roles as wives and mothers. A recent study of how women are portrayed in the media revealed that images of a woman's worth increasingly are linked to her ability to attract a wealthy husband and be a good mother.

The 1992 Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as the Government to educate women about their legal rights, and there is anecdotal evidence that women increasingly are using laws to protect their rights. Nevertheless, women encounter serious obstacles in getting laws enforced. The structure of the social system also prevents women from having a full range of options. For example, women who seek a divorce face the prospect of losing their housing since government work units allot housing to men when couples marry.

Women have borne the brunt of China's economic reform of state-owned enterprises. As the Government's plan to revamp state-owned enterprises is carried out, millions of workers have been laid off. Of those millions, a disproportionate percentage are women, many of whom do not have the skills or opportunities to find new jobs. A December 1998 Asian Development Bank report noted that almost 70 percent of the 23 million persons who could lose their jobs as a result of state-owned enterprise reform were women, even though they only constitute 36.4 percent of the work force. A 1998 All-China Federation of Trade Unions (ACFTU) report estimated that 80 percent of those laid off from state-owned enterprises in Heilongjiang province were women. Women between the ages of 35 and 50 were the most affected,

and the least likely to be retrained. In addition, female employees were more likely to be chosen to take pay cuts when a plant or company was in financial trouble. There have been reports that many women have been forced or persuaded into early retirement, as well. Discriminatory hiring practices appear to be on the rise as unemployment rises. Increasingly companies discriminate by both sex and age, although such practices violate labor laws.

Many employers prefer to hire men to avoid the expense of maternity leave and childcare and some even lower the effective retirement age for female workers to 40 years of age. (The official retirement age for men is 60 years and for women 55 years.) Lower retirement ages have the effect of reducing pensions, which generally are based on years worked.

The law promises equal pay for equal work. According to a 1997 World Bank report, Chinese women, on average, earn between 80 and 90 percent of the salaries of their male counterparts. Most women employed in industry work in lower skilled and lower paid jobs.

While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the relatively small percentage of the population that receives a university-level education. According to figures released by the All-China Women's Federation, at the end of 1997, women made up 36 percent of all university students, and 30 percent of all graduate students. However, educators in the large cities have reported that there is a trend toward greater gender balance in universities. Some academics have reported that in some departments women are beginning to outnumber men—even in some graduate schools. However, women with advanced degrees report an increase in discrimination in the hiring process as the job distribution system has opened up and become more competitive and market driven.

According to official figures, in 1995 there were 145 million illiterate persons above the age of 15. Women made up approximately 70 percent of this total. A 1998 Asian Development Bank report estimated that 25 percent of all Chinese women are semi-literate or illiterate, compared with 10 percent of men. The Government's "Program for the Development of Chinese Women (1995–2000)" sets as one of its goals the elimination of illiteracy among young and middle-aged women by the end of the century. The main priority is to increase the literacy of rural women, 80 percent of whom are wholly or partially illiterate. However, some women's advocates were skeptical that the Government's goal could be attained given the lack of resources.

Children.—The Constitution provides for 9 years of compulsory education for children (see Tibet addendum); however, despite the requirement that children attend school for 9 years, in economically disadvantaged rural areas many children do not attend school for the required period, if at all. Public schools are not allowed to charge tuition, but faced with revenue shortfalls since the central Government largely stopped subsidizing primary education in the early 1990's, many schools have begun to charge required fees. Such fees make it difficult for poorer families to send their children to school or send them to school on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet the demand. Children of migrant workers in urban areas also often do not attend school, although they may be allowed to do so if they pay required school fees (which their parents generally cannot afford, and which are higher than for resident children). Some unlicensed schools that cater to migrant children and have lower school fees reportedly have opened in cities in recent years. However, the quality of these schools is uneven. Because the schools are not licensed, their graduates may not be able to be admitted to high school. Such schools are in constant danger of being closed by the authorities. The Government campaign for universal primary school enrollment by 2000 has helped to increase enrollment in some areas; however, it also reportedly has led to school officials inflating the number of children actually enrolled.

The extensive health care delivery system has led to improved child health and a sharp decline in infant mortality rates. According to 1997 official figures, the infant mortality rate was 33 per 1,000 in 1996. According to the U.N. Children's Fund (UNICEF), in 1995 the mortality rate for children under 5 years of age was 47 per 1,000 live births.

The 1992 Law on the Protection of Juveniles forbids infanticide, as well as mistreatment or abandonment of children. The law also prohibits discrimination against disabled minors, emphasizes the importance of safety and morality, and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

There were credible reports of female infanticide. The use of ultrasound tests to determine gender also results in decisions to terminate pregnancies of female fetuses, but no reliable statistics are available on the extent of the problem. One

1997 newspaper article quoted a doctor as saying that as many as 97.5 percent of pregnancies terminated in his hospital were of female fetuses. A 1997 World Health Organization paper reported that the national ratio of male to female births in 1994 was 117 to 100 (the worldwide statistical norm is 106 to 100). Part of the statistical gap may be attributable to female infanticide, sex-selective termination of pregnancies, and abandonment or neglect of girls. Underreporting of female births by couples trying to evade family planning laws to try to have a son is another significant factor (see Section 1.f.).

According to the latest available figures, compiled in 1994, the number of children abandoned each year is approximately 1.7 million, despite the fact that under the law child abandonment is punishable by a fine and a 5-year prison term. The vast majority of those eventually admitted to orphanages are female, although some are disabled or in poor health. Children put up for foreign adoption are almost exclusively girls. The treatment of children at these institutions varies from adequate to deplorable. There have been reports of children at some orphanages being restrained for long periods of time and being denied basic care and food. Accurate determination of infant mortality rates in orphanages is difficult, but rates appear to be very high at many, especially among new arrivals.

According to several sources, orphanage workers in some facilities reserve basic medical care and even nutrition for children who are deemed to have the best chances for survival.

Some sources report that children whose prospects of survival are determined to be poor are placed in rooms separate from other children and subjected to extreme neglect. Claims that government policies, as opposed to lack of resources, were to blame for the lack of care of children placed in orphanages could not be verified. However, Human Rights Watch reported in 1996 that many institutions, including those with the highest death rates, have budgets that provide for adequate wages, bonuses, and other personnel-related costs, but that budgets for children's food, clothing, and other necessities are low throughout the country. There was a report in 1998 that, at least in one orphanage, a new conference room was built while the facilities and care for orphans under the age of 2 remained abysmal. The mortality rate for children under the age of 2 at this institution reportedly approached 100 percent, even for those infants who entered in fair health. Bureaucratic indifference and corruption on the part of orphanage administrators appear to be significant factors in such cases.

The Government denies that children in orphanages are mistreated or refused medical care but acknowledges that the system often is unable to provide adequately for some children, especially those who are admitted with serious medical problems. In an effort to address this problem, in November 1998 the NPC adopted a revised adoption law making it easier for couples to adopt. The new law dropped a restriction that parents who adopt a child must be childless. It also allows for multiple adoptions and lowers the age at which couples are eligible to adopt. The Civil Affairs Ministry announced in 1997 that the Government's top social welfare priority for that year would be to improve conditions in orphanages, and there have been credible reports of new construction, renovation, and improved care in some areas. Over $30 million (248.4 million rmb) reportedly was allocated for this program. A government white paper on women and children issued in 1997 stated that the central Government had spent $25.7 million (212.8 million rmb) between 1990 and 1994 to improve "children's welfare institutions," the official term for orphanages. During the same period, local governments apparently allocated almost $18 million (149 million rmb) to these institutions.

Children are reportedly detained administratively in custody and repatriation centers, either for minor crimes they have committed or because they are homeless. Such children routinely are detained with adults, and may be required to work (see Sections 1.d, 1.e., and 6.c.).

Despite government efforts to prevent kidnaping and the buying and selling of children these problems persist in some rural areas (see Section 6.f.).

People With Disabilities.—In 1990 the Government adopted legislation that protects the rights of the country's disabled persons. According to the official press, all local governments subsequently drafted specific measures to implement the law. The press publicizes both the plight of the disabled and government efforts to assist them. The Government, at times in conjunction with NGO's such as the Lions Club International, sponsors a wide range of preventive and rehabilitative programs, including efforts to reduce congenital birth defects, treat cataracts, and treat hearing disorders. The goal of many of these programs is to allow persons with disabilities to be integrated into the rest of society.

However, reality for the disabled lags far behind legal dictates. Misdiagnosis, inadequate medical care, pariah status, and abandonment remain common problems.

In a 1998 speech, Vice Premier Li Lanqing noted that in the past decade, the Government has helped some 14 million disabled citizens solve their food and clothing problems. Nonetheless, Government statistics show that almost one-quarter of the approximately 60 million disabled persons live in extreme poverty. According to 1998 government statistics, the unemployment rate for disabled persons is 26.7 percent, a decrease from the past, but still almost 10 times the official rate for the general population. The Government's new strategy is to integrate the disabled into the mainstream work force, but these efforts are running into a cultural legacy of discrimination and neglect, as well as a slowing economy. In the mid-1990's in Beijing and eight other cities, the Government began, on a trial basis, to require all companies and institutions to hire at least 1 percent of its workers from among the disabled. However, over a period of 2 years in Beijing, only 400 disabled persons obtained jobs in this way; in Shanghai, over a period of 3 years, only 100 persons obtained jobs.

Deng Pufang, son of the late paramount leader Deng Xiaoping, heads the China Welfare Fund for the Handicapped and the China Disabled Persons' Federation (CDPF), government-affiliated organizations tasked with assisting the disabled. In March 1998, this organization laid out a series of goals that it hoped to achieve by 2000, including ensuring that all persons with disabilities have adequate food and clothing, providing rehabilitation services for 3 million individuals, increasing to 80 percent the enrollment rate for disabled students, and reducing to 20 percent the unemployment rate for disabled workers.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. This law mandates premarital and prenatal examination for genetic or contagious diseases, but it specifies that medically advised termination of pregnancy or sterilization requires the signed consent of the patients or their guardians.

In 1998 the adoption law was revised to loosen age restrictions on adoption. This change, which was intended to facilitate adoption, may have unintended consequences for children with special needs. In the past, individuals under the age of 35 could adopt only children with special needs. The minimum age for adopting a healthy child is now set at 30 instead of 35. Some observers worry that the law, which became effective on April 1, may eliminate the age-based incentive for such adoptions.

Standards adopted in 1994 for making roads and buildings accessible to the disabled are subject to the 1990 Law on the Handicapped, which calls for their "gradual" implementation. Lax compliance with the law has resulted in only limited access to most buildings.

Persons in urban areas who are mentally ill or disabled and are found on city streets can be detained administratively under custody and repatriation regulations, ostensibly for their protection (see Sections 1.d. and 1.e.). The conditions under which they are held in such centers reportedly are poor.

National/Racial/Ethnic Minorities.—According to 1995 government statistics, the total population of the country's 55 ethnic minorities was 108.46 million, or 8.98 percent of the national population. Most minority groups reside in areas they traditionally have inhabited, many of which are mountainous or remote. The Government's avowed policy on minorities calls for preferential treatment in marriage regulations, family planning, university admission, and employment. However, there have been reports that in some areas ethnic minorities have been subjected to pressure to limit births to the lower number allowed Han Chinese (see Section 1.f.). Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice, minorities face discrimination. Most of the minorities in border regions are less educated than the national average, and job discrimination in favor of Han migrants remains a serious problem. Racial discrimination is the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibet; however, the Government does not recognize openly racism against minorities or tension among different ethnic groups as problems.

Official figures state that the Government invested $12.6 billion (104 billion rmb) in infrastructure development for minority areas during the period 1991 to 1995. The ninth 5-Year Plan announced in 1997 stated that the Government would raise this figure to $27.8 billion (230 billion rmb) for the period from 1996 to 2000. According to government statistics, between 1991 and 1996, the economies in minority regions grew by nearly 11 percent annually, surpassing the national average in each year. Government development policies have helped improve minority living stand-

ards. However, real incomes in minority areas, especially for non-Han groups remain well below those in other parts of the country, and minorities credibly claim that Han Chinese have benefited disproportionately from government programs and economic growth. Many development programs have disrupted traditional living patterns of minority groups, including Tibetans and the Muslim Uighur majority of western Xinjiang. For example, there is evidence that official poverty alleviation programs, and major state projects such as building dams and environmental/reforestation projects, include forced evacuation of persons (see Section 2.d.). Plans to develop tourism in Xinjiang also often have focused on marketing and investment opportunities but paid little attention to how minority cultures and the environment might be affected adversely. However, some projects have been dropped for environmental reasons—for example, a proposal to build a railway around Lake Tianchi near Urumqi. Since 1949 central government and economic policy have resulted in a significant migration of Han Chinese to Xinjiang. According to a government white paper, in 1998 there were approximately 8 million Uighurs, 2.5 million other ethnic minorities, and 6.4 million Han in Xinjiang, up from 300,000 Han in 1949.

According to official government statistics, 15.34 million minority students attended schools between 1994 and 1996. A 1997 white paper stated that 98.2 percent of all school-age children in the Guangxi Zhuang Autonomous Region were enrolled in schools in 1996. In many areas with a significant population of minorities, there are two-track school systems using either Mandarin or the local minority language. Students can choose to attend schools in either system. One acknowledged side effect of this policy, originally designed to protect and maintain minority cultures, has been reinforcement of a segregated education system. Under this divided education system, those graduating from minority schools are at a disadvantage in competing for jobs in government and business, which require good Chinese-language skills. Graduates of these schools typically need a year or more of intensive Chinese before they can cope with course work at a Chinese-language university (see Tibet addendum).

The Communist Party has an avowed policy of boosting minority representation in the Government and the Party. A September government white paper reported that there were 2.7 million minority officials in the Government. According to government statistics, there were 163,000 minority officials in the Inner Mongolia Autonomous Region. Minority officials constitute 23.3 percent of the region's total, exceeding the ratio of the minority population to Han Chinese in the region. Many members of minorities occupy local leadership positions, and a few have positions of influence at the national level. However, in most areas ethnic minorities are shut out of positions of real political and decisionmaking power. In Xinjiang the job of county party secretary—the most important position in a county—typically is reserved for Han Chinese, even in counties that are close to 100 percent Uighur. Many minorities resent Han officials holding key positions in minority autonomous regions.

During the year, a government plan to resettle some 58,000 ethnic Han, Hui Muslim, and Tibetan farmers in a traditionally Tibetan area (Dulan county in Haixi Tibetan-Mongolian Autonomous Prefecture, Qinghai province) as part of a poverty alleviation program fueled controversy. The resettlement, which is to be funded in part by the World Bank (which is currently reviewing the project), is planned to take 6 years to complete; when the resettlement is completed, the Tibetan population is projected to fall to 14 percent of the total in the project area, from its current level of 22 percent. On August 15, two foreign researchers and their Tibetan translator were detained and interrogated by the authorities in Qinghai province, where they had gone to research local reaction to the project. One of the foreigners was injured seriously when he jumped out of a window. The two foreigners were released from custody and expelled from the country after signing confessions of wrongdoing; one was detained for 6 days, the other was released to Hong Kong after 11 days. Their Tibetan translator was released after 1 month in detention.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued. Since 1996 the authorities have cracked down harshly on suspected Uighur nationalists and independent Muslim religious leaders. There were numerous reports during the year that Uighurs were being executed or sentenced to long prison terms for separatist activities. In February a government radio station in the Xinjiang Uighur Autonomous Region reported that eight "violent terrorists," who "had taken part in many illegal religious terrorist activities in recent years in a vain attempt to split the motherland," had been sentenced to death in public trials. According to the report, the eight were executed immediately after sentencing. Newspapers reported in August that the authorities had executed a 20-year-old Uighur, who reportedly was behind several bombings that killed a policeman and wounded a factory worker in 1998. Also in August, Amnesty International issued a report documenting 210 death

sentences and 190 executions in Xinjiang since 1997. According to Amnesty International, thousands of persons have been detained arbitrarily, including some for their suspected support of the nationalist cause. Human Rights Watch reports that in January, a court official in Ili prefecture admitted that 29 persons, all but 2 of whom were Uighurs, had been sentenced to death. During the year, there were numerous police checkpoints set up in southern Xinjiang. There was at least one in most villages, and there were several on major roads. Tensions rose in Xinjiang prior to October 1, due to a heightened security presence and an increase in the harassment of Uighurs. The heightened security presence continued after the National Day celebrations. In late October, there were reports of a confrontation between police and Uighurs that left six Uighurs and one policeman dead. Amnesty International reports that many Uighurs detained for political reasons in Xinjiang between 1990 and 1998 still are believed to be in custody.

A campaign to stress ethnic unity and to condemn "splittism" and religious extremism that began in Xinjiang in 1997 continued. This campaign pervades the Chinese-language media and reaches into the region's school system. Authorities maintained tight control over "separatist activities," announced tightened security and antiterrorist measures, and mounted campaigns to crack down on opposition during the year. Security in the region was especially tight before the October 1 National Day celebrations, during which an exhibition in Urumqi depicting the history of the Uighurs was shut down.

According to some estimates, the migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in the capital of Urumqi to shift from 20 to 80 to 80 to 20, and is a source of Uighur resentment. Han control of the region's political and economic institutions also has been a factor in the growth of tension. The testing of nuclear weapons in Xinjiang until July 1996 was another source of serious contention because of continuing health concerns and environmental degradation. Although government policies have brought tangible economic improvements to Xinjiang, Uighurs maintain that they receive only a small share of the benefits. The majority of Uighurs are poor farmers and 25 percent are illiterate.

The education system provides Chinese-language instruction for Han students and Uighur-language instruction for Uighur students until fourth grade, and then gradually switches to Chinese as the principal language of instruction. Graduation from the Uighur school system leaves Uighurs poorly educated, with an inadequate command of the Chinese language.

Possession of separatist publications is not permitted, and, according to reports, possession of such materials has resulted in lengthy prison sentences. A Uighur-language press exists in Xinjiang, but it has a very small circulation, and much of the population depends on market rumor for information. In general, central authorities made it clear that they do not tolerate opposition to Communist Party rule and responded to unrest and terrorist incidents with force and heightened security measures.

Section 6 Worker Rights

a. *The Right of Association.*—The Constitution provides for "freedom of association;" however, in practice this right is subject to the interests of the State and the leadership of the Communist Party. The Communist Party controls the country's sole officially recognized worker's organization, the All China Federation of Trade Unions. The head of the ACFTU is a member of the Standing Committee of the Central Committee of the Communist Party.

Independent trade unions are illegal. The 1993 Trade Union Law required that the establishment of unions at any level be submitted to a higher level trade union organization for approval, and only approved registered unions are legal. The ACFTU subsumes under its authority 16 industry-based and 31 provincial-level labor unions. They, in turn, have jurisdiction over roughly 586,000 "grassroots" labor unions nationwide. According to labor regulations, there can be only one "grassroots" union per enterprise, and only enterprises that have at least 25 employees may establish unions. Following the signing of the International Covenant on Economic, Social, and Cultural rights in 1997, a number of labor activists petitioned the Government to establish free trade unions as allowed under the Covenant. The Government has not approved the establishment of any independent unions to date.

Under the country's planned economy, the ACFTU's main task was to improve labor discipline, mobilize workers to achieve party objectives, and dispense social welfare funds. During the past 2 years, the ACFTU has attempted to respond to the plight of unemployed workers, who have grown to roughly 20 million as a result of layoffs in connection with state-owned enterprise reform. The Government has instructed the ACFTU to play a more active role in protecting the rights of laid off workers and in assisting the Government in the reemployment process. The ACFTU

claims that, through 1999, it had established over 3,000 job placement centers and more than 6,000 professional training programs, benefiting over 3 million laid-off workers. During the year it also contributed roughly $40 million (320 million rmb) to displaced workers in difficult circumstances. Laid-off workers are entitled to unemployment stipends for 5 years. The central Government, local governments, and state-owned enterprises (SOE's) are to provide the funds for these stipends. Many SOE's and local governments have been unable to contribute funds. As a result, many workers have not received stipends.

The country's workforce totals approximately 740 million persons. The ACFTU claims 103 million members, over 90 percent of whom work in state-owned enterprises. The Trade Union Law allows workers to decide whether to join the union in their enterprises, and there have been no reports of repercussions for the 5 percent of workers who have not joined ACFTU unions. In 1994 the ACFTU actively began recruiting workers in the private sector, including in township and village enterprises (TVE's), as well as in foreign joint ventures. The ACFTU has 5.5 million members in foreign-funded enterprises (approximately 31 percent of the total) and 1.7 million members in private (nonstate domestic) enterprises (approximately 12 percent of the total). Military and security personnel are the only categories of laborers who cannot join a union.

Despite these recruiting efforts, over half of the nonagricultural work force is still largely unorganized. There are roughly 540 million agricultural workers. Farmers do not have a union. There are approximately 125 million agricultural workers in township and village enterprises (TVE's). The ACFTU has attempted in recent years to recruit TVE workers, but only 5.2 million have joined to date. Although some TVE's have local branches of the ACFTU, most TVE managers maintain that an ACFTU presence is not feasible because their employees continue to be classified as "farmers" rather than "workers." However, some Communist Party secretaries in TVE's take it upon themselves to establish union representation and then affiliate with the ACFTU.

During the year, the authorities allowed the formation of semiautonomous "village" labor unions in the rural outskirts of some cities. These nascent organizations, which have not yet been brought formally within the ACFTU, represented migrant laborers in new private sector industries. According to some press reports, these village unions are effective, relatively independent, and cooperative with city governments.

The Government continued its efforts to stamp out illegal union activity, including through detention or arrest of labor activists. For example, activists Li Jinhua and Yan Jinhong were sentenced in January to reeducation-through-labor for 18 months and 12 months, respectively. The two had been arrested in 1998 after leading steelworkers in Sichuan to protest unpaid wages by blocking a railway. Zhang Xucheng was arrested for participating in the same protest and still is awaiting sentencing. Also in January, Zhang Shanguang, the founder of the short-lived Association to Protect the Rights and Interests of Laid-off Workers, unsuccessfully appealed the 10-year prison sentence he received in December 1998. Zhang had been convicted of "illegally providing intelligence to a foreign organization" after informing a Radio Free Asia reporter about worker protests in Hunan province. In April workers in Tianjin announced the formation of the Chinese Association to Protect Worker's Rights. In July labor activist and China Democracy Party member Liao Shaohua was arrested on subversion charges after taking part in a workers' demonstration outside the provincial government building in Changsha, Hunan. He was sentenced to a total of 6 years on December 22. In July Yue Tianxiang was sentenced to 10 years, and Guo Xinmin, and Wang Fengshan each were sentenced to 2 years in prison, for subversion. The three were arrested in January after establishing the "China Workers Watch," an organization to defend workers" rights. Guo Xinmin's family alleged that police hung him by his hands in order to extract information on fellow dissidents. In August He Chaohui was given a 10-year prison sentence for providing intelligence to foreigners. He had served 2 years in prison for illegal union activities in the 1980's and more recently had organized worker demonstrations in Hunan. This time he was convicted for providing human rights organizations overseas with information on protests.

Neither the Constitution nor the labor law provide for the right to strike. The Communist Party exerts strong control over organized labor. Strikes are not sanctioned officially, and accurate statistics on strike incidents are not available. However, there continued to be numerous reports of demonstrations throughout the country by workers in response to unpaid wages, benefits, pensions, and unemployment stipends, including in Shenyang, Kaishantun, and Anshan. Workers also protested continuing large-scale layoffs that have been prompted by industrial restructuring. Demonstrations were typically short and nonviolent, with participation rang-

ing as high as the thousands. Government authorities for the most part responded with minimal force to resolve labor conflicts and refrained from detaining large numbers of participants.

The Trade Union Law assigns unions the role of mediators or go betweens with management in cases of work stoppages and slowdowns. In addition, a workers' dispute settlement procedure, in effect since 1987, provides for mediation, two levels of arbitration committees, and a final appeal to the courts. The Ministry of Labor and Social Security has established a nationwide organizational network for handling labor disputes, consisting of 270,000 enterprise labor dispute mediation commissions and 3,159 labor dispute arbitration commissions. There are 1,569,000 full- and part-time enterprise mediators and more than 17,000 labor arbitrators. In May the ACFTU reported that in 1997 there had been more than 71,000 cases of labor-management disputes. This was double the number reported by the ACFTU in 1995. According to statistics released in September by the ACFTU, there were 152,000 disputes in 1998, which was more than double the 1997 figure. Enterprise mediation committees resolved 113,000 of these cases. Arbitration committees handled 66,000 cases, some of which had originated before 1998. The courts addressed 3,100 appeals of arbitration decisions. According to the 1999 International Confederation of Free Trade Unions (ICFTU) report, these mediation efforts are often preferential to employers and are largely ineffective in advocating worker rights.

The International Confederation of Free Trade Unions brought a complaint to the ILO against the Government in 1998, alleging the detention of trade unionists and violations of the right to organize. The Government denied the allegations in its official response to the ILO in March. The case is now before the ILO's governing body.

There are no legal provisions allowing for individual workers to affiliate with international labor organizations. However, the ACFTU has cultivated relations with international trade unions. According to the ACFTU, by mid-year it had established exchanges and cooperative relations with over 400 trade unions and international and regional trade organizations in over 130 countries. Over the past year, approximately 50 official ACFTU delegations traveled overseas to meet and study with trade union counterparts.

b. *The Right to Organize and Bargain Collectively.*—The 1995 National Labor Law permits collective bargaining for workers in all types of enterprises. The law also provides for workers and employers in all types of enterprises to sign individual as well as collective contracts. Collective contracts are to be worked out between ACFTU or worker representatives and management and specify such matters as working conditions, wage distribution, and hours of work. Individual contracts are then to be drawn up in line with the terms of the collective contract. Collective contracts must be submitted to local government authorities for approval within 15 days. According to the ACFTU, 72 million workers in over 310,000 enterprises held contracts that were negotiated in this fashion as of June.

The MOLSS uses four methods to set a total wage bill for each collective and state-owned enterprise: (1) as a percentage of profits, (2) as a contract amount with the local labor bureau, (3) as a state-set amount for money losing enterprises, or (4) as an enterprise-set amount subject to Labor Ministry review. Individual enterprises determine how to divide the total among workers, a decision usually made by the enterprise manager in consultation with the enterprise's party secretary and the ACFTU representative. However, in practice only a small number of workers with high technical skills can negotiate effectively on salary and fringe benefits.

Worker congresses, which are held once or twice a year, have been established in over 300,000 enterprises. A number of provincial ACFTU chairmen have called for further strengthening the power of the congresses—particularly on the sale and merger of enterprises. Enterprise employees or their representatives attend voluntarily to examine enterprise policies and reform plans. Participants also are entitled to evaluate and, if necessary, dismiss enterprise managers, although this right has not been realized in practice. Unions, in consultation with management, are supposed to implement resolutions passed by the congresses.

Nonetheless, many worker congresses continue to act largely as rubber stamps for deals predetermined by the manager, union representative, and Communist Party secretary. In smaller enterprises, the same person sometimes holds these three posts.

The Trade Union Law prohibits antiunion discrimination, and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Given controls on organized labor activity, instances of reprisals or discriminatory action by management against unions are uncommon.

Laws governing working conditions in special economic zones (SEZ's) are not significantly different from those in the rest of the country. However, wages in the SEZ's and in southeastern China generally are significantly higher than in other

parts of the country because high levels of investment have created a great demand for available labor. As in other areas of the country, officials have admitted that some foreign investors in the SEZ's are able to negotiate "sweetheart" deals with local partners that effectively bypass labor regulations. Unionized foreign businesses in the SEZ's report pragmatic relations with ACFTU representatives.

c. *Prohibition on Forced or Compulsory Labor.*—Forced labor is a serious problem, particularly in penal institutions. Some penal facilities contract with regular industries for prisoners to perform manufacturing and assembly work. Others apparently operate their own companies. A 1999 directory of Chinese corporations published by a foreign business-information company listed at least two correctional institutions as having business enterprises. Human rights advocates cited this as evidence that products made with prison labor are being exported. Government regulations bar the export of prison-made goods; however, it has been nearly impossible to verify whether these regulations are enforced effectively. In 1998 there were reports that Adidas World Cup soccer balls were produced for export by prisons in the Shanghai area. A request for investigation of the allegations was made to the Government in October 1998; there has been no response to date.

In 1992 the U.S. and Chinese Governments signed a Memorandum of Understanding (MOU) prohibiting trade in prison labor products. A statement of cooperation (SOC) detailing specific working procedures for implementation of the MOU was signed in 1994. Although the signing of the SOC initially helped foster a more productive relationship between U.S. Customs and Chinese authorities, in recent years the authorities have been uncooperative. The authorities last permitted Customs officials to visit a suspect prison labor facility in 1997, at which time no evidence of prison labor was found. During the year, U.S. Customs unsuccessfully pursued several standing requests to visit eight sites suspected of exporting prison labor products (one of which dated back to 1992, and several dating back to 1994). Customs also renewed requests—some dating back to 1994—for the Ministry of Justice to investigate seven factories and three penal facilities for evidence of prison labor exports. The Ministry of Justice did not respond to any of these requests during the year.

In addition to prisons and reform-through-labor facilities, which hold inmates sentenced through judicial procedures, the Government also maintains a network of re-education-through-labor camps, to which persons are sentenced, without judicial review, through administrative procedures (see Section 1.d.). Inmates of reeducation-through-labor facilities generally are required to work, and there have been reports that products made in these facilities are exported. The Government has taken the position that the facilities are not prisons and has denied access to them under the 1992 prison labor MOU with the United States. Credible reports from international human rights organizations and the foreign press indicate that some persons in pretrial detention also are required to work. Inmates of custody and repatriation centers, who also have been detained administratively without trial, reportedly are required to perform labor while in detention, often to repay the cost of their detention. Most such inmates perform agricultural labor (see Sections 1.d. and 1.e.).

Most anecdotal reports conclude that work conditions in the penal system's light manufacturing factories are similar to those in other factories, but conditions on the penal system's farms and in mines can be very harsh. As in many workplaces, safety is a low priority. There are no available figures for deaths and injuries in prison industries.

Trafficking in women, and the kidnaping and sale of women and children for forced prostitution, are problems (see Section 6.f.).

The Government prohibits forced and bonded labor by children and generally enforces the prohibition effectively; except for the problem of trafficking in children for forced prostitution (see Section 6.f.) and of child labor in custody and repatriation centers (see Sections 1.d. and 1.e.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The National Labor Law specifies that "no employing unit shall be allowed to recruit juveniles under the age of 16," 2 years older than the ILO standard age of 14 years for developing countries. The Labor Law stipulates administrative review, fines, and revocation of business licenses of those businesses that hire minors. The law also provides for children to receive 9 years of compulsory education and for parents or guardians to provide for their subsistence. Laborers between the ages of 16 and 18 are referred to as "juvenile workers," and are prohibited from engaging in certain forms of physical work, including labor in mines.

Neither the ILO nor UNICEF believe that there is a significant child labor problem in the formal sector. Good public awareness, a cheap, abundant supply of legal young adult workers, nearly universal primary schooling, and labor law enforcement all reduce opportunities and incentives for employers to hire child workers. In view

of this ample supply of adult laborers, most employers choose not to risk fines and possible arrest by hiring underage workers. Furthermore, many foreign businesses in more developed areas follow codes of conduct that set standards for labor conditions and provide for independent inspections. Nonetheless, in poorer, isolated areas child labor in agriculture is widespread.

However, scholars believe that child labor problems exist. Rural teenagers, for example, have been attracted increasingly to work in urban factories, since wages there are higher than can be obtained in agricultural areas. Also, some private enterprises, particularly in coal mining, operate far from urban centers, making it difficult for law enforcement officials to ensure that child labor is not employed.

The Government prohibits forced and bonded labor by children, and generally enforces this prohibition effectively, except for trafficking in children for forced prostitution and child labor in custody and repatriation centers (see Sections 1.d. and 1.e., and 6.c.). In 1995 several foreign newspapers reported instances in which forced child labor allegedly was used in the production of Chinese coal, textiles, and fireworks. Evidence currently is lacking to substantiate that such practices continue.

e. *Acceptable Conditions of Work.*—The Labor Law codifies many of the general principles of labor reform, setting out provisions on employment, labor contracts, working hours, wages, skill development and training, social insurance, dispute resolution, legal responsibility, supervision, and inspection. There is no national minimum wage; the Labor Law allows local governments to determine their own standards on minimum wages. In general, minimum wage level determinations are higher than the local minimum standard income but lower than the current wage level of the average worker. Minimum wages are usually sufficient to provide a decent standard of living for a worker and family.

The MOLSS claims to have implemented during the year in over 600 cities a system that ensures disbursement of unemployment benefits to laid-off workers and basic living stipends for the poorest urban residents. It has been estimated that there are approximately 20 million laid off and unemployed workers in the country (see Section 6.a.). Unemployment benefits are set as a percentage of a worker's former salary. Basic living stipends supplement the difference between a poor person's income and the minimum standard income for the city where he lives. Each city government determines the minimum standard income on the basis of local economic conditions. In addition to the stipend, families living on less than the minimum standard income are eligible for subsidized food, medical services, housing, and funds to enable school-age children to complete compulsory education. In September the Government raised both unemployment benefits and basic living stipends by 30 percent, despite numerous reports that some cities had had difficulty providing these benefits and stipends even before the increase. With the increases, the cities with the highest minimum standard incomes were Shenzhen, Guangzhou, Shanghai, and Beijing at $38 (312 rmb), $34 (280 rmb), and $33 (273 rmb) per month, respectively. Poorer, interior cities such as Hohhot (Inner Mongolia) and Nanchang (Jiangxi province) raised minimum standard incomes to $17 (143 rmb) and $16 (130 rmb) per month, respectively. However, many workers reportedly are not receiving the benefits they are entitled to, because the state-owned enterprises and the provincial governments are unable to contribute to the funds that pay them (see Section 6.a.). According to statistics published in 1999 by the World Bank, the annual per capita disposable income of Chinese urban residents in 1998 was $656 (5,379 rmb), an increase of 6 percent in real terms from 1997. The net income of rural residents was $261 (2,140 rmb), an increase of 4 percent in real terms from the previous year. However, there were estimates that rural income declined during the year. These income growth rates occurred against a backdrop of 0.8 percent deflation in 1998. World Bank figures for the first three-quarters of 1999 indicated that rural incomes were continuing to increase, but more slowly than urban incomes, widening the already large gap between the living standards of the 800 million peasants and those of urban workers. The ratio between average incomes in coastal provinces and interior provinces has been estimated by Chinese economists to be 12 to 1.

The Government reduced the national standard workweek in 1995 from 44 hours to 40 hours, excluding overtime. The Labor Law mandates a 24-hour rest period weekly and does not allow overtime work in excess of 3 hours a day or 36 hours a month. It also sets forth a required scale of remuneration for overtime work. Enforcement of regulations governing overtime work varies according to region and type of enterprise.

Occupational health and safety remain problems and are frequent themes of campaigns and posters in Chinese enterprises. Poor enforcement of occupational health and safety regulations continues to put workers' lives at risk. Recognizing this, the Government continued during the year to cooperate with the ILO in organizing

training programs for enterprises' health and safety officers as well as local government officials. The current work injury insurance system covers only 37 million of the country's 200 million industrial workers. Every work unit must designate a health and safety officer, and the International Labor Organization (ILO) has established a training program for these officials. Nonetheless, there is a high rate of industrial accidents, with most of the accidents occurring in the mining sector. In 1998 the Government called for a concerted effort to improve occupational safety after industrial accidents reached 18,268 in 1997. Statistics released in during the year showed that industrial accidents in 1998 declined 16 percent to 15,372.

Deaths stemming from such accidents likewise declined 16 percent to 14,660. This trend continued in 1999. Official figures for the first half of the year revealed that accidents and deaths were down 12 and 14 percent, respectively, compared with the first half of 1998. Less than half of rural enterprises meet national dust and poison standards. Many factories that use harmful products, such as asbestos, not only fail to protect their workers against the ill effects of such products, but also do not inform them about the potential hazards.

The drop in the rate of industrial accidents was largely attributable to a decrease in mine accidents, which perennially have accounted for more than half of all such accidents. Mine accidents declined 24 percent in 1998 to 5,674, while mining deaths fell by 18 percent to 9,221. Accidents and deaths through the first half of 1999 declined 32 percent and 25 percent, respectively, compared with the first half of 1998. The decline was primarily the result of a national drive to close unlicensed mines. In 1998 the Government shut down 8,845 small-sized coal mines, approximately one-third of the illegally operated mines that have been ordered closed by the end of 1999. The purpose of the drive has been two-fold: to reduce mine accidents and to lower the surplus supply of coal, which has driven down coal prices in recent years.

Although the Constitution does not provide for the right to strike, the Trade Union Law explicitly recognizes the right of unions to "suggest that staff and workers withdraw from sites of danger" and participate in accident investigations. However, it is unclear to what extent workers actually can remove themselves from such dangerous situations without risking loss of employment.

f. *Trafficking in Persons.*—Trafficking in persons and the abduction of women for trafficking are serious problems. The purchase of women was criminalized in 1991, with the enactment of the NPC Standing Committee's "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children," which made abduction and sale separate offenses. The 1992 Law on the Protection of Women's Rights and Interests also addressed the issue of trafficking in women. Individuals have been sentenced to death for their involvement in the trade in persons. In March, a man in Sichuan province reportedly was executed for selling women. Although the central Government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Thus far, actions to crack down on this lucrative business, which involves organized crime groups and business persons as well as the police and the military, have been largely ineffective.

According to some estimates by experts, there may be 4 to 10 million commercial sex workers in the country, an unknown number of whom may have been trafficked (see Section 5). The increased commercialization of sex and related trafficking in women has trapped thousands of women in a cycle of crime and exploitation, and left them vulnerable to disease and abuse. According to one estimate there are 70,000 prostitutes in Beijing alone. According to the official Xinhua News Agency, one in five massage parlors in China is involved in prostitution, with the percentage higher in cities. Prostitutes can be found at many bars and clubs in urban areas.

Women also are trafficked within or to China for the purpose of forced marriage. Some experts, including the CEDAW Committee, have suggested that the serious imbalance in sex ratios in some regions (see Section 1.f.) has created a situation in which the demand for marriageable women cannot be met by local brides, thus fueling the demand for abducted women. Others have suggested that the problem is exacerbated by the tendency for many village women to leave rural areas to seek employment, and by the tradition that requires that expensive betrothal gifts be given to women. The cost of betrothal gifts may exceed the price of a bride and thus make purchasing a bride more attractive to poor rural families. Some families address the problem of a shortage of women by recruiting women in economically less advanced areas. Others seek help from criminal gangs, which either kidnap women or trick them by promising them jobs and an easier way of life and then transport them far from their home areas for delivery to buyers. Once in their new "family," these women are "married" and raped. Some accept their fate and join the new commu-

nity; others struggle and are punished. According to reports, many of the kidnapings also occur in provinces, such as Sichuan and Guangxi, where the male to female ratio is generally balanced. The Government has made efforts to combat this practice, but a 1997 report by the U.N. Special Rapporteur on Violence Against Women stated that lenient punishment of traffickers and insufficient efforts to combat the trade contributed to its continued prevalence.

There were reports that women from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or to be forced to marry Chinese men. Border guards reportedly are involved in trafficking in women from the Democratic People's Republic of Korea into China. Some of the women are sold against their will to rural Chinese men who have difficulty finding wives in their home villages. Others end up working as prostitutes. Women reportedly also were trafficked from Vietnam into China for purposes of forced marriage. On June 8, press reports stated that 28 Vietnamese women who had been kidnaped and sold as wives to farmers in Fujian province were rescued by the police. Two Vietnamese who allegedly sold the women for $845 (7,000 rmb) were also detained.

According to press reports, trafficking victims have been detained by the authorities in custody and repatriation centers before being returned home (see Sections 1.d. and 1.e.).

Chinese women are being trafficked to other countries for work in the sex industry, as well. Reports indicated that Chinese women were trafficked to countries including Malaysia, Burma, Taiwan, Australia, the United States, and Canada; most apparently were from impoverished areas in the northeast. Most trafficked Chinese women in Malaysia are from the coastal areas of Guangdong, Fujian, and Shanghai. One prominent social worker estimates that there are thousands of Chinese women working as prostitutes in Malaysia. Most of these women were trafficked to Malaysia by ethnic Chinese gangs. Most Chinese women trafficked to Australia are reportedly from Shanghai, Hong Kong, and Guangzhou.

Alien smuggling rings also traffic persons from China to other countries, including Canada, Japan, the United States, Italy, and other countries in Europe, to engage in work in domestic service, restaurants, sweatshops, and other businesses. Authorities in Italy report that an estimated 30,000 illegal Chinese immigrants work in sweatshop conditions outside of Florence, with many children working alongside their parents in the production of scarves, purses, and imitations of various brand name products. Alien smuggling rings often have ties to organized crime, and are international in scope. In late December, authorities in the U.S. and Canada began to find persons smuggled from China in shipping containers on cargo ships arriving from Hong Kong. Those trafficked by alien smugglers may pay high prices for their passage to other countries, where they hope that their economic prospects may improve. According to press reports in December, several Chinese were smuggled into the United States in a well-provisioned cargo container. There were reports that the persons in the container may have paid between $30,000 to $50,000 (248,000 to 410,000 rmb) each for their passage. Many such persons find themselves working in situations akin to indentured servitude. Upon arrival, many reportedly are forced to repay the traffickers for the smuggling charges by working in specified jobs for a set period of time. They often are forced to pay charges for living expenses out of their meager earnings, as well. The conditions under which these trafficked persons must live and work are generally poor, and they may be required to work long hours. Their movements often are restricted by the smuggling rings that trafficked them, and their travel documents, which are often fraudulent, frequently are confiscated. Victims of trafficking face threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protest the situation in which they find themselves. Many of those trafficked in this manner are from Fujian province.

Trafficked persons who are repatriated may face fines for illegal immigration upon their return; after a second repatriation, persons may be sentenced to a term in a reeducation-through-labor camp. Alien smugglers are fined $6,000 (50,000 rmb) and may be sentenced to up to 3 years in prison.

Despite government efforts to prevent kidnaping and the buying and selling of children these problems persist in some rural areas. Since December 1998, Chinese authorities have reported an increase in the number of children being trafficked to other countries by alien smugglers for purposes of forced prostitution.

In June the Government convened a conference on migrant trafficking interdiction and deterrence; parts of the conference were later aired on China Central Television.

Tibet.—(This section of the report on China has been prepared pursuant to Section 536 (b) of Public Law 103–236. The United States recognizes the Tibet Autonomous Region (TAR)—hereinafter referred to as "Tibet"—to be part of the People's

Republic of China. Preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern.)

Respect for the Integrity of the Person.—The Chinese Government strictly controls access to and information about Tibet. Thus, it is difficult to determine accurately the scope of human rights abuses. However, according to credible reports, Chinese government authorities continued to commit serious human rights abuses in Tibet, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views. Tight controls on religion and on other fundamental freedoms continued and intensified during the year, especially during sensitive anniversaries and occasions. These included the 40th anniversary of the 1959 Tibetan uprising against Chinese rule in March, the June visit of Gyaltsen Norbu, the boy recognized as the Panchen Lama by the Chinese Government, the Dalai Lama's birthday on July 6, the August National Minority Games, and the 50th anniversary of the founding of the Peoples' Republic of China on October 1. There were political protests by Tibetans in a number of ethnic Tibetan areas, including outside of the TAR. According to the Tibet Information Network (TIN), an independent news and research service based in London, political protest by and detention of Tibetans is both increasing and spreading throughout ethnic Tibetan areas, especially in ethnic Tibetan areas outside of the TAR.

Although the authorities permit many traditional religious practices and public manifestations of belief, activities viewed as vehicles for political dissent are not tolerated and are promptly and forcibly suppressed. The security clampdown throughout China is being felt in Tibet, and Tibetan Buddhism came under increasing attack. Individuals accused of political activism faced ongoing and serious persecution during the year. The Government continued its campaign to discredit the Dalai Lama and to limit the power of religious persons and secular leaders sympathetic to him. The "patriotic education" of monks and nuns continued to be an important part of the campaign, which in the last 2 years was extended throughout Tibet and to monasteries outside of the TAR. Although some reports suggest a winding down of patriotic education activities throughout the region as the objectives of increasing control over the monasteries and reducing the numbers of monks and nuns were achieved, religious activities in many monasteries have been disrupted severely and monks and nuns have fled to India to escape the campaigns. The ban on the public display of photographs of the Dalai Lama continued, and such pictures were not readily available in many parts of the TAR. There were reports of imprisonment and torture or abuse of monks and nuns accused of political activism, the death of prisoners, and the closure of several monasteries.

While there was limited political violence in Tibet during the year, several political protesters were beaten severely by security forces. According to many credible reports, one protester, Tashi Tsering, who attempted to raise the outlawed Tibetan flag with explosives tied around his waist during the National Minority Games in August, is still in the hospital because of severe head injuries received during a brutal public beating by security forces. An unconfirmed report has claimed that he, in fact, died from his injuries. A teenage monk who shouted proindependence slogans during rehearsal ceremonies for the Games also was subjected to a prolonged beating in front of hundreds of spectators. Foreigners, including international NGO personnel and foreign residents of Tibet, all were subject to more restrictions on travel in Tibet than in 1998, in part due to authorities' concerns over sensitive anniversary dates. During several periods over the summer tourists were subjected to forced searches. The Government also placed restrictions on the movement of Tibetans during sensitive anniversaries and events. There was a notable increase in the number of security forces in and around Lhasa, especially during the summer. The Government tightly controls official visits, and delegation members usually have very few opportunities to meet local Tibetans not previously approved by the local authorities.

There also were numerous reports of detentions and other punishments meted out during the year. International human rights organizations reported that on March 10, security personnel in Lhasa detained two monks after they demonstrated in Barkhor Square on the anniversary of the 1959 Tibetan uprising against Chinese rule; TIN reported that 80 persons were detained in Tibet prior to this anniversary. In July the two monks, Phuntsok Legmon, age 16, and Namdrol, age 21, were sentenced to 3 and 4 years in prison, respectively, as well as to periods of deprivation of political rights. There also were reports that the Jokhang Temple, the most sacred Buddhist site in Tibet, was briefly closed prior to March 10. In August a small group of monks and nuns reportedly shouted proindependence slogans in a stadium during a cultural performance held in conjunction with the National Minority

Games; police ran through the crowd in an attempt to detain them. According to unconfirmed reports, the group's members eventually were detained by the authorities. Three monks were detained on October 1 after a peaceful protest near the Potala palace in Lhasa. Tibetans in Lhasa reportedly were threatened with a cut in their pay or pensions if they refused to take part in rehearsals for the October 1 National Day celebrations; Lhasa residents also were required to put up national flags at their homes to mark the occasion.

On July 16, a group of three foreigners was detained in Lhasa for having burned a Chinese flag in their hotel room and having committed other acts of disrespect towards the flag. The men were detained after having taken film with photographs of these events to be developed in a local film shop. They were detained by Public Security Bureau officials without charge at Lhasa's Gutsa detention center for periods ranging from 10 to 15 days. Upon release, the men were expelled from the country.

Agya Rinpoche, former abbot of Kumbum monastery in Qinghai province, senior Tibetan religious figure, and an official at the deputy minister level, left China in November 1998 due to differences with the Chinese authorities over religious policies. Among reported reasons for his departure were increased government pressure on Kumbum monastery, including the stationing of 45 government or party officials and the imposition of patriotic reeducation, and a heightened role demanded of him by the Government in its campaign to legitimize Gyaltsen Norbu, the boy recognized by the Chinese leadership as the 11th Panchen Lama. In January authorities announced the launch of a 3-year drive to promote atheism and science, primarily directed at government workers, saying such an effort was needed to promote economic progress, strengthen the struggle against separatism, and stem "the Dalai clique's reactionary infiltration."

Legal safeguards for ethnic Tibetans detained or imprisoned are the same as those in the rest of China and are inadequate in design and implementation. According to information gathered by TIN, the average judicial sentence currently being served is 7.3 years in Tibet compared with 5.7 years for the overall average since 1987. TIN reports the average administrative sentence (for less than 15 persons) at 2.3 years. Lack of independent access to prisoners or prisons makes it difficult to assess the extent and severity of abuses and the number of Tibetan prisoners. A majority of judges are ethnic Tibetans, but most have little or no legal training, a problem authorities are working to address through increased legal education opportunities. Trials are brief and closed. Courts handle approximately 20 cases involving crimes against state security each year, for which maximum prison sentences are 15 years for each count, not to exceed twenty years in total. Such cases mainly concern actions in support of Tibetan independence and do not have to be violent to be illegal. A TIN report put the number of political prisoners in Tibet at 500 as of the end of the year. TIN reports that in Tibet, 80 percent of female detainees are nuns and approximately 66 percent male prisoners are monks. The warden of Drapchi prison in Lhasa told a delegation of foreign religious leaders in February 1998 that there were 100 monks and nuns there, of whom 90 percent were incarcerated for "crimes against national security." There are reports that the rate at which Tibetan political prisoners are dying in detention or soon after their release, demonstrably as a result of treatment while in detention, is increasing. According to TIN, female political prisoners, particularly those held at Lhasa's Drapchi prison, are at the greatest risk; since 1987 1 in 22 died while in prison or soon after being released. TIN reports that it confirmed six deaths in 1998 compared with two deaths in the period from 1987 to 1997. Drapchi's male political prisoners have died at a rate of about 1 in 37 since 1987. Overall, TIN reports a death rate of 1 in 48 for Tibetan political prisoners as of the end of the year. A 21-year-old monk, Legshe Tsoglam, imprisoned in early April after refusing to cooperate with a patriotic education campaign at Nalanda monastery near Lhasa, was beaten severely while in Lhasa's Gutsa detention center and died on April 12, just days after his release, according to TIN. Another monk in his twenties, Ngawang Jinpa from Ganden monastery, died in May, 2 months after his release from Drapchi prison, where he had served a 4-year term for political activities, according to TIN. A 22-year-old monk from Nalanda monastery, Norbu died in February. During his year-long detention in Gutsa, in 1995 and 1996, he sustained damage to his kidneys from severe beatings, according to TIN. TIN also reported that Lobsang Tenzin, a 33-year-old former student who was arrested with Sonam Wangdu, is now in very poor health and unable to walk after repeated beatings in the high security Powo Tramo prison in remote Pome county. Sonam Wangdu reportedly died in March as a result of torture. Lobsang Choephel, a monk from Khangmar monastery, reportedly died in detention in May 1998. There have been credible reports that after the early May 1998 protests at Drapchi prison, six nuns, at least three monks, and another person died as

a result of beatings received during the disturbances; one prisoner, Ngawang Sungrab, reportedly was shot in the abdomen by prison guards during the protest. His condition is unknown.

Ngawang Choephel, a Tibetan ethnomusicologist sentenced in 1996 to 18 years in prison on charges of espionage, was moved in 1998 from a detention center in Shigatse to the high security Powo Tramo prison, after the failure of his appeal of his sentence. In response to numerous inquiries by foreign officials, the Government acknowledged that Ngawang Choephel had developed symptoms of bronchitis, pulmonary infection, and hepatitis. His mother's repeated requests to be allowed to travel from India to China to visit him continue to go unanswered by the authorities, despite provisions in the law that allow for prisoner visits.

According to credible reports, Chadrel Rinpoche, who was accused of betraying state secrets while helping the Dalai Lama choose the 11th reincarnation of the Panchen Lama, has been held in a secret compound of a Sichuan prison where he is separated from other prisoners, denied all outside contacts, and restricted to his cell, since his 1997 sentence to 6 years' imprisonment after a trial that was closed to the public. There are many credible reports that prisoners are tortured and mistreated. Authorities use electric shocks, suspension in painful positions, and other forms of torture or abuse.

Several groups also reported mistreatment and beatings of nuns in prison, including 23-year-old Ngawang Sangdrol, who was imprisoned at age 13, released 9 months later and resentenced at age 15; her prison sentence extended for a third time in late 1998 to a total of 21 years for her involvement in demonstrations, most recently during May 1998. Sangdrol reportedly has been beaten badly on several occasions because of repeated participation in protests at Drapchi prison; her health is reportedly poor. Six other prisoners also had their sentences extended for periods of 3 to 4 years as a result of the May 1998 protests. Namgyal Tashi, the elderly father of Ngawang Sangdrol, was to have been released from prison in June; however, friends and family have not heard from him since 1998. There are credible reports from a number of prisons that political prisoners who resisted political reeducation imposed by prison authorities, particularly demands to denounce the Dalai Lama and accept Gyaltsen Norbu, the boy recognized by the Government as the Panchen Lama, also were beaten. There were credible reports that guards beat political prisoners at Drapchi prison after the protests in May 1998; some were beaten severely, including monk Thubten Kalsang and nun Phuntsog Nyidrol (who reportedly tried to shield Ngawang Sangdrol from beatings). In at least one cell block, prisoners reportedly were confined to their cells for 14 months after the incidents in May 1998. According to TIN, punishments meted out to uncooperative prisoner leaders have resulted in hunger strikes among female prisoners on at least two occasions at Drapchi. In March TIN reported clampdowns in prisons following the anniversary of the Dalai Lama's flight into exile. According to TIN, officials are resorting to lengthening periods of solitary confinement to isolate demonstrators. TIN reports one case of two nuns who were still in solitary confinement in mid-1998 after having demonstrated in February 1997.

In February TIN and the foreign press reported increased use of military-style drills and exercises at Lhasa's Drapchi prison in an effort to increase discipline among prisoners, who were forced to run barefoot, stand motionless for extended periods, or march while shouting patriotic slogans. Prisoners who fell behind were beaten severely. Prisoners also were treated badly in other prisons. TIN reported that Gyaye Phuntsog, a 68-year-old monk from Qinghai province, may have been deprived of food and sleep for several days during his interrogation, prior to his release on medical parole during the summer. Several sources report that he is now unable to walk without the use of crutches. There were also reports that two Lhasa prisons, Drapchi and Utritru, recently have grown to include new cellblocks and industrial and agricultural facilities. Among the facilities reportedly added to Drapchi prison was a cement factory.

Promotion of family planning remains an important goal for the authorities in Tibet, but family planning policies permit ethnic Tibetans, as well as other minority groups, to have more children than Han Chinese. Urban Tibetans are permitted to have two children, those in rural areas often have three or more, although according to a TIN report, in several rural counties a two child limit is being applied. In practice, Tibetans working for the Government, especially Communist Party members, are pressured to limit themselves to one child.

In September, the Gyatso Children's Home, an orphanage that housed more than 60 Tibetan children in Lhasa, was closed by local authorities, who alleged that the home's personnel were engaged in corrupt activity and had links to Tashi Tsering, who attempted to raise the outlawed Tibetan flag with explosives tied around his waist during the National Minority Games in Lhasa in August. The managers of

the facility and the entire staff were arrested. The children, ranging in age from 1 to 14, reportedly either were returned to their home prefectures, turned out into the streets, or placed in a local orphanage where conditions were reportedly extremely poor.

Freedom of Religion.—The Government maintains tight controls on religious practices and places of worship. While it allows a number of forms of religious activity in Tibet, it does not tolerate religious manifestations that advocate Tibetan independence or any expression of separatism, which it describes as "splittism." The Government harshly criticizes the Dalai Lama's political activities and leadership of a government-in-exile. The official press continued to criticize vehemently the "Dalai clique" and, in an attempt to undermine the credibility of his religious authority, repeatedly described the Dalai Lama as a separatist who was determined to split China. Both central government and local officials often insist that dialog with the Dalai Lama is essentially impossible and claim that his actions belie his repeated public assurances that he does not advocate independence for Tibet. Nonetheless, the Government asserts that it is willing to hold talks with the Dalai Lama as long as he ceases his activities to divide the country and recognizes that Tibet and Taiwan are inseparable parts of China's territory. During June 1998, both President Jiang Zemin and the Dalai Lama expressed readiness for dialog; however, the Government later rebuffed efforts by the Dalai Lama to begin such a dialog.

Most Tibetans practice Buddhism to some degree. This holds true for many ethnic Tibetan government officials and Communist Party members. Some 1,000 religious figures hold positions in local people's congresses and committees of the Chinese People's Political Consultative Conference. However, the Government continues to insist that party members and government employees adhere to the Party's code of atheism. In January a drive to promote atheism and science was announced that, according to official sources, was directed primarily toward raising the level of science and technology among government workers. According to credible reports, there have been instances in which Chinese authorities threatened to terminate Tibetan government employees whose children are studying in India (where the Dalai Lama's government-in-exile is located) if they did not bring the children back to Tibet, and in which authorities searched the homes of government workers for religious objects or pictures of the Dalai Lama.

Buddhist monasteries and proindependence activism are associated closely in Tibet. The Government continued its patriotic education campaigns begun in 1996, with more focus on Tibetan areas outside of the TAR. The campaigns, which largely have been unsuccessful in changing Tibetans' attitudes, are aimed at controlling the monasteries and expelling sympathizers of Tibetan independence and supporters of the Dalai Lama. According to regulations posted at the entrances of many monasteries, monks are required to be "patriotic" and sign a declaration agreeing to reject independence for Tibet; reject the boy recognized by the Dalai Lama as the 11th reincarnation of the Panchen Lama; reject and denounce the Dalai Lama; recognize the unity of China and Tibet; and not listen to the Voice of America. According to some reports, monks who refused to sign were expelled from their monasteries; others have been detained. Resistance to the campaigns has been intense, and the Government's efforts are resented deeply. According to the U.N. High Commissioner for Refugees, 2,905 Tibetans left Tibet during the year. TIN reports that over one-third included "patriotic reeducation" and its consequences among their reasons for leaving.

In January TIN reported that two major religious sites effectively had been closed as a result of the "patriotic education campaigns" of 1997 and 1998. Monks at the Jonang Kumbum monastery in Shigatse and nuns at the Rakhor nunnery near Lhasa reportedly were dispersed in 1998 after they refused to accept conditions laid out by the Government's patriotic education teams, including renouncing the Dalai Lama and Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. The Rakhor nunnery reportedly has been destroyed. Approximately 3,000 Tibetans enter Nepal each year, according to the U.N. High Commissioner for Refugees. In November 1998, Chinese police shot and killed a 15-year-old boy attempting to leave Tibet to become a monk in India, according to TIN. Also in the fall of 1998, at least two Tibetan girls were raped by a group of ethnic Han and Tibetan police after they were caught trying to cross the border with the aims of studying at Tibetan schools in India and becoming nuns, according to TIN.

According to information gathered in an interview by a foreign official, 15-year-old Sonam Palden and 17-year-old Sonam Tsering attempted to leave Tibet in October 1998 to pursue religious teaching in India. At the border, Chinese border guards killed Sonam Tsering and shot and injured Sonam Palden. During subsequent incarceration in Namri prison in Shigatse, Sonam Palden was held in solitary confine-

ment, beaten, and denied adequate medical treatment. Following his release because of his medical condition, Sonam Palden left Tibet in November.

TIN reported that authorities imposed harsh measures to ban the celebration of the Dalai Lama's birthday on July 6, and that security forces beat several Tibetans who attempted to carry out traditional celebration activities. The ban on the public display of photographs of the Dalai Lama continued, and such pictures were not readily available in many parts of the TAR. These restrictions are enforced less strictly in Tibetan areas outside of the TAR, where pictures of the Dalai Lama are displayed at many monasteries. Portraits of the boy recognized by the Government to be the Panchen Lama, Gyaltsen Norbu, were on prominent display in some monasteries, but the Government still banned pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama.

Nonetheless, there were numerous arrests of monks charged with distributing or possessing pictures of the Dalai Lama or with having links to exile groups; some of these reports came from areas outside of the TAR. In a Tibetan area of Sichuan province, at least five monks were arrested over the summer and fall for engaging in such activities. Two monks in Qinghai province were arrested in April for distributing the Dalai Lama's picture, according to a human rights group. The TIN reported in January that at least five Buddhist monks and two lay persons were arrested in November and December 1998 at the Kirti monastery in Amdo, an ethnically Tibetan area outside of the TAR, following a "patriotic education" campaign being carried out at the monastery. The monks were required to accept conditions that included a ban on pictures of the Dalai Lama and the Kirti Rinpoche (head of the monastery, now resident in India), accept that the Dalai Lama represented a separatist movement, hand over copies of the Dalai Lama's speeches and writings to the authorities, and renounce Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Those detained reportedly were suspected of organizing displays of pictures of the Dalai Lama and boycotts of the "patriotic education" campaign. Many monks have fled Tibet in recent years to avoid persecution for their religious and political beliefs.

Chinese officials state that the TAR has more than 46,380 Buddhist monks and nuns and approximately 1,790 monasteries, temples, and religious sites. There are proportionate numbers of monks and nuns in other Tibetan areas of China. Officials stated that these figures have remained stable over the last 3 years because monasteries are not able to support higher numbers of monks. However, the Government has moved to curb the proliferation of Tibetan Buddhist monasteries, which it charges are a drain on local resources and a conduit for political infiltration by the Tibetan exile community. The Government generally imposes strict limits on the number of monks in major monasteries, and has the right to disapprove any individual's application to take up religious orders, although these restrictions are not always enforced. The number of monks at Ragya monastery reportedly decreased from 500 to 250 in 1998. There have been reports that other monasteries also have been required to decrease the number of monks associated with them.

The Government continues to oversee the daily operations of major monasteries. Although the Government generally contributes only a small percentage of the monasteries' operational funds, it retains management control of the monasteries through the government-controlled democratic management committees and the local religious affairs bureaus. In April 1996, regulations restricted leadership of management committees of monasteries to "patriotic and devoted" monks and nuns and specified that the Government must approve all members of the committees. Despite these government efforts to control monasteries, antigovernment sentiment remains strong.

The Government continued to insist that Gyaltsen Norbu, the boy it recognizes and enthroned in 1995 is the reincarnation of the Panchen Lama. The Panchen Lama is Tibetan Buddhism's second highest figure, after the Dalai Lama. Since then Gyaltsen Norbu visited Tibet in June for the first time in 3 years, holding audiences for both monks and lay persons who were ordered by their work units to attend. Security surrounding the visit was extremely tight. The boy's return to Tibet received extensive coverage in the media, where he was quoted as telling believers to "love the Communist Party of China, love our Socialist motherland, and love the religion we believe in." Norbu also appeared publicly in Beijing to mark the 50th anniversary of the founding of the People's Republic of China. At all other times he was held incommunicado by Chinese authorities. Meanwhile, the Government continued to detain Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. The boy's family also was detained. Repeated requests by high-level foreign government and private delegations, including the U.N. High Commisioner for Human Rights, for access to the boy have been denied. The Government maintains that Nyima has been placed under government protection for his own safety.

The authorities also maintain that both boys are being well cared for and are receiving a good education. The Government denied press reports in November that Gendun Choekyi Nyima died and was cremated secretly; however, the Government continues to refuse international observers the access necessary to confirm his well-being. The majority of Tibetan Buddhists recognize Gendun Choekyi Nyima, recognized by the Dalai Lama as the Panchen Lama; refugee monks told a foreign official that they believe that virtually all Tibetans hold this view. Tibetan monks have claimed that they were forced to sign statements pledging allegiance to the boy that the Government selected as the reincarnation of the Panchen Lama. The Party also urged its members to support the "official" Panchen Lama, and the Propaganda Department of the Communist Party committees at both the regional and city levels had pictures of the boy printed for use in public and private religious displays.

The Government continued to contribute significant funds towards the restoration of Buddhist sites, many of which were destroyed during the Cultural Revolution, in part to promote the development of tourism in Tibet. Many other restoration efforts are funded privately. The monasteries continue to house and train young monks. Although by law monks are prohibited from joining a monastery prior to the age of 18. In fact, many younger boys join monasteries. In late December, the 14-year-old Karmapa Lama left Tibet secretly, reportedly to seek religious teaching in India. Shortly after his departure, the monastery was raided and two persons were arrested.

While officials state that there is no Falun Gong activity in the TAR, reports indicated that there are small numbers of practitioners of Falun Gong present in the region, among the ethnic Han population. A few reportedly were detained after the Falun Gong was banned in July (see Section 2.c.).

In June 1998, the European Union issued a report based on the trip of its ambassadorial delegation to Tibet in early May. The report was highly critical of the Government's control of religious freedom and stated that "the delegation was in no doubt that the authorities in the TAR exercise extremely tight control over the principal elements of Tibetan religion and culture."

Economic Development and Protection of Cultural Heritage.—Tibetans, as one of China's 55 other minority ethnic groups, receive preferential treatment in marriage and family planning policies, and, to a lesser extent, in university admissions, and in government employment. According to official government statistics, 74 percent of all government employees in Tibet are ethnic Tibetans. Nonetheless, many positions of real power are held by ethnic Han, and most key decisions in Tibet are made by Chinese. Although government regulations stipulate that government and legal documents are to be in Tibetan, in practice written communications by officials and government documents very frequently are in Chinese. In the area of private sector employment, discrimination against Tibetans is widespread.

The central government and other provinces of China heavily subsidize the Tibetan economy, which has grown by an average annual rate of over 10 percent for the last decade. Over 90 percent of Tibet's budget income comes from outside sources. Tibet also benefits from a wide variety of favorable economic and tax policies. However, these policies have attracted growing numbers of ethnic Han and Hui (Muslim) immigrants from other parts of China, who are competing with—and in some cases displacing—Tibetan enterprises and labor. Government development policies have helped raise the economic living standards of ethnic Tibetans, particularly in the areas of health care, education, and transportation, but many benefits of development accrue primarily to Han Chinese. For example, in many areas of Lhasa, almost all small businesses are run by Han. Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs, causing environmental problems and threatening traditional Tibetan culture.

Prostitution increasingly is a problem in Tibet, as it is elsewhere in the country, according to experts working in the region. Hundreds of brothels operate openly in Lhasa; up to 10,000 commercial sex workers may be employed in Lhasa alone. Much of the prostitution occurs in sites owned by the Party or the Government, under military protection. Many brothels reportedly are located near military bases and religious and cultural sites. Most prostitutes in Tibet are ethnic Han women, mainly from Sichuan, but a few are reportedly Tibetan. The incidence of HIV among prostitutes in Tibet is unknown, but is believed to be relatively high.

Illiteracy and semi-literacy levels are high. According to official Government statistics, the 1998 illiteracy rate for Tibetans age 15 and over was approximately 60 percent, and in some areas was considerably higher. Chinese officials over the past few years have downgraded the use of Tibetan in education and in 1997 announced that they would begin teaching Chinese to Tibetan children starting in the first grade. The Government stated that this step was taken in order to make Tibetan

children more competitive with their Han counterparts, and provide more educational and employment opportunities in the long run. Primary schools at the village level follow a Tibetan curriculum, but these schools usually have only two or three grades.

Approximately 81 percent of eligible children attend primary school, but most pupils end their formal education after graduating from village schools. According to local education officials, Tibetan is the main language of instruction in 60 percent of middle schools, especially in more remote areas, although there are special classes offering instruction in Chinese. NGO's maintain that this figure is high. Most, but not all, of the students in the Chinese classes are ethnic Han. Most of those who attend regional high schools continue to receive some of their education in Tibetan, but knowledge of Chinese is essential as most classes are in Chinese. Tibetan curriculum high schools exist in a few areas, primarily in Tibetan areas outside the TAR. Since the mid-1980's, the Government has allocated funds to enable Tibetan secondary students to study in schools elsewhere in China. According to government figures, there are 13,000 Tibetan students currently studying in some 100 schools in different parts of China. Knowledge of Chinese is usually necessary to receive a higher education, although some minority colleges allow for study in Tibetan.

Tibet University is a small institution with 1,300 students established to train Tibetan teachers for the local educational system. Ethnic Tibetans resent disproportionate Han representation in the student body and faculty. Tibetans, officially said to constitute approximately 95 percent of the region's population, make up only 80 percent of Tibet University's student body, and 30 percent of all university faculty in the Tibet Autonomous Region. Although Tibetans are given admission preferences, Han Chinese students frequently gain admission because they score higher on admission exams due to stronger Chinese-language skills and educational backgrounds. Authorities reportedly require professors, particularly those from Tibet University's Tibetan Language Department, which is viewed as a potential source of dissent, to attend political education sessions and limit course studies and materials in an effort to prevent "separatist" political and religious activity on campus. Many ancient or religious texts are banned from the curriculum for political reasons. The Tibetan Language Department, which was closed to new students in the fall of 1997, was reopened in 1998 after its curriculum had been purged of religious and "separatist" materials.

In October, the official news agency Xinhua reported that the Tibet Autonomous Regional Television opened a Tibetan language satellite television channel on October 1. The channel broadcasts in Tibetan for 10 hours each day, and reaches areas in Sichuan, Qinghai, Gansu, and Yunnan provinces as well. There also are two bilingual channels, on which Tibetan language programs make up 15 percent of the total.

The Internet has been open to the public since April. At year's end, Lhasa had several Internet cafes and estimates put the number of Internet users at 900.

The Dalai Lama, Tibetan experts, and others have expressed concern that development projects and other central Government policies adopted at a 1994 national work conference on Tibet encourage a massive influx of Han Chinese into Tibet, which has the effect of overwhelming Tibet's traditional culture and diluting Tibetan demographic dominance. In recent years in Lhasa and other urban areas, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in Tibet have led to a substantial increase in the non-Tibetan population (including China's Muslim Hui minority as well as Han Chinese) in Lhasa and other urban areas. An increased number of immigrants from China's large transient population seek to take advantage of these new economic opportunities. Most of these migrants profess to be temporary residents, but small businesses run by ethnic Han and Hui citizens (mostly restaurants and retail shops) are becoming more numerous in almost all Tibetan towns and cities.

In Lhasa, the Chinese cultural presence is obvious and widespread. Buildings are of Chinese architectural style, the Chinese language is widely spoken, and Chinese characters are used in most commercial and official communications. Some observers have estimated that about one-half of the population in the city is Han Chinese; elsewhere, the Han percentage of the population is significantly lower. In rural areas, the Han presence is often negligible. Chinese officials assert that 95 percent of Tibet's officially registered population is Tibetan, with Han and other ethnic groups making up the remaining 5 percent. This figure does not include the large number of "temporary" Han residents, including military and paramilitary troops and their dependents, many of whom have lived in Tibet for years.

China's economic development policies, fueled in Tibet by central government subsidies, are modernizing parts of Tibetan society and changing traditional Tibetan ways of life. Although the Government has made efforts in recent years to restore

some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continue to limit the fundamental freedoms of ethnic Tibetans and risk undermining Tibet's unique cultural, religious, and linguistic heritage.

HONG KONG

Hong Kong reverted from British to Chinese sovereignty on July 1, 1997 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China, Hong Kong enjoys a high degree of autonomy except in defense and foreign affairs and remains a free society with legally protected rights. The Basic Law, approved in 1990 by China's National People's Congress, provides for fundamental rights and serves as a "mini-constitution." A chief executive, selected by a 400-person selection committee, chosen by a China-appointed preparatory committee, wields executive power. The legislature (known as the Legislative Council) is composed of directly and indirectly elected members. Upon reversion, China, which had objected to the electoral rules instituted by the British colonial government, dissolved Hong Kong's first fully elected Legislative Council. A 60-member Provisional Legislature, chosen by the selection committee that named the Chief Executive, took office on July 1, 1997. Critics contended that the selection of the Provisional Legislature had no basis in law and was designed to exclude groups or individuals critical of China. On July 1, 1998, a Legislative Council elected earlier that year replaced the Provisional Legislature. Twenty seats were elected on a geographic basis through universal suffrage, 30 seats through functional (occupational) constituencies, and 10 seats through indirect election. There were complaints that the election laws favored pro-China candidates in the geographical constituencies and severely limited the franchise in the functional constituencies (the number of voters in the functional constituencies was reduced from 2.5 million to 189,000; however, no parties boycotted the elections. Human rights groups contend that the functional constituencies are undemocratic. Nonetheless, the 58 percent voter turnout was the highest in Hong Kong's history, and the parties and independents in the prodemocracy parties won 14 of the 20 seats elected on a geographic basis. The power of the legislature is curtailed substantially by voting procedures that require separate majorities among both geographically and functionally elected legislators for bills introduced by individual legislators and by Basic Law prohibitions against the legislature's initiating legislation affecting public expenditures, political structure, or government operations. In addition, the Basic Law stipulates that legislators only may initiate legislation affecting government policy with the prior approval of the Chief Executive. The Government's successful attempts in January to block private member bills on collective bargaining and antiunion discrimination revealed that "government policy" is defined very broadly. By law and tradition, the judiciary is independent; however, in May the Government decided to seek interpretation of the Basic Law in the "right of abode" case from the Chinese National People's Congress (NPC). The NPC's interpretation of the law in this case effectively overturned a ruling by the Court of Final Appeal, Hong Kong's highest court, and raised questions about the continued independence of Hong Kong's judiciary.

A well-organized police force maintains public order under the firm control of civilian authorities. The 4,000 Chinese troops sent to Hong Kong to replace the British military garrison have maintained a low profile and did not perform police functions. There were reports that some members of the police committed human rights abuses.

Hong Kong is a major regional and international trade and finance center. It is the principal gateway for trade and investment with China. A thriving free market economy operates with little government interference (a system provided for by the Basic Law for 50 years). The global economic crisis had a significant impact on the economy; per capita gross domestic product dropped from $26,000 in 1997 to just over $23,000 in 1999.

The Government generally respected the human rights of its citizens; however, human rights problems that existed both before and after the reversion to China included: Limitations on citizens' ability to change their government and limitations on the power of the legislature to affect government policies; reports of police use of excessive force; some degree of media self-censorship; violence and discrimination against women; discrimination against the disabled and ethnic minorities; instances of intimidation of foreign domestic servants; and trafficking in persons for the purposes of forced labor and forced prostitution. Despite the ban on the Falun Gong in mainland China, the Hong Kong Government noted publicly that Falun Gong was

a legally registered organization and would be allowed to continue its activities without interference.

RESPECT FOR HUMAN RIGHTS

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

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

There were four instances of death of detainees in police custody in the first 9 months of the year. The Coroner's Court (appointed by the Chief Executive under the Coroner's Ordinance) determined that one of the cases was a suicide. In another case, the cause of death was determined to be heroin intoxication, but the Coroner's Court returned an open verdict because the source of the heroin could not be established. The third and fourth cases are under investigation.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law forbids torture and other abuse by the police; however, there were reports that police at times used excessive force against persons in custody. The law stipulates punishment for those who violate these prohibitions, and disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process. Allegations of excessive use of force are investigated by the Complaints Against Police Office, whose work is monitored and reviewed by the Independent Police Complaints Council, a body composed of public members appointed by the Chief Executive.

Although excessive use of force by police is not widespread, there are occasional complaints of force being used during interrogations to coerce information or confessions. In the first 9 months of the year, the Complaints Against Police Office received 783 complaints of assault by the police, but of the 246 cases that were investigated, all were withdrawn or deemed "not pursuable," false, or unsubstantiated. The remainder are pending investigation. Human rights groups have called repeatedly for a more independent monitoring body, noting long delays in hearing some allegations, the contrast between the relatively large number of complaints and the few that are substantiated, and the unwillingness of witnesses to substantiate complaints to the police for fear of retribution. In November the U.N. Human Rights Committee expressed concern that police responsibility for investigation of police misconduct undermines the credibility of these investigations.

Although conditions vary among facilities, prison conditions conform to international standards.

An August 1998 ruling by the Correctional Services Department that the use of force in breaking up fighting between inmates earlier in the year was justified prompted widespread criticism and calls for the establishment of an independent board to monitor prison conditions.

The Government permits prison visits by human rights monitors. Local justices of the peace regularly inspect prisons, but these visits rarely are unannounced, and justices of the peace speak with prisoners in the presence of Correctional Services Department staff.

d. *Arbitrary Arrest, Detention, or Exile.*—Common law, precedents previously in force, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention. Suspects must be charged within 48 hours or released. The average length of preconviction incarceration does not exceed 80 days.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The judiciary has remained independent since the handover, underpinned by the Basic Law's provision that Hong Kong's common law tradition be maintained. According to the Basic Law, the courts may rule on matters that are the "responsibility of the Central People's Government or concern the relationship between the central authorities and the (Special Administrative) Region," but before making their final judgments (which are not appealable), the courts must seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." The National People's Congress vehicle for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The Hong Kong members are nominated by the Chief Executive, the President of the Legislative Council, and the Chief Justice. Human rights and lawyers' organizations have expressed concern for some time that, if broadly applied and loosely interpreted, these exceptions to the Court of Final Appeal's power of final jurisdiction could be used to limit the independence of the judiciary. In May the Government decided to seek interpretation of the Basic

Law in the "right of abode" case from the Chinese National People's Congress (NPC). The NPC's interpretation of the law in this case effectively overturned a ruling by the Court of Final Appeal, Hong Kong's highest court, and raised questions about the continued independence of Hong Kong's judiciary.

The Court of Final Appeal is Hong Kong's supreme judicial body. An independent commission nominates judges; the Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on Hong Kong's courts. More than 35 percent of Hong Kong's judges come from Commonwealth countries. Judges have security of tenure until retirement age (either 60 or 65, depending on date of appointment).

Beneath the Court of Final Appeal is the High Court, composed of the Court of Appeal and the Court of First Instance. Lower judicial bodies include the District Court (which has limited jurisdiction in civil and criminal matters), the Magistracy (exercising jurisdiction over a wide range of criminal offenses), the Coroner's Court, the Juvenile Court, the Lands Tribunal, the Labor Tribunal, the Small Claims Tribunal, and the Obscene Articles Tribunal.

The law provides for the right to a fair public trial, and this is respected in practice. Trials are by jury, and the judiciary provides citizens with a fair and efficient judicial process.

Although the judiciary remains independent, human rights activists are concerned that the legal system may favor those closely aligned with China or powerful local institutions. These concerns were heightened by the Government's 1998 decisions not to prosecute the New China News Agency for alleged violations of the Privacy Ordinance (see Section 1.f.) and to decline to prosecute a prominent newspaper editor accused of fraud. In February the Secretary for Justice explained the Government's March 1998 decision not to prosecute newspaper editor Sally Aw, who, though accused of fraud, had close ties to Beijing. The explanation was given after Aw's three co-conspirators were convicted of fraud in January, and a videotape of Aw's confession was leaked to the press. In addition to citing a lack of sufficient evidence to prosecute, the Secretary noted that she had taken the "public interest" into account in making the decision because the case could have bankrupted the newspaper, thus damaging free speech and putting residents out of work. In March anger over the explanation, as well as the Government's handling of the right of abode ruling, prompted a legislative motion of no confidence in the Secretary for Justice which was defeated after heavy lobbying from the Government. In 1998 the Provisional Legislature passed the controversial Adaptation of Laws (Interpretive Provisions) Ordinance, which replaced the word "Crown" in Hong Kong legislation with the word "State" in hundreds of existing laws. Since that time the Government has reviewed 17 laws and determined that these laws should be amended to encompass the State specifically. Critics are concerned that this change would place Chinese government organs above the law, since laws that previously did not apply to the Crown now do not apply to the (Chinese) state.

On January 29, the Court of Final Appeal issued rulings in three cases, known collectively as "the right of abode ruling." At the handover, the Basic Law for the first time conferred the right of abode in Hong Kong on mainland-born children of Hong Kong residents. To limit the possibility of a large influx of persons under this provision, the Provisional Legislature soon after reversion enacted regulations that required mainland-born children of Hong Kong residents to possess a certificate of entitlement from Hong Kong immigration authorities attached to a valid travel document issued by the Government of China in order to exercise the right of abode. For many persons entitled to the right of abode, this requirement led to long delays in the ability to exercise the right. Would-be migrants challenged the legitimacy of the Provisional Legislature and the regulations it issued regarding the right of abode. In the cases heard before the Court of Final Appeal, the Government also challenged a lower court ruling that illegitimate children of Hong Kong resident parents enjoyed the same right of abode as those born in wedlock. The Court of Final Appeal ruled that the Provisional Legislature was "legally authorized," that administrative restrictions limiting the right of abode of mainland-born children of Hong Kong parents was in violation of the Basic Law, and that all children, born in wedlock or not, were entitled to the same right of abode as long as one parent had resided legally in Hong Kong for at least 7 years at the time the application was made, rather than at the birth of the child. The ruling also asserted the Court of Final Appeal's right of judicial review over not only the Basic Law, but also over acts of the NPC as they affected Hong Kong. In addition, the judgment defined tests

and means by which the Hong Kong court should seek interpretation of the Basic Law by the National People's Congress.

On February 8, a Chinese State Council spokesman termed the Court's decision a "mistake" that "should be changed." On February 26, in response to criticism from mainland legal scholars and officials, the Hong Kong Government requested an unprecedented "clarification" of the Court's assertion of the right of judicial review from the Court of Final Appeal, citing "public interest" and constitutional concerns. The Court responded with a brief statement stressing that it did not question the power of China's NPC to interpret the Basic Law but reserved its power to test acts of the NPC against the Basic Law. Human rights activists and some legislators expressed concern that the clarification set a "dangerous precedent."

The Government of Hong Kong did not implement the right of abode ruling immediately. After the ruling was issued, immigration officials only processed applications on the mainland for certificates of entitlement to Hong Kong residency that were accompanied by applications for one-way entry permits to Hong Kong (to be granted by granted by Chinese authorities). According to a government study released on April 29, the January ruling increased the number of persons eligible to apply for residency in Hong Kong on the basis of parental residency from an estimated 66,000 persons to an estimated 1.67 million persons (approximately one-quarter of Hong Kong's current population) within 7 years, leading to general fears of serious overcrowding. However, some critics claimed that the Government's figures were too high.

On May 18, Chief Executive C.H. Tung announced the Government's intention to ask the Standing Committee of the NPC to interpret two sections of the Basic Law relevant to the Court of Final Appeal's right of abode ruling. The Government submitted its request to the Standing Committee after giving the legislature only 24 hours to consider a motion endorsing the Chief Executive's decision to seek interpretation. On May 19, the Legislative Council voted to support the decision to seek interpretation of the Basic Law. Legislators from the democratic parties boycotted the vote and wore black to mourn the "death of justice." Hundreds of lawyers, who viewed the request as a postjudicial remedy that undermined the authority and independence of the judiciary, marched in protest.

The NPC interpretation, issued on June 26, implied that the Court of Final Appeal erred in not seeking NPC interpretation before it issued its ruling because the Basic Law clauses on which its ruling was based involved "matters involving the relations between the Central Government and the SAR." The NPC declared that the original legislative intent of one of the Basic Law articles, as expressed in a 1996 Preparatory Committee Document, was that at least one parent had to have had right of abode at the time of the child's birth (rather than at the time of application) in order to confer that right upon the child. The NPC also declared that these children must apply for approval for entry into Hong Kong. The NPC interpretation effectively overturned the ruling of the Court of Final Appeal, which led many legislators and human rights activists to express concern about how final the judgments of the Hong Kong Court of Final Appeal actually were. Although the status of the litigants in the original case(s) was unchanged, the effect of the interpretation was to reduce the number of persons eligible for right of abode in Hong Kong from an estimated 1.67 million to 160,000. Following the interpretation, the Government issued immigration regulations that gave the interpretation retroactive effect from July 1, 1997.

Two additional right of abode cases, one dealing with the rights of adopted children and the other with mainlanders who sought to exercise their right of abode without mainland-issued documents permitting them to remain in Hong Kong were heard by the Court of Final Appeal in October. On December 3, the Court of Final Appeal issued its judgment regarding the mainlanders who sought to invoke the right of abode in Hong Kong without the required documentation. The Court ruled that the NPC had the authority to interpret the Basic Law, that the NPC's June interpretation of the Basic Law therefore was binding, and that the interpretation upheld the Government's previous documentation and time of birth requirement. The Court gave the interpretation effect from July 1, 1997, and stated that the would-be immigrants who had not completed the proper procedures could be returned to China. Nine persons were injured in protests which followed the Court of Final Appeal's December ruling. Police arrested three protestors. By year's end, no ruling had been issued in the case dealing with the rights of adopted children.

In a March case involving the desecration of the Chinese and Hong Kong flags, the High Court ruled unanimously that the PRC and Hong Kong flag ordinances were inconsistent with the Basic Law because they violated the International Covenant on Civil and Political Rights, which is subsumed in the Basic Law. However, in December the Court of Final Appeal overturned the ruling.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches.

For historical reasons and because of the courts' reliance on common law precedents, almost all civil cases and most criminal cases are heard in English. To help remedy this, the Government has increased the number of officers in the Legal Aid Department proficient in Chinese. A 1996 pilot scheme for simultaneous interpretation in some court proceedings failed, but the Government extended the use of bilingual prosecution documents and indictments. All laws are available in Chinese and in 1997 the High Court heard the first jury trial ever conducted in Cantonese.

Some human rights groups have expressed concern that the Government has not protected the interests of Hong Kong residents arrested in mainland China vigorously enough. The issue is complicated by the absence of an agreement allowing Hong Kong officials access to Hong Kong citizens arrested or detained in mainland China.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for the right of privacy, and the Government generally respects this right in practice. The Interception of Telecommunications Ordinance, passed by the Legislative Council in 1997, requires the security forces to obtain a warrant from the High Court for a wiretap or mail interception. However, because the law specifies that the Government must name an effective date for the change, it has never been implemented. As a result, wiretaps are approved by the Chief Executive's office; a court issued warrant is not required. Responding to Legislative Council questioning in September 1998, the Secretary for Security refused to reveal the number of government wiretaps.

For more than 20 years, the Independent Commission Against Corruption was vested with powers, including the right to authorize searches and detain suspects, which normally are exercised only by a judicial officer. Amendments to ordinances governing the Commission took effect in 1997, depriving the Commission of the independent authority to issue arrest or search warrants. However, the Commission still does not apply the presumption of innocence in corruption cases, and criminal convictions are obtained by regarding any excessive, unexplainable assets held by civil servants as ill gotten until proven otherwise.

In 1996 the Government established the Office of the Privacy Commissioner for Personal Data (PCO) under the Personal Data (Privacy) Ordinance (PDPO) to prevent misuse and disclosure of data such as medical and credit records. The ordinance also prohibits matching sets of personal data without the consent of the subject individual or the commissioner, although some government departments were exempted in order to combat social welfare abuse and tax evasion. Some violations of the PDPO constitute criminal offenses, although there have been no prosecutions under the PDPO. In other cases, an injured party may seek compensation through civil proceedings. If the PCO believes that violations may continue or be repeated, he may issue an enforcement notice. From the end of 1996 when the PDPO took effect through the end of September, the PCO had received 1,018 complaints, 325 of them in the first 9 months of the year. Since 1996, of the 903 completed investigations, 325 completed during the year, the PCO found violations of the PDPO in 72 cases, resulting in the issuance of 16 enforcement notices and 44 warning notices.

The Government determined that under the Adaptation of Laws (Interpretive Provisions) Ordinance, passed by the Provisional Legislature (a nonelected body that performed the legislative function from July 1, 1997 to June 30, 1998) in 1998, the Personal Data Privacy Ordinance is not applicable to the central People's Government organs in Hong Kong. The Adaptations of Laws Ordinance replaced the word "Crown" in Hong Kong legislation with the word "State" in hundreds of existing laws. Government officials say that the change is a technical fix, necessary for the continued implementation of prehandover laws, that does not offer a wholesale exemption from laws. However, critics are concerned that the change places Chinese government organs, particularly the New China News Agency, above the law.

In June the High Court dismissed a legislator's civil suit over the failure of the New China News Agency to respond within the Ordinance-specified time frame to the legislator's request for information about her in the Agency's files, because the NCNA Director named in the suit was not in Hong Kong at the time the incident occurred.

In November the Office of the Telecommunications Authority (OFTA) requested an explanation from a major local paging company, China Motion Telecom International (CM Telecom), which allegedly failed to relay messages referring to the Falun Gong (which was banned on the mainland in July) (see Section 2.c.). The OFTA stressed that the company, which provides both Hong Kong-only and China-

wide service to Hong Kong customers, would be monitored closely to ensure that its operations complied with Hong Kong license requirements under which paging companies may refuse to relay only messages that are obscene or that could lead to activities that are unlawful under local laws. However, the OFTA also agreed that it could not ask the paging company to act in violation of Chinese laws. In a compromise, the company agreed to relay messages concerning Falun Gong to its Hong Kong-only subscribers, but was allowed to use its discretion in forwarding such messages to its China-wide subscribers. CM Telecom declined to relay messages concerning Falun Gong to customers whose service is China-wide. Thus, the ability of CM Telecom's Hong Kong customers to receive messages concerning Falun Gong depends upon what type of paging service they have purchased.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Basic Law provides for freedom of speech, of the press, and of publication, and there was no apparent change in the tradition of respect for these freedoms after reversion; however, some journalists continued to practice a degree of self-censorship. Overall, the media has been outspoken in defending civil liberties. Reporting on the November District Council elections generally was regarded as fair and balanced. However, the Basic Law also directs Hong Kong to pass laws prohibiting "treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets" (see Section 2.b.). The Interception of Communications Ordinance, passed by the Legislative Council in June 1997, nullified Section 33 of the Telecommunications Ordinance, which granted the Government wide-ranging powers to ban messages. However, this provision was never implemented, because the Government has not named a date for the changes to take effect. The Public Order Ordinance enables the Government to ban a demonstration on national security grounds, including as a factor whether it advocates independence for Tibet or Taiwan. In practice, this situation has not arisen and only one application for a permit to demonstrate was denied (see Section 2.b.).

Newspapers publish a wide variety of opinions. After July 1, 1997, there was neither a sharp increase nor decrease in coverage critical of China, but there were many more reports critical of the Hong Kong Government than there were before the handover. Persons speak freely to the media. Political debate is vigorous, and numerous viewpoints, including stories and opinions critical of the Hong Kong and Chinese Governments and statements by leading Chinese dissidents, are provided in the mass media, in public forums, and by political groups. International media organizations operate freely. Sixteen major daily newspapers, 2 commercial television stations, 1 cable television station, and 2 commercial radio stations function with virtually no government control.

Foreign reporters need no special visas or government-issued press cards. Many local reporters continue to enter China to cover sensitive stories related to Hong Kong, Taiwan, or the mainland. China still requires journalists—both foreign and those from Hong Kong—to apply for permission to make reporting trips to the mainland. Those who bypass official channels—which many feel they must do to get the stories they want—risk violating Chinese regulations. At least one publication whose owner offended China's leadership several years ago subsequently has been unable to get official permission for its reporters to cover events on the mainland.

There is a widespread impression among both journalists and the public that it is prudent to engage in a degree of self-censorship; however, there were fewer reports of self-censorship than in the recent past. The pressures on journalists are subtle—there are no direct orders to refrain from writing, but there is a wide perception of a need for special care toward topics of particular sensitivity to China: Leadership dynamics, military activity, or Taiwanese or Tibetan independence, although numerous articles on these topics continue to appear. Chinese-language journalists report a pervasive, if tacit, understanding that editors expect those reporting on China to be particularly certain of their facts and careful in their wording. Another source of pressure comes from the belief by some publishers and editors that advertising revenues or their business interests in China could suffer if they were seen to be too antagonistic to China or powerful local interests.

In August mainland leaders and local deputies to the NPC criticized the government-owned Radio Television Hong Kong (RTHK) for producing a program in which a prominent but unofficial Taiwan representative endorsed Taiwan President Lee Teng-hui's controversial "two-states" policy. In response to the criticism, the Chief Executive and other senior officials reiterated the importance of freedom of speech, but expressed dissatisfaction with the representative's remarks. In November the representative returned to Taiwan to take a senior position, amid reports that the Government refused to extend his visa. In response to the criticism, RTHK reiterated its editorial guidelines stressing its independent editorial line. Nonetheless,

journalists and human rights groups are concerned that the criticisms may have a "chilling" effect on the press. In October the Government abruptly announced that the head of RTHK, Cheung Man-yee, was to be promoted to Economic and Trade Representative to Japan. Cheung is known as an outspoken defender of press freedom and of RTHK's editorial independence, and under her 13-year leadership RTHK was often critical of the Government. Many legislators and human rights groups expressed concern that press freedom would be affected by Cheung's transfer. Cheung denied that the transfer was politically motivated, but acknowledged that she had experienced political pressures in the past. Senior government officials, including the Chief Executive and the Chief Secretary, denied that the transfer was anything but routine and once again reiterated their support for freedom of the press. The appointment in November of Cheung's deputy, an individual widely perceived to be an ardent supporter of a free press, to succeed her helped to allay public fears; he reiterated RTHK's commitment to editorial independence. One of the by-products of the controversy was renewed debate over the desirability of privatizing RTHK.

In August, in response to a growing number of complaints about tabloid-style journalism, which encouraged intrusive reporting by the press, the Law Reform Commission (an independent commission appointed by the Government in the 1980's) issued a consultation paper on privacy issues and the media. The paper suggested that a Press Council with the power to reprimand or fine a publication found to be "in serious breach of the Privacy Code" should be appointed by the Government. Public reaction was mixed, but journalists, legal experts, and human rights groups were concerned that such a body could be used to restrict press freedom. In October the Chief Executive expressed the hope that the press could regulate itself.

In November in a case in which a news group sued RTHK for defamation, the Court of Final Appeal upheld the constitutional protection of free speech and ruled in favor of RTHK, noting that "no narrow approach should be taken to the scope of fair comment on a matter of public interest."

On March 23, the High Court overturned the convictions of two persons convicted of desecrating Chinese and Hong Kong flags during a peaceful 1998 demonstration. The court ruled that both the Hong Kong and Chinese flag desecration laws were inconsistent with the Basic Law. The Government appealed. Many legal experts, legislators, and human rights activists were concerned that if the Court of Final Appeal upheld the lower court's decision, the Government would seek an interpretation of the laws from the National People's Congress, as it had in the right of abode case (see Section 1.e.). In December the Court of Final Appeal ruled unanimously that the flag desecration laws did not violate the Basic Law and reinstated the convictions of the two persons accused of desecrating the Hong Kong and Chinese flags, thereby avoiding another confrontation over the Basic Law. In October the police, citing the Land Ordinance's prohibition on the erection of unlicensed structures, removed a Taiwan flag erected on public property on the anniversary of the founding of the Republic of China.

Falun Gong publications were displayed prominently at the Hong Kong International Book Fair. However, some Hong Kong publishing houses owned by mainland Chinese interests declined to continue publishing Falun Gong materials after the movement was banned on the mainland in July (see Section 2.c.), and some bookstores run by Chinese enterprises removed Falun Gong books from their shelves.

In July the publisher of Taiwan President Lee Teng-hui's recently published book complained that an advertisement it had paid to run for 2 weeks in a Hong Kong subway station was taken down after 1 week, with no explanation. A spokesperson for the subway system stated that it was an "administrative error" rather than a political decision.

In November the founder of the Information Center for Democracy and Human Rights Movements in China, which issues press releases on strikes, demonstrations, and arrests in China, complained that he was receiving almost 1,000 harassing phone calls and faxes each day from security agents in China. The police are investigating the complaint.

In 1996 a code on access to information governing the provision of information by government agencies was extended to the entire Government. The code requires government departments to release information to the public unless there is a valid reason to withhold it. A department may withhold "sensitive" information in such areas as defense, security, external affairs, or law enforcement. Guidelines for access to information are provided to the public on an Internet web page.

The Government respects academic freedom. There is a wide range of opinions and lively debate on campuses.

b. *Freedom of Peaceful Assembly and Association.*—Freedom of assembly is practiced without significant hindrance. Article 23 of The Basic Law provides that Hong

Kong shall enact laws to prohibit subversion, secession, treason, and sedition against the Chinese Government. The process of developing this legislation continues with no indication of when such laws may be enacted. Amendments to the Crime Ordinance, passed by the Legislative Council in 1997, narrowed the definition of treason and sedition to include a "proven intention of causing violence or creating public disorder or a public disturbance." However, since the amendments stipulate that the Government must name the date when the change is to take effect, the Government has chosen not to enact the amendments until comprehensive legislation dealing with all "Article 23 crimes" is developed. In the interim, preexisting provisions in the Crime Ordinance dealing with treason and sedition continue to apply. In November the U.N. Human Rights Committee expressed concern that the offenses of treason and sedition under the Crimes Ordinance are defined in overly broad terms, thus endangering freedom of expression.

A revised Public Order Ordinance passed by the Provisional Legislature, which took effect on July 1, 1997, reintroduced licensing for demonstrations. Demonstration organizers must notify the police of their intention to demonstrate 1 week in advance (shorter notice is accepted when the Commissioner of Police is satisfied that earlier notice could not have been given). The police must give a clear reply within 48 hours and may object on national security grounds. However, in practice, the police have denied only one application to demonstrate; in that case, environmental groups wanted to block traffic with garbage trucks to urge the Government to open more recycling centers. There is an average of four demonstrations per day, a rate slightly higher than the prehandover rate. However, demonstrators, particularly labor activists, complain that demonstrations often are limited to "designated areas" where they receive little public attention and that police sometimes outnumber demonstrators. On May 30, up to 4,000 persons marched through central Hong Kong to commemorate the 10th anniversary of the June 4, 1989 massacre in Tiananmen Square. On June 4, nearly 70,000 demonstrators attended a candlelight vigil to commemorate the anniversary. However, there were reports in October that Chief Executive C.H. Tung urged Hong Kong Alliance for the Promotion of Democratic Movements in China leaders earlier in the year to stop holding annual commemorations of the Tiananmen Square crackdown; the Chief Executive denied making any such requests. A police order issued in September 1998, while underlining that it is police "policy to facilitate, as far as possible, all peaceful public order events," also stipulates that certain "internationally protected persons" are in addition to security entitled to "protection of their dignity." Human rights activists are concerned that the policy may lead to the use of police tactics such as those employed during the September 1997 visit of Li Peng, when the police played classical music over loudspeakers to drown out the shouts of demonstrators; the independent Police Complaints Council later ruled that such tactics were inappropriate. In October the police arrested (but immediately released) protesters conducting noisy demonstrations near the official flag raising ceremony marking the 50th Anniversary of the founding of the PRC.

Freedom of association is practiced without significant hindrance. In the first 9 months after the handover, 626 societies were registered and no applications for registration were denied. However, the "Never Forget June 4 Organization," whose constitution calls for the end of one party rule in China, claims that the police have delayed the group's registration. Human rights groups also have expressed concern that the amended Societies Ordinance, which like the amended Public Order ordinance was passed by the Provisional Legislature, could be used to restrict political activity. The Societies Ordinance requires that new societies must apply for registration within 1 month of establishment. The Government may refuse registration if it believes that the refusal is necessary in the interests of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization.

c. *Freedom of Religion.*—The Basic Law provides that the Government respect religious freedom and activities, the Bill of Rights Ordinance prohibits religious discrimination, and the Government respects these provisions in practice. Government policy and general practice ensure freedom of religion. Religious groups are not required to register with the Government, and are exempted specifically from the Societies Ordinance, which requires the registration of nongovernmental organizations.

Following the ban on the Falun Gong in China on July 22, Falun Gong practitioners continued to be allowed to practice and to protest the arrests of Falun Gong practitioners on the mainland. Senior government officials issued statements in October confirming that the local Falun Gong chapter was registered legally under the Societies Ordinance and would be allowed to continue its activities without interference. Security officials in Hong Kong stated that the ban on the Falun Gong ef-

fective in China did not apply to Hong Kong. Some bookstores run by Chinese enterprises have removed Falun Gong works from their shelves (see Section 2.a.). From December 11–13, up to 1,000 persons attended a Falun Gong conference held in Hong Kong that attracted practitioners from several countries. The conference occurred without incident, despite stern warnings from Chief Executive C.H. Tung not to violate mainland law. In November a major paging company was required to explain to telecommunication authorities why it was not relaying messages concerning Falun Gong to its Hong Kong customers; in a compromise, it was required to forward such messages to its Hong Kong-only service customers, but was allowed to decline to relay such messages to its China-wide service customers because doing so would violate Chinese law (see Section 1.f.).

Some religious leaders have expressed concern that the Basic Law, which calls for ties between Hong Kong and mainland religious organizations to be based on "nonsubordination, noninterference and mutual respect," could be used to limit such contacts. However, there were no reports, however, of any limits being applied or proposed.

In June China, which has responsibility for Hong Kong's defense and foreign affairs, blocked a proposed visit by the Pope to Hong Kong. The Government of the People's Republic of China reportedly insisted on treating the visit as one of a head of state rather than as one of a religious leader. Many religious, political and human rights leaders publicly expressed disappointment that the visit was cancelled.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—There is freedom of movement within Hong Kong, and travel documents are obtained freely and easily. (However, there are some limits on travel to the mainland imposed by the Chinese central Government).

As was the case before the handover, the Taiwan passport is not recognized as valid for visa endorsement purposes.

In April, Wang Dan and several other prominent dissidents were denied visas to enter Hong Kong; they had hoped to attend a conference on democracy in China on May 1 and a candlelight vigil to commemorate the events at Tiananmen Square in 1989. However, exiled Chinese dissident Xiang Xiaoji, a foreign citizen, was allowed to attend the conference. Chinese authorities do not permit a number of Hong Kong activists and legislators to visit the mainland. On June 10, two legislators, James To and Cyd Ho, were denied permission to board a flight to Beijing; when they attempted to board another flight, they reportedly were told that the Chinese authorities would not admit them to the mainland. The two had intended to lobby Chinese government officials against interpretation of the Basic Law by the NPC in the right of abode case (see Section 1.e.). In September the Chinese Government cancelled the visa of prominent Hong Kong legislator Margaret Ng, who had protested the Government's request for an NPC interpretation of the Basic Law, and had moved for a motion of no confidence against the Secretary for Justice. The cancellation provoked widespread anger. Political and human rights activists stated that the restriction on travel to the mainland by those who disagree with Beijing's policies may have a chilling effect on political debate, particularly among those with business interests on the mainland. Many democratic party legislators are not allowed to travel to the mainland; many other democratic party legislators, however, are allowed to go to China.

In July 1997, the Provisional Legislature passed legislation regarding the right of abode of mainland children of Hong Kong parents. On January 29, the Court of Final Appeal ruled that all children of parents with Hong Kong residency at the time application were eligible for the right of abode, and that the administrative restrictions on this right were inconsistent with the Basic Law. In May the Hong Kong Government requested that the NPC interpret the Basic Law provisions relevant to the case, and in June the NPC issued an interpretation that overturned the decision of the Court of Final Appeal, restricting the right of abode to children whose parents had Hong Kong residency at the time of their birth and endorsing the administrative restrictions on the exercise of the right (see Section 1.e.).

The 1951 U.N. Convention Relating to the Status of Refugees was not extended to Hong Kong. On a case-by-case basis, the Director of Immigration has discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need.

Hong Kong no longer has a first asylum policy. Forty-eight Vietnamese not considered refugees were repatriated to Vietnam in 1998. Approximately 968 Vietnamese refugees remain, among them 320 Vietnamese formerly in China. The latter group's appeal against the Government's attempt to return them to the mainland still is pending. These refugees either live in camps where they are free to come and go, or in the community. They are allowed to seek employment and to enroll their children in local schools. In 1998 1,536 Vietnamese refugees were repatriated under the

(involuntary) Orderly Repatriation Program; 837 were repatriated in the first 10 months of 1999. Approximately 12 families from other countries have been admitted as refugees and receive a subsistence allowance from the U.N. High Commissioner for Refugees, but are allowed neither to seek employment nor enroll their children in local schools.

In two separate cases in September and October 1997 courts ruled that the detention of 288 Vietnamese illegal migrants who were formerly in China was illegal. The Vietnamese migrants' suit seeking to prevent the Government from returning them to the mainland still is pending. Meanwhile, they remain free on bail and live in the Pillar Point Camp.

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

Residents' right to change their government is limited by voting regulations that provide for the election of the Chief Executive by an appointed selection committee of 400, the direct election of only a limited number of Legislative Council members, and the addition of appointed members to the elected district boards and municipal councils. In addition, while the approval of the Chief Executive, two-thirds of the legislature, and two-thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law on the agenda of China's National People's Congress, it is the National People's Congress that has the power to actually amend the Basic Law.

The government structure is three-tiered, and consists of the Legislative Council, the provisional municipal councils, and the provisional district boards. C.H. Tung is Chief Executive.

The Chief Executive was chosen by a 400-member selection committee chosen by the 150-member preparatory committee, itself appointed by the Chinese Government. The Basic Law provides for elections for Chief Executive in 2002 and 2007, by a "broadly representative election committee" of 800 local residents appointed by China. The Basic Law also permits amendment of the Chief Executive selection process after 2007 by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the Standing Committee of the National People's Congress, with universal suffrage and direct elections as the ultimate goal.

A provisional legislature, appointed by the same 400-member committee that appointed the Chief Executive, served from July 1, 1997 until June 30, 1998. Although the Provisional Legislature included 33 of 34 legislators from the 1995 Legislative Council who sought inclusion, the Democratic Party and several independents declined to seek seats in what they deemed an illegitimate body, which they claimed lacked a legal foundation and transparency, and excluded groups, parties, and individuals critical of China. The Provisional Legislature repealed several laws that had been enacted by the elected Legislative Council to enhance civil and political rights, including: Amendments to the Bill of Rights Ordinance; the Employee Right to Representation, Consultation, and Collective Bargaining Ordinance; the1997 Employment (Amendment) Ordinance, and the 1997 Trade Unions (Amendment) Ordinance (see Section 6.a.). A lawsuit challenging the constitutionality of the Provisional Legislative Council was unsuccessful, and the repeal remains controversial.

Elections for Hong Kong's first post-reversion Legislative Council were held in May 1998. Twenty members were elected directly from geographic districts through universal suffrage, 30 from functional (occupational) constituencies, and 10 by votes of a committee of local elected officials. The functional constituencies were drawn more narrowly than the nine broad functional constituencies of the 1995 Legislative Council, and the total number of potential voters in functional constituencies was cut from 1.15 million to 189,000 (a figure close to that used in elections through 1991). Human rights groups contend that the election of functional constituency representatives by only 189,000 persons representing various sectors is fundamentally undemocratic. There was general acceptance of the electoral districts proposed in October 1997 by the Electoral Affairs Commission. A bill calling for an accelerated time line for direct elections was defeated in the Legislative Council in 1998.

The ability of the legislature to influence policy is limited substantially by Basic Law provisions that require separate majorities among members elected from geographical and functional constituencies in order to pass a bill introduced by an individual member. The Basic Law also prohibits the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. The Chief Executive's approval is required before bills affecting government policy may be submitted. Controversy erupted in January when the Government attempted to block two private member bills on collective bargaining and antiunion discrimination by applying a very broad definition of "government policy." In July the President of the Legislative Council upheld the Government's position and ruled

that the bills were outside of the scope allowed for private member bills because they would affect government expenditure.

The November elections for Hong Kong's District Councils (the sole remaining local government body after the abolition of the Municipal Councils (see below) were free and fair. However, democratic legislators and human rights activists complained that the appointment of nearly one-quarter of District Councilors by the Chief Executive was undemocratic. According to the District Councils Ordinance enacted in March, the District Councils are responsible for advising the government on matters affecting: (1) the well-being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities.

A motion in the Legislative Council calling for a referendum on the Government's proposal to abolish the Urban and Regional Councils, Hong Kong's mid-tier local government organs known collectively as the Municipal Councils, was defeated in October. The Councils had been the subject of widespread public criticism for their poor handling of the Avian Flu, the Red Tide, and other public health problems for which they were responsible. In December the Legislative Council passed a controversial bill abolishing the Municipal Councils when their terms expired at the end of the year. Legislators from the democratic parties and human rights activists protested the abolition of the councils, arguing that they were important to party and democratic politics. The U.N. Human Rights Committee also expressed concern over the abolition of the municipal councils in its November report.

Hong Kong sends 36 delegates to China's National People's Congress (NPC). This is an important group since placing proposed amendments to the Basic Law on the agenda of the NPC requires the approval of two-thirds of Hong Kong's NPC delegates. Hong Kong's NPC delegates also are entitled to sit on the Election Committee that chooses 10 of the Legislature's 60 members. Hong Kong's NPC delegates were selected by the same committee that appointed the Chief Executive and the Provisional Legislature. Politicians and human rights activists criticized the selection process as undemocratic and lacking transparency and noted that New China News Agency Director Jiang Enzhu, who is not a Hong Kong permanent resident, is one of Hong Kong's 36 delegates. Local NPC delegates were increasingly vocal during the year, particularly with regard to rule of law issues and the right of abode case (see Section 1.e.).

Women are underrepresented in elective offices, but larger numbers are running for public office than ever before. Women hold 10 of the 60 Legislative Council seats. The President of the Legislative Council is a woman, as is the head of the civil service. Minorities are represented in senior civil service positions.

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

Dozens of domestic and international nongovernmental organizations (NGO's) operate freely, despite concerns about possible restrictions under the revised Societies Ordinance. These organizations have thriving contacts with the local community and with groups overseas. Government officials are cooperative and responsive to their views.

The 1988 Ombudsman Ordinance established the Office of the Ombudsman, which has wide powers to investigate and report on grievances from members of the public as a result of administrative actions of the executive branch and other designated public bodies. However, the Ombudsman does not have any oversight authority over the police, the Independent Commission against Corruption, the Equal Opportunities Commission, or the Office of the Privacy Commissioner for Personal Data. The Ombudsman may investigate complaints of noncompliance with the code on access to information by the government departments, including the police and Independent Commission against Corruption. With regard to election-related complaints, the Ombudsman only is empowered to investigate complaints made against the Registration and Electoral Office, but not the Electoral Affairs Commission. Thus, the Ombudsman's human rights role regarding liberty of persons, freedom from arbitrary and unlawful arrest and detention, equality, and related matters is limited considerably.

The Ombudsman may publish investigation reports in which the identity of the complainant has been disguised. In addition to responding to public complaints, the Ombudsman may initiate investigations on his own. The Ombudsman may report to the Chief Executive if he believes that his recommendations to the organizations under his jurisdiction have not been acted upon or if there are serious violations; the Chief Executive is bound by law to present such reports to the legislature.

According to the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights

apply, with certain restrictions, to Hong Kong. In January the Chinese Government transmitted Hong Kong's 1998 reports under these Covenants, without editing, to the United Nations. These reports were prepared without interference from the Chinese Government, but local NGO's complained that they were not consulted fully enough on the contents of the reports. In October the Government and several domestic NGO's testified before the U.N. Human Rights Committee in Geneva. The Committee expressed "serious concern" about the Government's decision to seek an NPC interpretation of the Basic Law in the right of abode case and the planned abolition of the two municipal councils (see Sections 1.e. and 3). Government statements to the press emphasized that the interpretation did not affect the litigants in the Court of Final Appeal's original ruling (or those in similar circumstances). The hearings received widespread and balanced press coverage. In November the U.N. Human Rights Committee issued its first report on Hong Kong since the handover. The report cited concerns about the erosion of Hong Kong's autonomy, particularly with respect to the independence of the judiciary.

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

There are no laws prohibiting discrimination on the basis of age or race. After the passage of laws in 1995 banning discrimination on the basis of sex and disability, an Equal Opportunities Commission was established. The Commission began its oversight of nonemployment- and employment-related provisions in 1996. Women's groups and others have criticized the Commission for passivity in combating discrimination and for emphasizing conciliation instead of acting as a watchdog or pursuing court cases. However, the Government has begun to bring cases against discriminatory employment advertisements. In the first 6 months of the year, the Equal Opportunities Commission received 115 complaints of sex discrimination, 89 of which involved sexual harassment. In the first 9 months of the year, three cases under the Sex Discrimination Ordinance and five cases under the Disability Discrimination Ordinance were brought to court. Two have been decided, both in favor of the plaintiffs. Damages were awarded in the amounts of $11,250 (HK$87,500) and $3,000 (HK$23,000). However, fines against newspapers for carrying discriminatory advertisements tend to be very light. In the first 9 months of the year, 12 cases alleging discriminatory advertising were brought to court; all were decided against the defendants, who were fined a total of $2,350 (HK$18,260).

In 1997 the Legislative Council enacted the Family Status Discrimination Ordinance, which protects persons whose marital status changes, who have children, or who are responsible for caring for another family member, such as a child or elderly person.

The government "Code of Practice for Employers" designed to prevent discrimination states that race, among other factors, should not be considered when hiring employees. However, it "accepts" that special circumstances exist, such as when the employee works or lives in the employer's home. The Government has undertaken a public education and awareness campaign to combat race with only limited effect.

Women.—Violence against women remains a significant problem, particularly among new immigrants from China. The only law to protect battered women is the 1987 Domestic Violence Ordinance, which allows a woman to seek a 3-month injunction against her husband (extendable to 6 months). Domestic violence also may be prosecuted as common assault. The Government enforces the laws and prosecutes violators, but sentences generally are lenient; of the 344 charges of "family violence" from April to September 1997, only 33 resulted in convictions. Half of those convicted were fined and only four were imprisoned. Of the 60 spousal abuse cases in the first 9 months of 1998 that resulted in legal action, 41 were awaiting trial, 1 received a 6-month sentence and fine, 1 received a 2-month sentence, 4 were fined between $200 and $450, 3 received a suspended sentence, 1 received a police warning, and 1 was acquitted as of late 1998. The Government changed its statistical reporting on domestic violence during the year; in the first 9 months of the year there were 7 homicides, 233 woundings (serious assaults) and 35 common assaults involving current or former partners. Women tend not to seek help when subject to violence; cultural factors and inadequate information about available assistance and resources result in many cases of spousal abuse going unreported. To address this problem, in 1995 the Government set up a working group on battered spouses. In 1996 it crafted multidisciplinary procedural guidelines on handling battered spouse cases. The Government also funds programs such as family life education counseling, a hot line service, temporary housing, legal aid, and child protective services; it also has initiated public education and media programs.

The general incidence of rape is low. There were 90 reported cases of rape in 1998 and 72 in the first 9 months of the year.

Prostitution is illegal. Women face significant discrimination in employment, salary, welfare, inheritance, and promotion (see Section 6.e.). Official unemployment figures are 7.2 percent for men and 4.7 percent for women. However, human rights organizations and unions assert that the statistics inaccurately count many unemployed women as housewives, and thus the unemployment rate for women is actually higher than the unemployment rate for men. Women are entering professional fields, including medicine, in greater numbers. Nonetheless, in the medical profession there are few women in prestigious specialties such as surgery. Women are well represented in government and in the civil service (46 percent of senior civil servants are women, including the head of the civil service, Anson Chan; however, female judicial officers and judges make up only 18 percent of the judiciary. Despite equal educational opportunities, women also are disproportionately represented in the lower echelons of the work force. As a result of 1994 revisions to inheritance statutes, the law treats men and women equally in inheritance matters, although women still face discrimination based on traditional practices. The November U.N. Human Rights Committee report noted illegal but customary discrimination against women in the inheritance of small homes in rural areas of the New Territories.

During the period from 1991–95, the number of female secondary student candidates who took university advanced-level examinations accounted for between 51 and 55 percent of the total, and the number of female candidates who matriculated at universities accounted for between 52 and 56 percent of all matriculating candidates. Education officials acknowledge that the current system of secondary school place allocation discriminates against girls because boys and girls are ranked (and accepted) separately.

Children.—The Government is committed firmly to children's rights and welfare through well-funded systems of public education, medical care, and protective services. It supports programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families. The age of criminal responsibility for children is 7, although it must be proved that a child under the age of 14 understood the consequences of his actions. In 1998 there were 42 incarcerated youths under the age of 16, 13 in training centers, 24 in detention centers, and 5 in drug addiction treatment centers. In January the Law Reform Commission began soliciting public comments on a consultation paper on raising the age of criminal responsibility.

Child abuse and exploitation are not widespread, but are increasing. There are no specific laws dealing with child pornography, but in June the Government introduced the Prevention of Child Pornography Bill and the Crimes (Amendment) Bill. The bills would prohibit the printing, distribution, advertising, or possession of child pornography. The bills also would prohibit arranging or advertising of sexual offenses involving children under age 16. The Crimes (Amendment) Bill also provides extraterritorial effect when either the perpetrator or the victim of a sexual offense involving a child or a person printing, distributing, advertising or possessing child pornography "has a nexus with Hong Kong." At year's end, these bills were pending. In the first 8 months of 1999 there were 383 cases of child abuse reported; 194 involved physical abuse, and 134 involved sexual abuse. In 1995 the police set up a child abuse investigation unit to improve treatment of victims. In 1996 legislation was passed making it easier for child victims to testify in court using an interviewing suite for recording statements. Legal penalties for mistreatment or neglect of minors also were increased substantially. A witness support program also was launched in 1996 to help child witnesses in need. A child witness information kit in Chinese, with books explaining legal and court proceedings, was published in 1996 to help reduce children's anxiety about testifying. In 1998, a Child Care Center Bill was passed to prevent unsuitable persons from providing child care services and to facilitate the formation of mutual help child care groups.

People with Disabilities.—Discrimination against the physically and mentally disabled persists in employment, education, and the provision of some public services. The 1995 Antidiscrimination Law called for improved building access and sanctions against those who discriminate. The Buildings Ordinance amended in 1997 updated design requirements. However, despite inspections and occasional closure of noncompliant businesses, access to public buildings and transportation remains a serious problem. Advocates for the disabled complained that limited access for the disabled at polling stations made voting in the 1998 elections difficult; for example, only 36 of the 96 subsector election polling stations were accessible. The Government has an integrated work extension program in sheltered workshops and expanded vocational assessment and training. No comprehensive statistics are available on the number of disabled persons in the work force. There are about 4,600 disabled persons employed as civil servants of a total civil service work force of 184,638—about 2.5 percent. In 1999, the Selective Placement Division of the Labor

Department found jobs for 1511 of the 3462 disabled job seekers. Approximately 9,000 students in a school population of 919,620, or just under one percent, are disabled. A pilot integration program launched in 1997 offered places to 46 mildly disabled students in regular schools. In 1997 the Government started a special university admission scheme for the disabled.

In the first 9 months of the year, five cases under the Disability Discrimination Ordinance were brought to court.

In February, the Government formed the Guardianship Board under the Mental Health Ordinance to protect the interests of persons with mental disabilities or disorders, including dementia.

National/Racial/Ethnic Minorities.—There are no laws prohibiting discrimination on the basis of race. A government "Code of Practice for Employers" designed to prevent discrimination states that race should not be considered when hiring employees. Minorities are well represented in the civil service. However, there are occasional reports of racial discrimination in employment and admission to public restaurants. Foreign domestic workers, most of them from the Philippines, are particularly vulnerable to discrimination. According to organizations representing migrant workers, police intimidation of migrant workers is also a problem.

Section 6. Worker Rights

a. *The Right of Association.*—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must be registered under the Trade Unions Ordinance. The basic precondition for registration is a minimum of seven persons who serve in the same occupation. The Government does not discourage or impede the formation of unions. In the first 9 months of the year, 26 employee unions and two mixed organizations of employees and employers were registered. In 1998 24 new unions were registered. By the end of 1998 there were 558 employee unions. Approximately 22 percent of the 3.1 million salaried employees and wage earners belong to a labor organization.

The Employment Ordinance includes provisions that protect against antiunion discrimination. Violation of the antiunion discrimination provisions is a criminal offense with a maximum fine that was increased in 1995 to $12,800 (HK$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. If no such order is made, the Tribunal may award statutory entitlements (severance pay, etc.) and compensation. The maximum amount of compensation is $20,000 (HK$156,000). However, labor activists complain that complainants are discouraged by the Labor Relations Tribunal's tendency to push conciliation rather than issue orders.

Work stoppages and strikes are permitted. However, there are some restrictions on this right for civil servants. There were 3 strikes during the year, which resulted in 299 lost work days; in 1998 there were 8 strikes. Although there is no legislative prohibition of strikes, in practice, most workers must sign employment contracts that typically state that walking off the job is a breach of contract which can lead to summary dismissal.

To date, Hong Kong has amended labor legislation and taken administrative measures to apply 49 International Labor Organization (ILO) conventions. In the Basic Law, China committed itself to adhere to these conventions (see Section 6.b.).

In October 1997, the Provisional Legislature promulgated the Employment and Labor Relations (Miscellaneous Amendments) Bill.

This bill permits the cross-industry affiliation of labor union federations and confederations and allows free association with overseas trade unions (although notification of the Labor Department within 1 month of affiliation is required).

b. *The Right to Organize and Bargain Collectively.*—In June 1997, the Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. The new ordinances would have enabled full implementation of ILO Conventions 87 (which was ratified with reservations in 1963), 98, and 154. However, in October 1997, after consultation with the Labor Advisory Board, the Provisional Legislature repealed the 1997 Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the 1997 Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeal removed the new legislation's statutory protection against summary dismissal for union activity; the Government argued that existing law already offered adequate protection against unfair dismissal arising from antiunion discrimination.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Bill removes the legal stipulation of trade unions' right to engage employers in collective

bargaining; bans the use of union funds for political purposes; requires the Chief Executive's approval before unions can contribute funds to any trade union outside of Hong Kong; and restricts the appointment of persons from outside the enterprise or sector to union executive committees. The Hong Kong Confederation of Trade Unions promptly filed a complaint against the Hong Kong Government for violation of ILO Conventions 87, 98, and 154. In November the ILO Committee on Freedom of Association concluded that the new labor ordinance breached conventions 87 and 98 and recommended that the Government take legislative action to remedy the situation. The Government provided the ILO a progress report in May, asserting that it was in compliance with all of the 45 ILO conventions that apply to Hong Kong. In January the Government blocked a legislator's attempt to introduce two bills on collective bargaining and antiunion discrimination on the grounds that they would affect government spending and operations and therefore fell outside the scope allowed for private member bills under the Basic Law (see Section 3).

With the repeal of the short-lived collective bargaining legislation, the prehandover framework continued. There were no laws that stipulated collective bargaining on a mandatory basis. Wage rates in a few trades like tailoring and carpentry were determined collectively in accordance with established trade practices and customs rather than as a statutory mechanism. In practice, collective bargaining is not widely practiced. Unions generally are not powerful enough to force management to engage in collective bargaining. The Government does not encourage it, since the Government itself does not engage in collective bargaining with civil servants' unions but merely "consults" with them.

The Labor Relations Division of the Department of Labor offers free nonbinding conciliation services to employers and employees involved in disputes that may involve statutory benefits and protection in employment as well as arrears of wages, wages instead of notice, or severance pay. The Department of Labor takes a positive attitude towards the participation of trade unions in such dispute negotiations. In the first 9 months of the year, the Division handled 226 disputes and 24,321 claims, 57 percent of which were handled through conciliation. In 1998 the Labor Relations Division handled 226 disputes and 24,231 claims, 60 percent of which were handled through conciliation. Approximately 15 percent of these trade disputes and claims were settled with Labor Relations Division conciliation.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The use of forced labor is prohibited in the Hong Kong Bill of Rights Ordinance. In addition, trafficking in persons for the purpose of forced prostitution is a problem (see Section 6.f.). The law does not prohibit specifically forced or bonded labor by children; however, there were no reports of such practices.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age may be employed in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. In 1998 the Labor Department conducted 156,634 workplace inspections during which 10 violations of the Employment of Children Regulations were discovered. The Department issued 11 summonses, of which 10 resulted in convictions and fines. Work hours for young persons 15 to 17 years of age in the manufacturing sector remain limited to 8 hours per day and 48 hours per week between 6 a.m. and 11 p.m. Overtime is prohibited for all persons under the age of 18 in industrial establishments. Employment in dangerous trades is prohibited for youths except 16- and 17-year-old males. The Labor Inspectorate conducts workplace inspections to enforce compliance with these regulations. While provisions against forced or compulsory labor do not specifically refer to children, there were no reports of such practices (see Section 6.c.).

e. *Acceptable Conditions of Work.*—There is no statutory minimum wage except for foreign domestic workers. As of December 1998, the minimum wage for such workers was about $500 (HK$3,900) per month. The law also requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide for a decent standard of living for a foreign domestic worker. However, there are an increasing number of credible reports of foreign domestic workers who are subject to deportation if they are dismissed and who are thus less likely to raise formal complaints, illegally being forced to accept less than the minimum wage and unacceptable living conditions.

Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provide workers

with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provides a decent standard of living for a worker and family. However, two-income households are the norm.

In order to comply with provisions in the Sex Discrimination Ordinance, provisions in the Women and Young Persons (Industry) Regulations that had prohibited women from joining dangerous industrial trades and limited their working hours, including compulsory weekly rest days, were dropped in 1997.

The Factory Inspectorate Division was restructured in 1996 as part of a government effort to strengthen its safety and health promotion and enforcement program. The new division—part of a new occupational safety and health branch of the Labor Department—consists of four units: An operations division covering field services such as safety and health advice; a support services division responsible for technical support services; a planning and training division; and a legal services division charged with processing and conducting prosecutions.

The Factories and Industrial Undertakings Ordinance and its 27 sets of subsidiary regulations regulate safety and health conditions. The Labor Department conducted 89,846 inspections of industrial and nonindustrial workplaces in 1998 and issued 3,181 summonses (2,912 of which resulted in convictions with a total of $7.6 million (HK$60 million) in fines). Worker safety and health has improved, due in part to the transfer of many manufacturing jobs to factories across the Chinese border, but serious problems remain, particularly in the construction industry. In 1998 there was a total of 63,526 occupational accidents (43,034 of which were classified as industrial accidents) of which 68 were fatal. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

f. *Trafficking in Persons.*—There were reports that Chinese women lured to work in legitimate employment in Hong Kong were forced to work as prostitutes, and that Eastern European women were trafficked into Hong Kong to work as prostitutes in high-priced clubs. Malaysian women and girls reportedly are trafficked to work as prostitutes in Hong Kong by criminal organizations; some of these women allegedly are sent to Hong Kong with promises of legitimate employment, only to be forced into prostitution upon their arrival. There also were reports of women being trafficked to Hong Kong from Vietnam as "mail order brides," usually through arrangements made by tourist agencies, international labor services, or marriage mediating agencies. Once in Hong Kong, they are vulnerable to exploitation.

There were reports that Chinese women were trafficked to Australia from Hong Kong to work as prostitutes; some reportedly were lured with promises of jobs as waitresses. Others reportedly were coerced into working as prostitutes by criminal gangs. These women must repay the cost of their passage, which, in some cases, has been as much as $25,000 (A$40,000), through prostitution. They also may be required to pay off amounts assessed for clothing and lodging, and their movements may be controlled by their traffickers.

Hong Kong is also a transit point for persons smuggled from China to other countries for labor purposes, generally by organized crime organizations. Countries to which such persons are trafficked include the U.S., Canada, Australia, and various western European countries. Many trafficked persons agree to pay large sums for their transport, and may be forced to work in conditions similar to indentured servitude in order to repay the cost of their passage. Such persons generally work in small businesses, such as restaurants and sweatshops, in the countries to which they are trafficked; their pay is generally low. Their movements may be restricted and their travel documents may be confiscated. Often, trafficked persons live under poor conditions, and are threatened with deportation or harm to family members still in China if they complain. In late December, after being alerted by the Hong Kong authorities, U.S. and Canadian authorities began to discover shipping containers on cargo ships coming from Hong Kong that contained smuggled persons from China. Conditions for those in the shipping containers varied; conditions in some containers were reportedly grossly inadequate for the 2 to 3 week voyage; other containers were reportedly well provisioned for the journey across the Pacific Ocean. Hong Kong customs and immigration officials as well as local shipping companies have taken remedial measures to prevent this practice.

MACAU

Macau, a 13 square mile enclave on the south China coast, was recognized by both China and Portugal as Chinese territory under Portuguese administration until year's end. Under the "Organic Statute" of 1976, which served as the Constitution, Macau had considerable administrative, financial, and legislative autonomy from Lisbon. The Governor, appointed by the Portuguese President, had extensive powers under the Organic Statute. Both the Governor and the Legislative Assembly exercised legislative power. Voters directly elected only one-third of the legislators; the rest were appointed or elected indirectly by interest groups. However, under the principle of "one country, two systems" specified in the 1987 Sino-Portuguese Joint Declaration, Macau became a Special Administrative Region (SAR) of China on December 20, 1999 ("the handover"). The Joint Declaration and Basic Law (the SAR's miniconstitution promulgated by China's National People's Congress (NPC) in March 1993) specify that Macau is to continue to enjoy substantial autonomy and that its economy and way of life are to remain unchanged for 50 years. The Macau SAR government is headed by a Chief Executive, chosen by a 200-member Selection Committee, which was chosen by the Preparatory Committee (60 Macau and 40 mainland representatives appointed by the NPC, and responsible for overseeing the transition). Since December 20, only the legislature has legislative power, but the Chief Executive has great influence over the legislature's activities. There are limits on the types of private member bills that may be tabled. Voters elect only 8 of Macau's 23 legislators in direct elections in geographical constituencies. Eight are elected by interest groups in functional constituencies. Seven are appointed (before December 20 by the Governor; after December 20 by the Chief Executive). On May 15, Edmund Ho Hei-wah was elected Chief Executive by the Selection Committee to take office after the handover. In September the Chief Executive-elect announced the appointment of six new legislators to serve from December 20 until the term of the current legislature expires in 2001, reappointing only one of the Governor's appointees. Portuguese metropolitan law serves as the basis for the legal system. A Joint Liaison Group, composed of representatives from Portugal and China, which served until December 31, was the mechanism for negotiating transition issues and implementing the Joint Declaration. After reversion, most of the laws in force continued to apply (although the laws defining the structure of the judiciary are a major exception). The judiciary is independent.

The police force is under civilian control. An increase in organized crime-related violence has resulted in a public demand for more law and order. There were no Portuguese troops stationed in Macau. However, the Garrison Law (Macau SAR), passed by the NPC in June, provided for the establishment of a Chinese People's Liberation Army garrison in Macau after the handover. Senior Chinese and Macau SAR officials have said that the garrison has no responsibility for internal security.

The market-based economy is fueled by textile and garment exports, along with tourism and gambling. A depressed real estate market, stagnant exports, and a decline in tourism have limited economic growth in recent years, a trend that continued in 1999. Despite the economic downturn, most citizens still enjoy a high standard of living. Per capita gross domestic product is $18,000.

The Government generally respects the human rights of its citizens; however, some problems remain, including the limited ability of citizens to change their government, limits on the legislature's ability to initiate legislation, occasional instances of police abuse, inadequate provision for the disabled, lack of legal protection for strikes and collective bargaining rights, and trafficking in women.

RESPECT FOR HUMAN RIGHTS

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

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

During the year, seven prisoners died in custody (see Section 1.c.).

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The law prohibits such abuses, and the authorities generally respect these provisions in practice. In 1998, the last year for which figures are available, the Procurator General's office investigated five allegations of police brutality. No details regarding the results of the investigations have been released.

Prison conditions meet minimum international standards, but in the last 5 years the prison population has doubled to 750 and facilities and personnel have failed to keep pace. During the year, seven prisoners died in custody, one as the result of illness, one as the result of suicide, and three as the result of injuries received

during fights with other inmates. Two of the deaths in custody still were under investigation at year's end.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention, and exile, and the authorities respect these provisions in practice. An examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. Police must present persons remanded in custody to an examining judge within 48 hours of detention. The accused's counsel may examine the evidence. The law provides that cases must come to trial within 6 months of indictment. The average length of pretrial incarceration is 3 months.

e. *Denial of Fair Public Trial.*—The judiciary is independent. The Basic Law specifically provides for the continuation of an independent judiciary after reversion; however, the prereversion laws that applied to the structure of the judiciary were some of the few that did not continue in effect after the handover. In addition the need to translate laws and judgments and a severe shortage of local bilingual lawyers (of the 100 lawyers in private practice, approximately 5 can read and write Chinese) and magistrates may hamper the continuation of the present system after reversion. The judiciary also is relatively inexperienced (a law school first opened in Macau in the early 1990's), and the lack of locally trained lawyers is a serious impediment to the preservation of an independent judiciary and the overall development of the legal system. After the handover, the Chief Executive is to appoint judges, acting on the recommendation of an "independent commission" (which he appoints) composed of local judges, lawyers and "eminent persons."

Until June the Superior Court was the highest court in Macau, with the Portuguese Supreme Court of Justice and Constitutional Court serving as courts of final appeal. The Superior Court consisted of six magistrates divided into two panels, one of which heard only administrative, fiscal, and customs duties cases; the other had responsibility for all other cases. An additional judge served as President of the Court. Cases before the Superior Court were heard initially by the relevant panel of three judges. When such a panel's ruling was appealed, all six judges heard the case, with the President voting only in case of a tie. This structure resulted in a situation in which three of the individuals hearing an appeal already had rendered an opinion in the initial judgment. Critics charged that this called into question the objectivity of the subsequent ruling. Beneath the Superior Court were the Courts of First Instance and the Court of Auditors.

In June Portugal unilaterally severed the Superior Court's links with the Portuguese courts, making it the Constitutional Court and court of final appeal for cases affecting Macau. To deal with an increased caseload, some of which was transferred from the Portuguese courts after the change, the number of judges on the Superior Court was increased. Until December 20, judges were appointed by the Governor upon the recommendation of the Supreme Council of Justice (for the Superior Court) and the Judiciary Council of Macau (for the common courts). Before the handover, local judges were appointed for life; expatriate judges were appointed under temporary contracts. A local law is yet to be passed determining the term of office for judges for the SAR. In October the Chief Executive-elect announced the names of three judges (two from Macau and one Portuguese) recommended by the commission, who constitute the SAR Court of Final Appeal. After the handover, the Court of Auditors was replaced by a Commissioner for Auditing.

The law provides for the right to a fair trial and the judiciary vigorously enforces this right. Trials are open to the public. The Criminal Procedure Code provides for the accused's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. A 1997 law on combating organized crime provides that "certain procedural acts may be held without publicity" and that witness statements read in court are admissible as evidence. There are also additional restrictions on the granting of bail and suspended sentences in organized crime cases.

The judiciary provides citizens with a fair and efficient judicial process, although the average waiting period between the filing of a civil case and its scheduled hearing is 12 months. Laws issued between 1976 and 1991 have been translated into Chinese. Since 1991 all legislation has been issued simultaneously in Chinese and Portuguese. However, many administrative regulations have not yet been translated into Chinese.

In September the Chief Executive-elect announced his choice, approved by the Chinese State Council, for the posthandover Chief Procurator, who, on December 20, replaced the Chief Procurator appointed by the Governor. The Chief Procurator enjoys substantial autonomy from both the executive and the judiciary.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—Laws provide for the inviolability of the home and of communications, the right of ownership of private property and enterprises, and the freedom to marry and raise a family, and the Government respects these rights in practice.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The law provides for these rights, and the Government generally respects them in practice. Local law also protects citizens' right to petition the government and the legislature.

The print media include seven Chinese-language dailies, three Portuguese-language dailies, and a number of weeklies. There is one television station and one radio station, each with a Portuguese and a Cantonese-language channel. In addition Hong Kong and international newspapers are freely available. Although there is no government censorship or intimidation of the press, criminal gangs have sent threatening letters to newspapers warning of retaliation if they cover gang activities. A September 1998 gang bombing deliberately targeted journalists. The dominant newspapers have a pro-China orientation. Critics charge that they do not give equal attention to liberal and prodemocracy voices. Local journalists continue to oppose a government proposal to establish a press council to monitor the press and advise the Government on press issues. However, this was not a pressing issue during the year.

Article 23 of the Basic Law obliges the Macau SAR to enact laws that "forbid any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets." Human rights groups are concerned that these and other provisions of Article 23 may restrict fundamental rights and freedoms. They are particularly concerned because the Penal Code adopted in 1995 does not specify sentences for such crimes, and a legal vacuum was created when an earlier Portuguese law dealing with crimes against state security became null and void on December 19.

b. *Freedom of Peaceful Assembly and Association*.—The law provides for freedom of assembly, and the Government respects this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days but no more than 2 weeks in advance of the event; however, no prior authorization is necessary for the event to take place. Local law also provides criminal penalties for authorities who unlawfully impede or attempt to impede the right of assembly and for counterdemonstrators who interfere in meetings or demonstrations.

In the days immediately preceding the handover, the then government took steps to ensure that no demonstrations or security incidents would mar the final days of the colonial regime. On December 18, six foreign Falun Gong practitioners were denied entry on the grounds that they were organizing an illegal demonstration (see Section 2.d.). On December 19, 30 Falun Gong practitioners carrying signs and doing exercises in front of a hotel were rounded up and, after being questioned for several hours, returned to Hong Kong via ferry. A police official explained that the law on the right to assemble and demonstrate gives citizens that right, but not foreigners.

Article 23 of the Basic Law obliges the SAR to enact laws that prohibit foreign political organizations or bodies from conducting political activities in the Region.

The law provides for freedom of association, and the Government respects this right in practice. There is no law prohibiting political parties, but there are no genuine political parties. Both civic associations and candidates' committees may present candidates in the elections by direct or indirect suffrage (see Section 3). However, Article 23 of the Basic Law obliges the Macau SAR to enact laws that "prohibit foreign political organizations or bodies of the region from establishing ties with domestic political organizations or bodies." One international human rights nongovernmental organization expressed concern that 1997 legislation on combating organized crime could be used to curb freedom of association. However, that has not occurred.

c. *Freedom of Religion*.—In July 1998, the Legislative Assembly passed the Freedom of Religion Ordinance, which provides for freedom of religion, and the Government respects this right in practice. The Ordinance, which remained in effect after the handover, also provides for privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. The Basic Law also provides for religious freedom.

The Religious Freedom Ordinance requires the registration of religious organizations. This is handled by the Identification Services Office. There have been no reports of discrimination in the registration process. Religious bodies can apply to use

electronic media to preach. The ordinance also stipulates that religious groups may maintain and develop relations with religious groups abroad and provides for freedom of religious education.

Senior officials have said that, in spite of the banning of Falun Gong in mainland China, the organization is legal and that followers will be allowed to practice without interference.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation*.—The law provides for these rights, and the Government respects them in practice. In December six foreign Falun Gong practitioners were denied entry on the grounds that they were organizing an illegal demonstration (see Section 2.b.).

The law includes provisions for handling refugees and asylees in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no reports of refugees being forced to return to a country where they feared persecution. The law makes no provision for first asylum.

The Government has assisted in the resettlement of Vietnamese who fled their country by boat. Only seven Vietnamese refugees remain in Macau. No Vietnamese refugees were repatriated in 1997 or 1998, the last period for which statistics were available. Macau returns an average of 444 illegal Chinese migrants to China each month.

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

Citizens have a limited ability to change their government. The 23-member Legislative Assembly is composed of 8 members elected in direct elections; 8 indirectly elected by local community interests; and 7 appointed (by the Governor before the handover, by the Chief Executive after). Elections are held every 4 years. Fourteen of the 16 elected members chose to serve through reversion until their current terms expire in 2001 (1 was selected Chief Executive). In a May by-election Chui Saicheong was elected unopposed to the seat vacated when Edmund Ho was elected Chief Executive. In September the 100-member Preparatory Committee responsible for transition arrangements determined that the same Selection Committee that chose the Chief Executive should choose a legislator to replace one who chose not to serve out his term after the handover. The new legislator took office on December 20. Only one of the seven legislators appointed by the Governor was reappointed by the Chief Executive to serve after the handover. The number of directly elected legislators is to increase gradually in subsequent elections. After 2009 the rules on the Assembly's composition may be altered by a two-thirds majority of the total membership, with the approval of the Chief Executive.

Although until December 20 the Legislative Assembly could enact laws on all matters except those reserved for bodies in Portugal or the Governor, in practice the Governor initiated the vast majority of legislation, either directly through "decree-laws" or through bills approved by the Legislative Assembly. Between January 1 and December 19, the Legislative Assembly passed approximately 20 percent of Macau's new laws. While the Legislative Assembly had the legal power to refuse to ratify laws issued by the Governor, in practice this seldom was done. After the handover, the Chief Executive does not have the power to issue decree legislation. However, Article 75 of the Basic Law stipulates that legislators may not initiate legislation related to public expenditure, Macau's political structure, or the operation of government. Bills relating to government policies must receive the written approval of the Chief Executive before they are submitted.

The Consultative Council, an advisory group to the Governor composed of indirectly elected and appointed members, also provided some measure of popular representation. After the handover, a 10-member Executive Council, appointed by the Chief Executive, fulfills this role. Municipal Assemblies are elected by direct, universal, secret ballot. These bodies are expected to continue to function; the Basic Law stipulates that the SAR may establish nonpolitical municipal bodies responsible for cultural affairs and public sanitation.

Although women traditionally have played a minor role in local political life and are still underrepresented, they hold a number of senior positions throughout the Government. Three of the 23 Legislative Assembly members, including the President of the Assembly, are women.

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

Human rights groups operate without government restriction, investigating and publishing their findings on human rights.

International human rights agreements that were formerly applicable to Macau were approved by the Sino-Portuguese Joint Liaison Group and continue to apply to the SAR.

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

While the Organic Statute did not prohibit explicitly discrimination based on race, sex, religion, disability, language, or social status, it incorporated the principle of nondiscrimination. Separate laws provide for many of these rights. For example, under the law that establishes the general framework for the educational system, access to education is stipulated for all residents regardless of race, religious belief, or political or ideological convictions. The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion or ideological belief, educational level, economic status, or social conditions.

Women.—Violence against women is not common. For cases that are reported, the authorities enforce criminal statutes prohibiting domestic violence and prosecute violators. However, police and court statistics do not distinguish between spousal abuse and other assault cases. If hospital treatment is required, a medical social worker counsels the victim and informs her about social welfare services. Until their complaints are resolved, battered women may be provided public housing, but no facilities are reserved expressly for them. In 1998, the last year for which statistics are available, five cases of rape were brought to court.

Trafficking in women is a problem (see Section 6.f.).

Women are becoming more active and visible in business. The Government estimates that women account for 43 percent of the work force. Equal opportunity legislation enacted in 1995, applicable to all public and private organizations, mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. However, there is wage discrimination in some sectors, notably construction. Nonetheless, no cases alleging discrimination have been brought to court.

Children.—The Government has not promulgated any statutes specifically to protect the rights of children, relying on the general framework of civil and political rights legislation to protect all citizens. School attendance is not compulsory; however, the vast majority of residents' minor children attend school. Basic education is provided in government-run schools and subsidized private schools, and covers the preprimary year, primary education, and general secondary school education. The Education Department provides assistance to families of those children who cannot pay school fees. The children of illegal immigrants are excluded from the educational system (see Section 6.d.).

Child abuse and exploitation are not widespread problems. In the first 9 months of 1998, the last period for which statistics are available, only two cases of child abuse were reported. In 1997 eight such cases were reported.

People with Disabilities.—In 1997 the U.N. Human Rights Committee recommended that Macau do more to ensure the economic and social rights of the disabled. Few special programs exist aimed at helping the physically and mentally disabled gain better access to employment, education, and public facilities. Laws do not mandate building access for the disabled. More than two-thirds of the funding for services for the disabled comes from government subsidies. In 1996 the Government subsidized 4 homes and 10 rehabilitation centers for the disabled. Nine schools have programs for the disabled, providing special education programs for 359 students. In December 1997, the Government formed a working group to define the fundamental rights of the disabled and determine the role of social service organizations in assisting them. The extent to which physically disabled persons experience discrimination in employment, education, and provision of state services is not known fully.

National/Racial/Ethnic Minorities.—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise roughly 9 percent of the population of 430,000) are respected. Portuguese officials no longer dominate the civil service, but the governmental and legal systems place a premium on knowledge of the Portuguese language, which is spoken by less than 4 percent of the population. The Chinese language received official status in 1993, and the use of Chinese in the civil service is growing. On December 20, Macau residents replaced the government secretaries, the Chief Procurator, and the Chief Justice. Localization of most jobs in the civil service was completed earlier in the year.

Section 6. Worker Rights

a. *The Right of Association*.—The Portuguese Constitution recognized the right and freedom of all workers to form and join trade unions, and these rights were extended to Macau. The Government neither impedes the formation of trade unions nor discriminates against union members. The Basic Law stipulates that international labor conventions that applied to Macau shall remain in force and shall be implemented through the laws of the SAR. However, human rights groups are concerned that local law does not have explicit provisions against antiunion discrimination.

People's Republic of China interests heavily influence local trade union activities, including the selection of union leadership and stress the importance of stability and minimum disruption of the work force. Nearly all of the private sector union members belong to a pro-China labor confederation. Many local observers claim that this organization is more interested in furthering the Chinese political agenda than in addressing trade union issues such as wages, benefits, and working conditions. A few private sector unions and two of the four public sector unions are outside Chinese control.

Although the Portuguese Constitution provides workers with the right to strike, labor leaders complain that there is no effective protection from retribution should they exercise this right. The Government argues that provisions in the labor law that require an employer to have "justified cause" to dismiss an employee protect striking employees from retaliation. There were no work stoppages or strikes during the year.

Unions may freely form federations and affiliate with international bodies. Three new unions were registered in 1998, the last year for which statistics are available. Three civil service unions—representing Portuguese, Macanese, and Chinese employees—are affiliated with the major non-Communist Portuguese union confederation.

b. *The Right to Organize and Bargain Collectively*.—Macau unions tend to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Moreover, Local customs normally favor employment without the benefit of written labor contracts, except in the case of migrant labor from China and the Philippines. Chinese unions traditionally have not attempted to engage in collective bargaining. The Government does not impede or discourage collective bargaining, but there is no specific statutory protection for this right, since Portuguese laws that protected collective bargaining no longer apply.

Some civil service unions raised concerns during the year over government practices that they believe disadvantage them. Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the high commissioner against corruption and administrative illegality.

There are no export processing zones; Macau is a free port.

c. *Prohibition of Forced or Compulsory Labor*.—Forced and bonded labor is prohibited by law, and there were no reports of such practices, except for cases of trafficking in women (see Section 6.f.). Children are covered under laws prohibiting forced or bonded labor, although they are not specified in the legislation.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly work in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions are applied. The Labor Department enforces the law through periodic and targeted inspections and violators are prosecuted. The incidence of child labor is very low and has declined radically since effective enforcement began in 1985. The Labor Department Inspectorate does not conduct inspections specifically aimed at enforcing child labor laws but issues summonses when such violations are discovered in the course of other workplace inspections. No instances of child labor were reported during the year. Forced and bonded labor is prohibited by law; although child labor is not specified in the law, it is covered by the law's provisions, and there were no reports of its use (see Section 6.c.).

e. *Acceptable Conditions of Work*.—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there is no mandatory minimum wage. Average wages generally provide a decent standard of living for a worker and family. In the absence of any statutory minimum wage or publicly administered social security programs, some large companies provide private welfare and security packages.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, worker representatives report that workers frequently agree to work overtime to compensate for low wages. The Department of Labor provides assistance and legal advice to workers on request, but government enforcement of labor laws is lax.

Migrant workers, primarily from China, make up approximately 16 percent of the work force. These workers often work for less than half the wages paid to a local resident performing the same job, live in controlled dormitories, work 10 to 12 hours a day, and owe large sums of money to the labor-importing company for the purchase of their jobs. In 1997 the U.N. Human Rights Committee noted the lack of protective measures for working conditions and the absence of social security programs for nonresident workers as matters of concern. Labor interests claim that the high percentage of imported labor erodes the bargaining power of local residents to improve working conditions and increase wages.

The Department of Labor enforces occupational safety and health regulations. Failure to correct infractions can lead to prosecution. In the first 9 months of 1999, the Labor Department Inspectorate carried out 144 inspections and uncovered 16 violations carrying fines worth a total of $2,100 (MP16,500). Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

f. *Trafficking in Persons*.—Specific legislation prohibits trafficking in persons; however, trafficking in women for the purpose of forced prostitution continues to be a problem, although it is difficult to quantify. In October two Vietnamese women were prosecuted in Vietnam for trafficking 15 Vietnamese women to Macau for the purpose of prostitution. There also have been credible reports that women from Vietnam are trafficked into Macau as mail-order brides, with the assistance of organizations purporting to be travel agencies, international labor organizations, or marriage mediating services. Women from Malaysia, who are usually ethnic Chinese, also reportedly have been trafficked into Macau; law enforcement authorities in Malaysia believe that the women are trafficked by Chinese criminal syndicates. In some cases, trafficking victims from Malaysia are lured by promises of well-paying jobs and then are forced to work as prostitutes. In late March, the Korean press reported that a Korean man was arrested on charges of forcing 40 Korean women, recruited as waitresses, into prostitution in Macau.

TAIWAN

With the popular election of President Lee Teng-hui in 1996, Taiwan completed its transition to an open, democratic system. Lee, who is also the Chairman of the Nationalist Party (KMT), appoints the Premier, who heads the Executive Yuan (EY), or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to bring down the Cabinet with a no confidence vote and removed the previous power of the LY to confirm the appointment of the Premier. The current LY members were elected in a free and fair election in December 1998. The ruling KMT remains the single most powerful political force with a working majority in the LY, where two opposition parties play significant roles. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, but corruption and political influence remain serious problems.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau, and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies are under effective civilian control. Some members of the police occasionally committed human rights abuses.

Taiwan has a dynamic, export-oriented, free-market economy. Liberalization of the economy undercut the dominant role that state-owned and party-run enterprises had played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. As the economy evolved, services and capital- and technology-intensive industries have become the most important sectors. Major exports include computers, electronic equipment, machinery, and textiles. Citizens generally enjoy a high standard of living and an equitable income distribution.

The authorities generally respect human rights; however, problems remain in some areas. Principal problems include police abuse of detainees; physical abuse of military inductees, which appears to be declining; prison overcrowding; political and

personal pressures on the judiciary; some infringements on citizens' privacy; violence and discrimination against women; child prostitution and abuse; societal discrimination against Aborigines; restrictions on workers' freedom of association and on their ability to strike, and instances of trafficking in women and children. Restrictions on freedom of association were eliminated in April when the Council of Grand Justices invalidated the restrictions on using the word Taiwan in the names of organizations.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution does not directly address the issues of torture and punishment, the Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see Section 1.d.). The MOJ stated that each interrogation is recorded and that any allegation of mistreatment is investigated. Lawyers and legal scholars note that abuses most often occur in local police stations where interrogations are not recorded and when attorneys often are not present. Informed observers note that police emphasize confessions by suspects as the principal investigative tool. Law enforcement agencies remain weak in scientific investigative skills so that, when political leaders demand that cases be solved, there is pressure on the police to coerce confessions. International observers also have noted that the judicial system sometimes has accepted such confessions even when they contradict available physical evidence or logic. The NPA denies that police abuse suspects; and asserts that regulations forbid such abuse and that police who abuse suspects would be punished. The NPA implemented regulations to protect further the rights of suspects during questioning, including forbidding the questioning of suspects at night and requiring audio or, whenever possible, videotaping of interrogations. Nevertheless, there are credible reports that the physical abuse or the threat of abuse of prisoners is a recurring investigative technique. Detainees who are abused physically have the right to sue the police for torture, and confessions shown to have been obtained through torture are inadmissible in court proceedings. No such suits were reported during the year.

The authorities state that they have made efforts to investigate, prosecute, and punish officials responsible for torture and other mistreatment. Although the basic responsibility for investigating mistreatment lies with prosecutors, the Control Yuan (CY), a coequal branch of the political system that investigates official misconduct, also investigates such cases. While the authorities state that respect for human rights is a part of basic police training, human rights groups assert that the measures the authorities have taken to protect human rights are inadequate to create an ethos of respect for human rights among police and security personnel. Women's and children's rights groups are active in monitoring police and judicial performance and periodically mount campaigns to correct abuses.

Corporal punishment is forbidden under military law, and strictly prohibited in practice. The Ministry of National Defense (MND) has taken steps to address the occasional reports of physical abuse of military personnel by promulgating regulations specifying the appropriate treatment of lower ranking personnel and by conducting regular polls of servicemen and their families to discover any abuse. The authorities also have established a telephone hot line to report alleged abuses within the military. Reports of abuse are investigated and handled according to the law. In addition the MND has established practical training and curriculums for all military personnel who have contact with new recruits. Pressure from parents of recruits and a program to retain recruits also have contributed to an apparent reduction in abuses. In March the MND established a committee for the protection of the rights of military personnel. Using the expertise of outside consultants, the committee handles personal problems of military personnel and is part of the MND's effort to promote "humanitarian management" within the military.

Prison conditions generally meet minimum international standards. However, overcrowding at the 49 prisons and overly long stays at the detention centers for illegal aliens remained a problem. Despite an increase in facilities since 1997, the number of inmates detained at year's end exceeded capacity by 7,142. The primary

reason for overcrowding has changed. The number of incarcerated drug users, which previously had been the fastest growing category of inmates, has leveled off. In addition the Ministry of Justice has set up drug treatment facilities to reduce the number of addicts in the prison population. However, the number of parolees dropped after a 1997 amendment to the Code of Criminal Procedure reversed a 1994 amendment that had allowed prisoners to be paroled after serving one-third, rather than one-half, of their sentences.

The authorities permit prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the authorities generally observe this prohibition. Police legally may arrest without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more and may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, the authorities must, within 24 hours after detention, apply to a prosecutor for a warrant and give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. Indicted persons may be released on bail at judicial discretion.

An important amendment to the Code of Criminal Procedure was enacted in 1997, that shifted the power of investigative detention from the prosecutors to the courts. Under the new law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also were set for detention during trial. If a crime is punishable by less than 10 years' imprisonment, then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observe these procedures, and trials usually take place within 3 months of indictment.

The revised Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific crimes in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police also must inform the suspect. The authorities generally respect a detainee's request to have a lawyer present during the investigation phase, but defense lawyers and human rights groups continue to complain that the rules do not provide adequate protection since suspects often do not have legal representation during police interrogation. A contributing factor is that there is no legal requirement that indigent persons be provided counsel during police interrogation, although such counsel is provided during trials. Informed observers report that the "public defense counsels" do not provide effective defense assistance. They typically do not appear until the final debate hearing of the trial, and they seldom spend a significant amount of time discussing the case with their clients.

The authorities do not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, corruption and political influence remain serious problems.

The Judicial Yuan is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 16-member Council of Grand Justices (CGJ), which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. In February the LY passed legislation adding an additional level to the Administrative Court to provide for judicial review.

The law provides for the right of fair public trial, and this is generally respected in practice. Judges, rather than juries, decide trials; all judges are appointed by, and responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years' imprisonment or if the defendant is disabled, the judge may assign an attorney. A law passed in 1997 states that a suspect may not be compelled to testify. The Code of Criminal Procedure states that a confession shall not be the sole evidence used to find a defendant guilty. However, informed observers note that many convictions frequently result from a combination of a confession and circumstantial evidence of varying quality. Any convicted person has the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that

level. The Supreme Court automatically reviews life imprisonment and death sentences. Under the law, prosecutors have the right to appeal verdicts of not guilty to the next higher court level.

The 1985 "Antihoodlum" Law departed from international standards of due process in that it included a secret witness system that allowed police to conduct "sweeps" of suspected "hoodlums" and to use the testimony of unidentified informants in detaining the suspects. Lawyers for the alleged hoodlums were not permitted to cross-examine these informants. While defense lawyers were given the right to examine documentary evidence, critics charged that evidence in these cases was often weak or fabricated. However, in 1995 the Council of Grand Justices (CGJ) declared unconstitutional the administrative procedures that had been used to sentence hoodlums to reformatory education. The LY passed new legislation in 1997 requiring all witnesses to testify openly but providing procedures for their subsequent protection, "in exceptional cases."

Despite several years of effort at judicial reform, dissatisfaction exists among judges and others about the slowness of strengthening the rule of law. Corruption within the judiciary remains a problem. In March the newly appointed JY President presented a 5-year blueprint for judicial reform. These proposals called for a defendant-oriented trial system, which would protect the rights of the accused better and increase judicial efficiency. The proposals also would promulgate a code of judicial conduct, revise the precepts for evaluating judicial performance, and strengthen review of judges' financial disclosure reports.

In February the law was revised to create the position of law clerks. Working as assistants to judges, the law clerks are intended to improve judicial performance and the quality of decisions.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution and sections of the Criminal and Civil Codes contain provisions protecting privacy. A prosecutor or a judge, must issue a warrant before a search, except when "incidental to arrest." However, critics claim that the "incidental to arrest" provision is not only unconstitutional but also often interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the National Police Administration, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A policeman who carries out an illegal search may be sued for illegal entry and sentenced to up to 1-year imprisonment. Few prosecutors or judges filed charges against policemen found to have obtained evidence illegally. Furthermore, such evidence is not excluded automatically from consideration by the court; instead, its admission is left to the discretion of the judge. More often than not, such evidence is admitted and frequently provides the basis for conviction.

In addition to criminal suspects, persons are subject to searches and identity checks by police in public places. Roadblocks to check vehicles randomly are conducted routinely. Pedestrians also are subject to identity checks. Such checks are based only on a section of the Police Administration Law, and police officers are given wide discretion.

The wiretapping of telephones is a serious problem. The Telecommunication Law and the Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. According to media reports, this practice is commonplace with more than 15,000 telephones being wiretapped during the year. In June the LY passed legislation intended to bring unauthorized wiretapping under control by imposing severe penalties. The law also provides for wiretapping by the intelligence services.

Section 2 Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities generally respect these rights in practice. A 1998 Council of Grand Justices decision invalidated a statute prohibiting the advocacy of communism or the division of national territory, which previously had circumscribed these rights formally, although the statute's provisions were not enforced in practice.

Print media represent the full spectrum of views within society. However, some political influence still exists over the electronic media, particularly television. The KMT continues to be one of the largest shareholders in three of the five island-wide broadcast television stations, and some critics claim that coverage on these three stations has been biased in favor of the KMT. The Taiwan Provincial Government,

previously a major shareholder, was eliminated from government structure at the end of 1998, and, although the military continues to be a large shareholder, it does not appear to play any role in programming. A fourth island-wide broadcast television station based in Kaohsiung is associated with the largest opposition party, the Democratic Progressive Party (DPP). A fifth island-wide broadcast station run by a nonprofit public television foundation under the Government Information Office was inaugurated in 1998. In any event, the existence of approximately 100 cable television stations, some of which carry programming openly hostile to the ruling party, has diminished greatly the importance of KMT control over broadcast television stations. Over 70 percent of households receive cable television, which includes local, privately financed channels, as well as many major international networks. Cable television call-in programs have given the public an additional means of expressing their views.

Controls over radio stations were more limited than those over television stations and are being liberalized further. From 1993 to September, the Government Information Office (GIO) received 626 applications for radio broadcast frequencies. A total of 189 frequencies were made available, and 118 of these were apportioned; many of the 71 still available are in remote areas. However, many of the newly authorized radio stations have limited broadcast ranges, leading critics to charge that the stations do not constitute a genuine counterweight to the authorities' monopoly on island-wide radio broadcasting.

Observers noted that licensing requirements oblige prospective radio station owners to have more capital than actually is required to operate a station. This requirement inhibits individuals or groups from applying for radio station licenses. However, the GIO claims that the $1.5 million (nt$50 million) required capitalization is based upon consideration of actual business costs and notes that the required capitalization is reduced to $31,250 (nt$1 million) for radio stations serving remote areas or designated ethnic groups and civic organizations, or which promote local development. Reportedly over 100 unlicensed "underground" radio stations, many associated with opposition parties, operate illegally.

In 1992 the authorities revised sedition statutes to limit the purview of the Sedition Law and the National Security Law (NSL) and to remove prohibitions on "actions against the Constitution." However, the NSL still retains prohibitions against advocating communism or espousing the division of national territory, although these were invalidated by the 1998 Council of Grand Justices decision that such prohibitions were unconstitutional.

While there were three cases in which senior leaders charged local publications with libel in 1997, no new cases were reported during 1998–99.

There is a vigorous and active free press. In January the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that is seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated public order or morals. There were no reports of censorship of the print media during the year, nor were there any seizures of materials on political grounds. The police sometimes conduct raids to seize pornographic materials.

The GIO requires that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication, and still seeks to ban the importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate regulations or laws. However, few local publishing companies observe this regulation, and substantial People's Republic of China-origin material is imported every year. Moreover, cable television systems broadcast uncensored television channels from mainland China.

Among other restrictions regulating the media are those precluding persons previously convicted of sedition from owning, managing, or working in television and radio stations. Major opposition leaders, many of whom were convicted of sedition after the 1979 Kaohsiung incident, are nevertheless not affected because their rights were restored through presidential amnesties.

There are few restrictions on academic freedom. The expression of dissenting political views is common.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; although in the past the authorities restricted this right somewhat in practice, they have not done so following the Council of Grand Justices' 1998 decision that provisions of the Parade and Assembly Law prohibiting demonstrations promoting communism or advocating Taiwan's separation from mainland China were unconstitutional.

The Constitution provides for freedom of association; however, although the authorities restricted this right somewhat in practice, these restrictions were eliminated early in the year. The Civic Organization Law requires all civic organizations

to register, but in April the central authorities removed the previous restriction on registration of groups that use the word "Taiwan" in their titles after a CGJ ruling that such a restriction was unconstitutional. Prior to this change, the lack of registration entailed some inconvenience to the operations of some groups. For example they could not solicit donations from the public, contributors could not take income tax deductions for their contributions, and their employees could not receive employment-linked benefits such as national health insurance coverage. Nonetheless they operated actively, freely, and effectively.

A 1992 revision of the Civic Organization Law removed from the EY the power to dissolve political parties. This power now resides in the Constitutional Court. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law during the year.

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

Religious organizations are required to register with the authorities under the Temple Management Law, the Civic Organizations Law, or the Corporate Bodies Law. In the past, the authorities occasionally denied registration to new religions whose doctrines were unclear. But such religions are now registered as civic organizations. There were no reports that the authorities seek to suppress new religions.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The authorities do not restrict freedom of internal travel. Foreign travel by passport holders is common.

Nonresident Taiwan passport holders are usually issued "overseas Chinese" passports and must seek entry permits for travel to Taiwan. According to 1992 revisions to the National Security Law, entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. In 1993 new measures provided that holders of Taiwan passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1988 Taiwan has substantially relaxed strictures against travel by residents to the Chinese mainland, and such travel is common. Relatively tight restrictions on the entry of Chinese from the mainland remain in force for national security reasons, but they have been relaxed in recent years to expand cross-strait exchanges.

There is no law under which noncitizens may ask for asylum, and there were no applications for refugee status during the year. While the authorities have been reluctant to return to the mainland those who might suffer political persecution, they regularly deport to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally enter the island for economic reasons. There were no reports of forced return of persons to a country where they feared persecution.

The detention centers for illegal immigrants continue to attract media attention. While the completion of expansion projects has eliminated overcrowded conditions, inmates complain about overly long stays at the centers while waiting to be repatriated. The Bureau of Entry and Exit faults mainland Chinese authorities for insisting on extensive background checks, which results in a delay in repatriation.

In the spring legislative session, the LY enacted an Entry, Exit, and Immigration Law; among other things it criminalizes alien smuggling. However, this portion of the law still requires enabling legislation.

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

Citizens have this right. In 1996 Taiwan for the first time carried out the direct, popular election of its president, thus completing its transition to a democratic, multiparty political system. The transition began with the lifting of martial law in 1987. Generally free and fair popular elections for the LY took place in 1992, 1995, and 1998. Corruption and vote buying, particularly in local elections, are problems. In September the National Assembly (NA) passed amendments to the Constitution that included extending the current term of Assembly deputies and replacing their popular election with a system of appointment based on political party apportionment. The NA is charged mainly with amending the Constitution.

The KMT remains the largest political party, with 2 million members. It secured a working majority in the 1998 elections for an expanded LY, winning 124 of 225 seats. The KMT also won the December election for Taipei mayor. The Democratic Progressive Party, which traditionally had advocated independence for Taiwan and has an estimated 200,000 members, controls 54 LY seats. It won 12 of 23 mayoral and county magistrate posts in 1997, including that of Taipei County, placing a ma-

jority of Taiwan's population in DPP-led localities. The DPP also won the Kaohsiung mayor's office in the 1998 election. Younger KMT members who opposed the Party's domination by "mainstream" ethnic Taiwanese supporters of President and Party Chairman Lee Teng-hui established the New Party in 1993. The New Party has 11 seats in the LY and claims a membership of 86,000.

The KMT benefits from its ownership of three of the major television channels and of enterprises and business holdings estimated to be worth in excess of $6 billion, and from the fact that its members still hold most key positions in the political system, sometimes concurrently with important party positions. However, in recent years, opposition parties grew rapidly and freely contest elections, criticize the authorities, and influence national policy through the legislative process.

The Constitution provides for equal rights for women, but their role in politics, while increasing, remains limited. Nevertheless there are six female members of the Cabinet, including the Minister of Justice, the Chairperson of the Fair Trade Commission, and the Chairperson of the EY Council for Cultural Development. A number of women also hold senior KMT positions, including three members of the Central Standing Committee. In addition 43 of 225 LY members, 54 of 316 National Assembly members, and 2 of 29 Control Yuan members are women.

Aborigine representatives participate in most levels of the political system, partially through 6 reserved seats in the NA and LY—half of each elected by the plains Aborigines and half by mountain Aborigines. An Aborigine serves as Chairman of the Aboriginal Affairs Commission. The magistrate of Taitung County is an Aborigine first elected in 1993 and reelected in 1997.

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

The principal human rights organizations are the Chinese Association of Human Rights and the Taiwan Association for Human Rights. Both organizations operate freely, although coordination between the two is limited. Both organizations investigate human rights complaints, many of which come to public attention through the media and statements by lawmakers from all political parties. The authorities permit representatives of international human rights organizations to visit and meet with citizens freely. Women's and children's human rights groups monitor police and judicial performance and campaign to correct abuses (see Section 1.c.).

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

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." Constitutional amendments enacted in 1997 also provide for the rights of disabled persons. While the authorities are committed to protecting these rights, some areas of discrimination continue to exist.

Women.—Violence against women, including domestic violence and rape, remains a serious problem. Wife beating is especially widespread. The DPP Women's Development Committee claimed that 35 percent of married women were victims of spousal abuse. The authorities fund domestic violence hot lines, which have handled some 17,000 cases over the past decade. By law a prosecutor may not investigate domestic violence cases until a spouse files a formal lawsuit. Although some cases are prosecuted, strong social pressure discourages abused women from reporting incidents to the police in order to avoid disgracing their families. Rape also remains a serious problem, and its victims are stigmatized socially. One expert estimates that 7,000 rapes occur annually—10 times the number reported to the police. In a step forward, in April the LY passed legislation that permits the prosecution of the crime of rape without requiring the victim to press charges. According to a law passed in 1997, rape trials no longer are public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted are usually sentenced to from 5 to 10 years in prison. In the first 6 months of the year, 335 persons were indicted for the crime of rape, and 141 were convicted.

In 1998 the LY passed new legislation that required all city and county governments to set up domestic violence prevention and control centers. The centers provide victims with protection, shelter, legal counseling, and other services on a 24-hour basis. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. The Ministry of Interior also provides assistance to victims of rape or domestic violence, such as financial assistance and shelter. In April the Ministry established a domestic violence prevention committee to implement a comprehensive program for the protection of women and children.

Prostitution, including coerced prostitution and child prostitution, is also a problem (see Section 6.f.). The authorities are phasing out legalized prostitution. Under the law, no new houses of prostitution may be registered.

The law prohibits sex discrimination, and the LY has in recent years begun a systematic review and revision of those portions of the legal code relating to divorce, property, and child custody. As a result of legislation passed in 1998, many discriminatory sections of the code were eliminated. For example women now are no longer required to adopt their husband's last name after marriage. In 1994 the CGJ declared unconstitutional a Civil Code provision dating to the 1930's that gave fathers priority in child custody disputes. In 1996 the LY passed legislation that clarified a woman's right to her own property. In 1997 the LY repealed legislation requiring that a child take the father's name; the parents may now choose to give the child either the father's or mother's family name.

There is no equal employment rights law, and enforcement of existing sex discrimination laws remains a problem. Labor laws provide for maternity leave, but employers do not always grant it. Women also complain of being forced to quit jobs due to marriage, age, or pregnancy. Women often complain of less frequent promotions and lower salaries than their male counterparts, although the Labor Standards Law prohibits gender-based differences in wages. According to the Council on Labor Affairs, salaries for women average 85 percent of those for men performing roughly equal jobs.

In the past, many women married to foreigners said that their husbands had a more difficult time obtaining residency than the foreign wives of male citizens. They also complained that their children were not allowed to enter public schools. In 1995 the Ministry of Foreign Affairs announced a relaxation of the regulations governing foreign husbands' visas that allows the foreign husbands of citizens to remain in Taiwan (at a minimum) for 6 months at a time rather than the shorter periods granted previously. The Ministry of Education also clarified regulations permitting the children of foreign fathers to attend public schools. In May the LY passed legislation permitting spouses of citizens to apply for permanent residency after residing in Taiwan for 5 years. However, the Citizenship Law continues to stipulate that the transmission of citizenship may occur exclusively through the father. A citizen mother with a foreign husband thus cannot apply for a Taiwan passport for her child. However, when such a child reaches age 14, the child can apply.

Children.—The Constitution has provisions to protect children's rights, and the authorities are committed to supporting them. Education for children between 6 and 15 years of age is compulsory, and this rule is enforced. Children also are provided health care under the national health insurance scheme.

Child abuse is a significant problem. The 1993 revision of the Child Welfare Act states that any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities, that child welfare specialists must make such notification within 24 hours, and that the authorities involved must issue an investigation report within 24 hours. Both the Ministry of Interior's Social Affairs Department and nongovernmental specialists assert that these requirements are followed. In June the LY passed legislation creating a Child Welfare Bureau in the Ministry of Interior to enhance efforts to protect child welfare.

In September the first juvenile court was established in Kaohsiung to handle criminal cases. Previously regular courts handled such cases. The new court includes 24 juvenile counselors. There are three juvenile detention centers on the island.

Although no reliable statistics are available, child prostitution is a serious problem, particularly among Aborigine children (see Section 6.f.). Most child prostitutes range from 12 through 17 years of age. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their own free will, and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remain obstacles to enforcement. On occasion parents have sold a child into prostitution, a problem associated mostly with Aborigine families.

According to some reports, brothel owners, to prevent child prostitutes from escaping, use violence, drug addiction, and other forms of coercion. In 1995 the LY passed legislation providing for as much as 2 years' incarceration for customers of prostitutes under the age of 18. The legislation also requires the publication of the names of violators in newspapers. Under a plan adopted by the NPA, city and county authorities across the island have established police task forces to strengthen their efforts against child prostitution. During the first 4 months of the year, 249

persons were arrested, of whom 222 were indicted and 101 convicted. In June the LY amended the Prevention of Child and Juvenile Sex Trafficking Law to prohibit the media from running advertisements involving the sex trade and to impose penalties on citizens arrested abroad for having sex with minors.

People With Disabilities.—The Disabled Welfare Law was revised and strengthened in 1990. It prohibits discrimination against the disabled and sets minimum fines at approximately $2,400 (nt$73,800) for violators. Under these revisions, new public buildings, facilities, and transportation equipment must be accessible to the disabled, while existing public buildings were to be brought into conformity by 1995. Although new buildings appear to meet many accessibility requirements, there does not as yet appear to be substantial effort aimed at refitting older buildings to accommodate disabled people.

A leading expert in the field estimates that the number of disabled is between 400,000 and 500,000—possibly as high as 700,000. One-third of the total are severely disabled and receive shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire disabled persons equal to 2 and 1 percent of their work forces respectively. Organizations failing to do so must pay, for each disabled person not hired, the basic monthly salary (approximately $570) into the Disabled Welfare Fund, which supports institutions involved in welfare for the disabled. Many organizations complain that it is difficult to find qualified disabled workers, and they appear to prefer to pay the fines involved. The authorities have noted the effect of traditional belief that the disabled lack the ability to do real work.

Indigenous People.—The island's only non-Chinese minority group consists of the Aboriginal descendants of Malayo-Polynesians already established when the first Chinese settlers arrived. According to MOI statistics, there are 357,000 Aborigines. More than 70 percent are Christian, while the dominant Han Chinese are largely Buddhist or Taoist. The civil and political rights of Aborigines are fully protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of Aboriginal people, protect their right of political participation, and ensure their cultural, educational, and business development. In addition the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. A new cabinet-level agency, the Aboriginal Affairs Commission, was created, although critics noted that its budget is quite small. As part of its efforts to preserve ethnic identities, the Ministry of Education now includes some Aboriginal-language classes in primary schools. Under 1998 legislation, the Ministry of Education subsidizes university education for Aborigines and works to preserve Aboriginal culture, history, and language through the establishment of Aboriginal studies centers.

Although they face no official discrimination, Aborigines have had little impact, over the years, on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources. In addition they complain that they are prevented from owning ancestral lands in mountain areas under the authorities' control, some of which have been designated as national parks or conservation areas. Land rights remain a crucial issue for Aborigines, along with social discrimination, educational underachievement, low economic status, and high rates of alcoholism. Some Aboriginal leaders have come to believe that only some form of autonomy can preserve their land rights, which constantly are threatened by Chinese developers who use connections and corruption to gain title to Aboriginal land. According to MOI statistics, only about 50 percent of Aborigine children complete elementary school. In the past, Aborigines were not allowed to use non-Chinese personal names on legal documents, but this rule was changed by legislation in 1996.

The sale of Aboriginal girls into prostitution by their parents is also a problem (see Section 6.f.).

Section 6. Worker Rights

a. *The Right of Association.*—In 1995 the JY ruled that the right to organize trade unions is protected by the Constitution. But, until new legislation implementing this decision is passed, teachers, civil servants, and defense industry workers still are not permitted to form labor unions. Even with this ruling, a number of laws and regulations limit the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying new unions certification.

The Labor Union Law requires that union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected KMT- or management-endorsed union slates.

Unions may form confederations, but no administrative district, including a city, county, or province, can have competing labor confederations. There is only one Taiwan-wide labor federation, the Chinese Federation of Labor (CFL) which is closely associated with the ruling KMT. In 1997 Lee Cheng-hung, Board Chairman of the CFL, was elected to the KMT's Central Standing Committee.

In July unions at 18 state-owned enterprises set up an alliance to protect worker rights during privatization. However, the Council of Labor Affairs (CLA) denied the legitimacy of that federation in the absence of an amendment to the Labor Union Law. In 1998 large unions representing some 300,000 workers announced their decision to break with the CFL and organize the National Federation of Industrial Labor Unions. A similar challenge to the restriction on island-wide unions was mounted in 1994 when 12 unions from state-run enterprises announced their withdrawal from the CFL to establish a new national federation of labor unions of state-run enterprises. The CLA turned down their application, as well as the appeal of that rejection. In the meantime, the trade unions have retained their seats in the CFL. Twenty trade unions with a combined membership of 4,000 are affiliated as the National Federation of Independent Trade Unionists. Although the affiliates are legal, the Federation is considered illegal. In general the drive for independent labor unions has lost momentum in recent years due to the extremely low unemployment rate, higher wages, the shift from manufacturing to service industries, the small scale and poor organization of most unions, and prosecution of labor activists by the authorities in the past.

The law governing labor disputes recognizes the right of unions to strike but imposes restrictions that make legal strikes difficult and seriously weaken collective bargaining. For example the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year. The CLA reported that from 1990–98, there were 34 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. Strikes threatened in January at the Chinese Petroleum Corporation and Taiwan Railway Bureau did not materialize as workers obtained satisfactory concessions from management. There were three strikes in 1998 and one strike in 1997.

Taiwan was expelled from the International Labor Organization in 1971 when the People's Republic of China replaced Taiwan in the United Nations. The CFL is affiliated with the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively. As of March, some 3 million workers, approximately 31 percent of the 9.5 million-person labor force, belonged to 3,710 registered labor unions.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are union members. However, in practice, employers sometimes have dismissed union leaders without reasonable cause, and observers point out that the law sets no specific penalties for violations. Several union leaders of a container terminal company were laid off at the end of 1998 following a strike earlier in the year. According to the illegal National Federation of Independent Trade Unionists, over 400 trade unionists and supporters have been fired since the labor movement began to expand after the 1987 lifting of martial law.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. Since such agreements are used only in large-scale enterprises, and less than 5 percent of enterprises fall into this category, the proportion of workers covered remains small. Employers set wages generally in accordance with market conditions.

Firms in export processing zones are subject to the same laws regarding treatment of labor unions as other firms and follow normal practices including collective bargaining agreements with their unions.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Standards Law prohibits forced or compulsory labor, and there were no reports of these practices, apart from coerced prostitution (see Sections 5 and 6.f.). The law prohibits forced and bonded labor by children, and the authorities generally enforce this prohibition effectively. However, some parents of Aboriginal children sell them into prostitution, and the requirements of the law make prosecution difficult at times (see Section 5).

In July nine women who were forced to work as "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Government) filed lawsuits in Japan seeking $100,000 (nt$3,000,000) and a formal apology from the Japanese Government. The case is before the courts.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The authorities prohibit forced and bonded child labor and generally enforce this prohibition effectively, although the sale of Aboriginal children into prostitution remains a problem (see Sections 5 and 6.c.). The Labor Standards Law (LSL) stipulates age 15, after compulsory education required by law ends, as the minimum age for employment. County and city labor bureaus enforce minimum age laws.

e. *Acceptable Conditions of Work.*—The LSL mandates labor standards. According to the CLA, until recently the law covered 3.6 million of 6.6 million salaried workers and was not well enforced in areas such as overtime work and pay or retirement payments. A 1996 amendment extended the LSL to all salaried employees. By midyear the LSL covered 5.5 million employees. The CLA is conducting a publicity campaign to increase public awareness of the law and set up telephone hot lines to accept complaints on LSL violations.

The CLA did not increase the minimum monthly wage, which remained at $465 (nt$5,840). While sufficient in less expensive areas, this wage is less than that needed to assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage is more than double the legal minimum wage, and the average for service industry employees is even higher. The law limits the workweek to 48 hours (8 hours per day, 6 days per week) and requires 1 day off in every 7 days. In 1998 the public sector adopted a new system providing for a 5-day workweek every other week. According to a CLA survey, about one-third of private enterprises also have adopted that system.

Because of an acute labor shortage, there has been a legal influx of foreign workers in the last several years. The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, in 1998 foreign domestic workers were exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover authorities say that in many cases illegal foreign workers, many from Thailand and the Philippines, receive board and lodging from their employers, but no medical coverage, accident insurance, or other benefits enjoyed by citizens. Illegal foreign workers also are vulnerable to employer exploitation in the form of confiscation of passports, imposition of involuntary deductions from wages, and extension of working hours without overtime pay. In addition observers say that conditions in many small- and medium-sized factories that employ illegal foreign labor are dangerous, due to old and poorly maintained equipment. There are also occasional reports of the mistreatment of legal foreign workers. According to CLA statistics, there are 279,000 legal foreign workers, including approximately 135,000 workers from Thailand and 115,000 workers from the Philippines. In May the CLA signed a labor agreement with Vietnam permitting its workers to obtain employment in Taiwan. The unemployment rate remained at 2.7 percent in 1998. The CLA set the quota for foreign workers at 300,000. However, in July the CLA announced that in view of the increase in unemployment for unskilled labor and Aborigines, it would decrease the foreign labor quota in the construction and manufacturing sectors by 10 percent.

The 1991 revised Occupational Safety and Health Law (OSHL) extended coverage to include workers in agriculture, fishing, and forestry industries and appeared to strengthen penalties for safety violations. It nevertheless still provides only minimal standards for working conditions and health and safety precautions. The OSHL gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, some critics see the law as a step backward; for example, they note that, under the revised law, general contractors are not responsible for the safety of persons working for subcontractors.

The 1993 Labor Inspection Law was designed to strengthen the enforcement of labor standards and health and safety regulations. It increased the number of enterprises and types of safety factors to be inspected; gave inspectors quasi-judicial powers; required preexamination of dangerous working places such as naphtha-cracking plants, pesticide factories, and firecracker factories; and raised penalties for violations. Critics allege that the CLA does not effectively enforce workplace laws and regulations because it employs too few inspectors. There are 223 inspectors for the approximately 300,000 enterprises covered by the OSHL. The inspection rate increased to 8.3 percent in 1998, up from 7.6 percent in 1997. Since many enterprises are small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws is hard to document but is believed to be minimal in these smaller enterprises.

f. *Trafficking in Persons.*—There is no law specifically prohibiting trafficking; however, traffickers for sexual purposes may be prosecuted under the Sexual Violation Offenses Act, which outlaws sexual transactions for profit. In addition in May the LY enacted legislation which criminalizes alien smuggling (see Section 2.d.). The 1995 Statute for Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who intends to force a girl below the age of 18 to engage in sex or to sell or pawn her by other means. Nonetheless there are reports of organized crime rings trafficking in women for the purpose of forced prostitution. The majority of cases involve women from mainland China or Thailand. Criminal gangs in mainland China reportedly use deceptive measures to recruit and procure young women who are then funneled to Taiwan-based organized crime gangs who arrange sham marriages to enable them to obtain visas to enter Taiwan. The women then are forced into prostitution. The extent of the problem is difficult to determine, there have been 50,000 marriages between persons from mainland China and Taiwan since 1992, but less than 1 percent are believed to involve the trafficking gangs. In May police arrested eight men linked to one such crime syndicate who married in mainland China and then forced their wives to work as prostitutes in Taiwan. Light sentences for traffickers hamper police efforts to end this trade. Trafficking victims, if arrested for prostitution, also face light sentences, such as fines or deportation.

The sale of Aboriginal girls into prostitution by their parents is also a problem. However, reports have indicated that in the period from June 1994 to July 1995, the percentage of all arrested child prostitutes who were of Aboriginal origin dropped from 15 percent to 5 percent. This reduction may have come about due to intensive efforts on the part of social workers and nongovernmental organizations to combat the practice of selling female children into prostitution. The NPA also coordinated the formation of police task forces in local jurisdictions to investigate and prevent the sale of Aboriginal girls into prostitution. From the beginning of 1998 through April, 46 Aboriginal girls were found to have been engaged in prostitution.

FIJI

Fiji continued to make progress toward a more representative and democratic government following peaceful and democratic elections in May. The amended Constitution that came into effect in July 1998 encourages a multiethnic government while protecting traditional Fijian values. Under the amended Constitution, the Prime Minister and the President can be of any race, and for the first time, in addition to the communally allocated seats, there are open seats not allocated to any racial community in the lower house of Parliament. The judiciary is independent.

The Constitution also includes a strengthened bill of rights and a compact designed to protect the rights of all citizens. It alters the official name of the country to "Republic of the Fiji Islands" and designates all citizens "Fiji Islanders," avoiding designations specifying ethnicity. However, it preserves the paramountcy of indigenous Fijian interests, which cannot be subordinated to the interests of other communities.

Peaceful and democratic elections were held in May and resulted in a change of government and the election of a Labor Party-led coalition administration. The new multiethnic Government consists of a number of political parties and enjoys a better than two-thirds majority in Parliament. For the first time, the country has an Indo-Fijian prime minister, Mahendra Chaudhry, the head of the Labor Party.

The Constitution is designed to promote greater political stability. Nonetheless, ethnicity remains a dominant factor in Fijian life and affects the country's politics, economy, and society. The population is a multiracial, multicultural mix, with indigenous Fijians comprising 51 percent, Indo-Fijians (descendents of immigrants from the Indian subcontinent) around 42 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest of the population of over 775,000. The ethnic division is illustrated by the contrast between the private and public sectors; Indo-Fijian families largely control most private businesses, while indigenous Fijians largely head the government ministries and the military.

The Fiji Military Forces (FMF), a small professional force, comes under the authority of the Ministry for Home Affairs, as do the police. The Fiji Intelligence Service was dissolved by the Cabinet in August. Its functions were absorbed by the Police Special Branch and by a new analytical unit that was established in the Ministry of Home Affairs. There continue to be credible reports of human rights abuses by individual police officers.

Sugar and tourism are the mainstays of the economy, accounting for more than half of foreign exchange earnings. Investment is depressed due to continuing concerns over the resolution of land lease issues. Economic growth of approximately 4 percent was achieved due to record numbers of tourists and a bumper sugar crop following 2 years of droughts and floods.

The principal human rights problem, while significantly addressed in the revised Constitution, remains ethnically based discrimination. Constitutional provisions reduce the factors that abridge the right of citizens to change their government. However, the Constitution maintains a partially ethnically based electoral system. Constitutional safeguards and a number of government policies, including hiring practices, education policies, and land tenure preferences continue to provide protection for indigenous Fijian interests. Other human rights problems include occasional police brutality, informal constraints on the freedom of the press, efforts to restrict public comments by the diplomatic corps, discrimination and cases of violence against women, and instances of abuse of children.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Police sometimes abuse detainees; the authorities have punished some of the offending officers, but these punishments have not deterred all police abuses. The Police Department's internal affairs unit investigates complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but this provision is seldom invoked.

Prison authorities have struggled to meet minimum international standards within the limits of local financial restraints. Prison conditions are Spartan, and food and sanitation are limited.

The Government permits visits to prisons by church groups and family members.

d. *Arbitrary Arrest, Detention, or Exile.*—The Law of Arrest and Detention provides that a person may be arrested only if police believe that the criminal law has been or is about to be broken. Arrested persons must be brought before a court without "undue delay." This requirement is taken to mean within 24 hours, with 48 hours as the exception (such as when an arrest is made during a weekend). Rules governing detention are designed to ensure that suspects are questioned fairly. Detainees have the right to a judicial review of the grounds for arrest; in urgent cases, detainees may apply to a judge at any time, whether he is sitting or not. Incommunicado and arbitrary detention, both illegal, did not occur.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The judiciary is independent under the Constitution and in practice.

The judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. There are no special courts; military courts try only members of the armed forces. Magistrate courts continue to try the large majority of cases.

In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights provided by the Constitution.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate court do not. In litigation involving lesser complaints, a public legal advisor assists indigent persons in domestic or family law cases. The right of appeal exists but is hampered by continuing delays in the appeals process. Bail is granted freely and most defendants do not experience pretrial detention.

The law sometimes treats women differently from men. In some instances, there is a presumption of reduced competence and thus reduced responsibility for women. For example only women can be charged with infanticide (if a man kills an infant the act is treated as murder, a more serious charge). A female defendant in an infanticide case is presumed to have diminished mental capacity, and sentences are reduced or suspended accordingly.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In general the Government respects the privacy of the home; however, the Home Affairs Ministry has powers, within specific operational guidelines, to search persons and

property, access private financial records, and monitor mail and telephones when a warrant is issued by the National Security Council. The Home Affairs Ministry conducts surveillance of persons whom it believes represent a security threat.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech generally is respected; however, the new Government repeatedly has criticized the national media for a perceived antigovernment bias and for its coverage of sensitive issues, particularly when the Government perceives the coverage as diminishing respect for its authority. There are credible reports of attempts by individual members of the Government to pressure editors or otherwise interfere with the independence of the press.

Nevertheless, political figures and private citizens can and do speak out against the Government. Although the Public Order Act and other acts prohibit actions that are likely to incite racial antagonism, there were no reported arrests under these acts.

Legislation pertaining to the press is contained in the Newspaper Registration Act (NRA) and the Press Correction Act (PCA). Under the NRA, all newspapers must be registered with the Government before they can publish. Although the Government never has used the PCA, the act gives the Minister of Information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the Minister's opinion, a false or distorted article is published. Should the newspaper refuse to publish the Minister's correction, it can be taken to court and, if found guilty, fined approximately $700 (FJ$1,000) (individual persons convicted under the act may be fined approximately $150 [FJ$220] or imprisoned for 6 months or both). The PCA allows the Government to arrest anyone who publishes "malicious" material. This includes anything the Government considers false news that could create or foster public alarm or result in "detriment to the public."

The media operate without prior censorship but with considerable self-censorship. Newspapers occasionally print editorials critical of the Government and occasionally do investigative reporting. They widely report statements about the political situation by opposition figures and foreign governments. The letters-to-the-editor columns of the two daily newspapers also frequently carry political statements from a wide cross section of society, including members of the deposed precoup government, which are highly critical of the Government, its programs, and the Constitution. Criticism, albeit muted, of the once sacrosanct traditional chiefly system is appearing more frequently. However, the Government still views negative comments about individual chiefs with disfavor.

An active local organization, the Fiji Islands Media Association (FIMA), is an affiliate of the regional Pacific Islands News Association (PINA). Both FIMA and PINA pressed for better training and the establishment of codes of ethics for journalists. In a show of support for strengthening the media, the Government unconditionally provided housing for the Fiji Journalism Training Institute. The formerly dormant Fiji News Council was reorganized and is active again. The Council strives to promote high journalistic standards, enhance the image of the media, safeguard its independence, and resolve complaints from the public.

The Government bought one of the country's two daily newspapers, the Fiji Post and announced in August that all government advertising and official statements henceforth would be published only in the Fiji Post. FIMA noted its concern about these developments and their effect on media freedom. The new Government has criticized publicly the "bias" of the noncitizen editor and the foreign ownership of the country's other daily newspaper, the Fiji Times.

The country's television news production is owned and operated by Fiji One, the only noncable television station. A trust operating on behalf of the provincial governments owns 51 percent of Fiji One; the other 49 percent is owned by private individuals and interests. The Government's attempt to open the television market to new entrants is being challenged in court.

In August 1998, the Government sought to require foreign diplomatic representatives to submit all public address requests for approval by the Foreign Ministry and to provide advance copies of speech texts. The Government also stated that foreign diplomatic representatives are obliged not to comment on politically sensitive issues such as the Constitution, land issues, and relations between communities, citing the need to respect the sovereignty of the State and noninterference in internal matters.

While academic freedom generally is respected, government work permit stipulations and University of South Pacific (USP) contract regulations effectively have deterred university employees from participating in domestic politics. In 1998 the Government reportedly investigated allegations that two foreign USP journalism lecturers violated the terms of their work permits by writing paid articles critical of

democracy in Fiji for Internet web pages and publications not associated with USP. Student groups organize freely.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. However, permits for public gatherings must be obtained from the district officer, and the Government does not always grant permits for large outdoor political meetings or demonstrations, particularly if the police advise of difficulties with the anticipated crowd size or their ability to assure public safety.

Nevertheless, the Government routinely issued permits for rallies organized by political parties, religious groups, and groups opposed to government policies.

Opposition parties operate without government interference. Political organizations operate and issue public statements and did so repeatedly and openly throughout the year.

c. *Freedom of Religion.*—The Constitutional provision of freedom of religion is honored in practice. The Government does not restrict foreign clergy and missionary activity or other typical activities of religious organizations.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government does not restrict freedom of movement within the country or abroad. Occasional detentions at the airport occur, but the courts order redress where this is warranted. Citizens are free to emigrate, and about 50,000 have done so since the 1987 coups. The Government does not restrict their return if they choose to do so and has encouraged those who left after the coups to return.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In the past, it has been reluctant to grant first asylum without assurances that the asylum seeker would be moved to a third country. There were no reports of the forced return of persons to a country where they feared persecution.

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

The 1998 constitutional amendments were a significant step toward a more representative and democratic government. The amended Constitution reduces the ethnically based factors that abridge the right of citizens to change their government. Under its provisions, the Prime Minister and President can be of any race. It establishes a 71-member lower house with 25 open seats and 46 seats allocated to different ethnic communities. The open seats, which are unprecedented, have been established by an electoral commission and apportioned into districts of approximately equal population. Of the 46 communal seats, 23 are allotted to indigenous Fijians, 19 to Indo-Fijians, 3 are "general voter" (for the most part Caucasians and East Asians) seats, and 1 is allotted to the Rotumans (an ethnically distinct Polynesian people), roughly proportional to the different communities' representation in the population. The amended Constitution also contains an alternate vote system for elections to the lower house to replace the winner takes all system of the previous constitution. Although the Review Commission recommended a mostly elected Senate, it remains an appointed body. The President appoints its 32 members with the Great Council of Chiefs nominating 14 members, the Prime Minister 9, the opposition leader 8, and the Council of Rotuma 1 member.

Included in the amended Constitution is a strengthened bill of rights and a compact among the country's citizens to protect their respective rights and interests; however, it acknowledges that the paramountcy of indigenous Fijian interests cannot be subordinated to the interests of other communities. In July 1998, Parliament passed a new emergency powers act that can be invoked if Parliament determines that there is a threat to the life of the nation. International media organizations criticized the law due to concern that the Government could close or censor publications during times of crisis.

The number of political parties expanded in the period prior to the May elections. The former government, the ethnic-Fijian SVT party (the Fijian Political Party), in coalition with the predominantly Indo-Fijian National Federation Party and the general electors, was defeated easily by the "People's Coalition." The People's Coalition Government is led by the Fiji Labor Party and includes a number of ethnic Fijian-based parties, the Fijian Association Party, and two new parties, the Christian Democratic Party and the Party of National Unity. A number of independent Members of Parliament also joined the government coalition. In the Senate, whose members are not elected but appointed based on criteria established in the Constitution, a constitutional dispute prevented the seating of the eight nominees of the leader of the opposition. The President has objected to the proposed list. His refusal to approve the nominees was challenged, and at year's end the matter was before the High Court.

The amended Constitution mandates that all parties that gain more than 10 percent of parliamentary seats in general elections are to be invited to participate in a government of national unity. All of the parties that met the 10 percent requirement were so invited, although not all accepted.

Women in both the Fijian and Indian communities have functioned primarily in traditional roles, and are underrepresented in government and politics. However, an increasing number of women are rising to prominent positions in politics and public service. The May elections resulted in an increased number of women elected to Parliament. Five women are members of the 27-member Cabinet, with one selected as Deputy Prime Minister. Women also play important roles in the chiefly system and can be chiefs in their own right. The President's wife is one of the three highest ranking chiefs.

For the first time, an Indo-Fijian is Prime Minister.

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

No local groups focus solely on human rights matters, but the women's rights movement, the labor movement, and various political groups (including organized political parties) are engaged in promoting human rights. There are also several small, foreign-based organizations that concentrate on local human rights causes, including the Coalition for Democracy in Fiji (with offices in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There is little interaction between the Government and these groups.

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

The amended Constitution prohibits discrimination on the basis of race, sex, place of origin, political opinion, color, religion, or creed, and provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. In the compact included in the amended Constitution, there is a specific provision for affirmative action and "social justice" programs to secure effective equality of access to opportunities, amenities, and services for the Fijian and Rotuman people and for all disadvantaged citizens and groups.

Women.—Reliable estimates indicate that 10 percent of women have been abused in some way, and this abuse is a major focus of the women's movement. Women in Fiji are addressing the problem of domestic violence actively. Police have adopted a "no drop" rule, according to which they will prosecute cases of domestic violence even when the victim does not wish to press charges. However, in at least one case in 1998, the police reportedly exhibited great reluctance to investigate and prosecute a policeman who had beaten his wife into a coma.

There is a small but active women's rights movement that has pressed for serious punishment for rape. Courts have imposed sentences that vary widely but are generally lenient. Women sought to have all rape cases heard in the High Court where sentencing limits are higher.

Suva, the capital, and Ba, Labasa, and Lautoka have privately funded women's crisis centers, which offer counseling and assistance to women in cases of rape, domestic violence, and other problems, such as child support payments.

Constitutional changes which came into effect in 1998 are designed to redress the imbalance in spousal and offspring rights between male and female citizens. Under the amended Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and registering and racially designating children in regard to electoral rolls and ethnic communal property.

In general, women in the Fijian community are more likely to rise to prominence in their own right than are women in the Indo-Fijian community. Women have full rights of property ownership and inheritance, and a number are successful entrepreneurs. Women generally are paid less than men, a discrepancy that is especially notable in the garment industry. Garment workers, most of whom are female, are subject to a special minimum wage that is considerably lower than that in other sectors.

Children.—The Government is committed to children's rights and welfare but has limited financial resources to carry out the commitment. In addition the legal system is at times inadequate to protect the rights of children, since children's testimony is inadmissible unless corroborated by an adult. Societal changes have undermined the traditional village and extended family-based social structures; an outgrowth of this evolution is a child abuse problem. The Government in 1993 created a Child Welfare Committee to address these problems.

School is mandatory through the primary grades.

Corporal punishment is administered in some schools. The Ministry of Education has guidelines for the administration of such punishment by principals and head teachers. A number of incidents involving alleged beatings of children in religious schools were reported in the media. In at least one instance in 1998, a family initiated court action against a teacher who reportedly beat a child for lack of discipline. There is credible information that not all abuses are reported or punished.

People with Disabilities.—Legal discrimination against physically disabled persons in employment, education, and the provision of other state services does not exist. However, there is no legislation or mandated provision for accessibility for the disabled. Several small voluntary organizations promote greater attention to the needs of the disabled.

Religious Minorities.—Police continued to investigate a small number of cases of desecration of Hindu temples in 1997.

National/Racial/Ethnic Minorities.—The stated purpose of two military coups in 1987 was to ensure the political supremacy of the indigenous Fijian people and to protect their traditional way of life and communal control of land. To this end, the post-coup government initiated a number of constitutional and other measures to ensure ethnic Fijian control of the executive and legislative branches. The government also successfully raised the proportion of ethnic Fijians and Rotumans in the public service to 50 percent or higher at all levels, but most dramatically at the senior level: Indo-Fijians now represent only 10 percent of the highest levels of the civil service. The amended Constitution seeks to redress this imbalance by specifically noting that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population."

Control of land is a highly sensitive issue. Ethnic Fijians currently hold, communally, about 83 percent of land, the State holds another 8 percent, and only the remaining 9 percent is freehold land. The British colonial administration instituted the present land ownership arrangements to protect the interests of the indigenous Fijians whose traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers are Indo-Fijians, who lease land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believe that the absence of secure land tenure discriminates against them. Most current leases expire by 2000. A parliamentary select committee has been established to review agricultural land tenure agreement issues.

Indo-Fijians are subject to occasional harassment based on race. There have been no credible allegations of government involvement in such incidents, which the police have investigated, sometimes resulting in arrests.

The new Government raised concerns with what it terms "expatriates" in the country. On several occasions, it announced its intention to review all immigration records relating to foreign workers and intervened publicly in a number of visa cases, calling on private companies to "localize" their hiring practices. The minority Chinese community complained about perceived government harassment in this regard, and the nation's employers' organization spoke against government interference.

Section 6. Worker Rights

a. *The Right of Association.*—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies; the authorities respect these rights in practice. However, the law permits restrictions to be applied in government employment and in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. An estimated 55 percent of the paid work force is unionized.

All unions must register with, but are not controlled by, the Government. The only central labor body is the Fiji Trade Union Congress (FTUC), which was associated closely with the opposition Fiji Labor Party until mid-1992. It subsequently adopted a more independent political stance. The FTUC associates internationally. While certain unions remain ethnically based, both Indo-Fijians and ethnic Fijians hold leadership roles in the trade union movement. The FTUC participates, along with the employer's federation, in the Government's Tripartite Economic Strategies Committee.

Strikes are legal, except in connection with union recognition disputes. The Government remains involved in certifying union strike balloting, which can be an elaborate process given the distance between some of the island locations. A 1-day national labor protest occurred on April 23, 1998. The strike was initiated by the FTUC to protest against layoffs, a wage freeze, and the discontinuance of a checkoff

system for union dues. Sporadic labor unrest occurred throughout 1998 in a number of workplaces. The protest included a 1-day bus strike on August 16, 1998.

b. *The Right to Organize and Bargain Collectively.*—The law recognizes the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have joined it. Recognition is determined by union membership rather than by an election. The Government has the power to order recalcitrant employers to recognize unions and has done so. Key sectors of the economy, including sugar and tourism, are heavily organized. Following the 1992 return to accountable government, the Government lifted wage guidelines, and unrestricted collective bargaining on wages is now the norm.

Wage negotiations generally are conducted on an individual company or enterprise basis, although industrywide negotiations are on the increase. A government proposal to introduce such negotiations was supported by employers but opposed by unions.

The law specifically prohibits antiunion discrimination. In practice the unions generally are successful in preventing discrimination against workers for union activities, but the law does not mandate that fired workers be reinstated.

Export processing zones (EPZ's) are subject to the same law as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZ's and claims that intimidation of workers by employers is widespread. The FTUC sees union recognition as the single issue that does not have effective legal recourse. The FTUC argues that because of alleged illegal and intimidating practices in EPZ's, including threats of loss of work for those active in organizing workers, the FTUC is unfairly prevented from representing workers in EPZ's.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits forced labor, including forced and bonded labor by children, and there were no confirmed reports that it is practiced. However, there were media reports that a form of bonded labor may be practiced on a remote copra plantation on an outer island. Other media reports indicate that forced labor conditions may exist in certain garment manufacturing plants.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Children under the age of 12 may not be employed in any capacity. "Children" (under age 15) may only be employed outside of school hours in family enterprises and not in the industrial sector. "Young persons" (ages 15 to 17) may be employed in certain occupations not involving heavy machinery and with specified hours and rest breaks. Enforcement by the Ministry for Labor and Industrial Relations generally is effective, except for family members working on family farms or businesses and "self-employed" homeless youths.

The Government prohibits forced and bonded labor by children and enforces this prohibition effectively (see Section 6.c.). School is mandatory only through the primary grades.

e. *Acceptable Conditions of Work.*—There is no national minimum wage. Certain sectors have minimum wages set by the Ministry for Labor and Industrial Relations, which effectively enforces them. Minimum wage levels will generally support a barely adequate standard of living for a worker and family in all sectors except for the garment industry, in which the starting hourly wage, $0.50 (FJ$0.72) for learners and $0.65 (FJ$0.94) for others, is based on the assumption that workers are young adults or married women living at home and not supporting a household. There are no regulations specifying maximum hours of work for adult males. Women can do night work in factories and overtime but are prohibited from underground work in mines. Workers in certain industries, notably transportation and shipping, have problems with excessive hours of work. Indo-Fijians, who generally require a cash income to survive, are more vulnerable to pressure to work long hours than are ethnic Fijians. Many ethnic Fijians return to their villages rather than work what they consider excessive hours. Particularly in the garment industry, migrant workers (predominantly Chinese or Filipino) are increasing in number (presently estimated at around 1,000 to 2,000 persons) and are a largely unregulated work force.

There are workplace safety regulations, a Workmen's Compensation Act, and an accident compensation plan. A tribunal sets awards for workers injured on the job. Government enforcement of safety standards under the direction of the Labor Ministry suffers from a lack of trained enforcement personnel, but unions do a reasonable job of monitoring safety standards in organized workplaces. The International Labor Organization's (ILO) 1992 recommendations cited the need to improve working conditions, particularly in the garment industry. The Government, supported by the FTUC, passed occupational health and safety legislation, which came in to effect in 1997. The Government continues to work with the ILO to address working condi-

tions. By law an employee has the right to remove himself from a hazardous work site without jeopardizing his employment.

f. *Trafficking in Persons.*—There are no laws specifically addressing the subject of trafficking in persons; although laws against bonded and forced labor could be used to prosecute traffickers. There are unconfirmed reports that some laborers recruited from Asian countries, particularly in the garment sector, are held in conditions of forced labor (see Section 6.c.).

INDONESIA

Indonesia made significant progress in its transition from a long-entrenched authoritarian regime to a more pluralistic, representative democracy. During the year, as governmental authority changed hands from President B.J. Habibie to new President Abdurrahman Wahid in October, the political system was revamped to provide for separation of powers, with an executive branch, a president, and an appointed cabinet that ultimately are accountable to a directly elected parliament, and with initial steps taken toward the establishment of an independent judiciary. Under new election and party laws drafted in the early part of the year, in June the country held its first pluralistic and competitive parliamentary campaigns and elections in 43 years, elections that were judged free and fair by international monitors. The Government encouraged international assistance to and monitoring of the election, permitted free assembly and association during the campaign period, and generally refrained from attempting to influence the electoral outcome. The new Parliament (DPR) and the new People's Consultative Assembly (MPR) were installed on October 1, replacing the former DPR, which was elected in 1997, and the former MPR, which elected Habibie as President in March 1998. In accordance with constitutional procedures, the new MPR elected, in a transparent balloting procedure, Wahid as President, and Megawati Soekarnoputri as Vice President on October 20 and 21, respectively. The Constitution provides for an independent judiciary; however, it remains subordinated to the executive and suffers from pervasive corruption.

On January 27, the Habibie Government announced its willingness to consider broad-based autonomy or independence for East Timor, paving the way for a United Nations-sponsored agreement concluded between Indonesia and Portugal on May 5. The agreement provided for the holding of a popular consultation on this issue in East Timor, under the supervision of the U.N. Following the agreement, the U.N. Mission in East Timor (UNAMET) was established in order to oversee the preparatory arrangements leading to, and implementation of, the popular ballot. In the months prior to the consultation, the uncertain security situation in East Timor compelled the U.N. Secretary General to postpone the ballot three times. The ballot took place on August 30. While armed forces-backed militia groups sought to intimidate the population into voting for autonomy (and, in effect, against independence), or to prevent them from voting at all, some 98 percent of registered voters cast their ballots, and 78.5 percent of the voters opposed the autonomy proposal. In early September, the U.N. Secretary General Kofi Annan declared that the ballot results were "an accurate reflection of the views of the East Timorese people," and in October the MPR approved revocation of the 1978 MPR decree that annexed East Timor, clearing the way for the U.N. Transitional Authority in East Timor (UNTAET). On October 25, UNTAET became responsible for maintaining a police and military apparatus in East Timor during the later part of the year.

The 275,000-member armed forces (TNI, formerly named ABRI) were placed under a civilian defense minister for the first time in 40 years and took initial steps to reduce gradually the military's political and social role and powers, heretofore exercised under the "dual function" doctrine. However, numerous problems still remain in many areas. The national police force of 175,000 members was separated formally from the armed forces and given primary responsibility for internal security, although the police remain under the supervision of the Minister of Defense. The separation was intended to reorient the military away from an internal security role and toward an external defense role. Nonetheless, the armed forces retain broad nonmilitary powers and an internal security role, and are not fully accountable to civilian authority. Both the TNI and the police committed numerous serious human rights abuses throughout the year.

The country's severe economic crisis that began in July 1997, eased somewhat, but its negative effects continued to be felt. Annual per capita gross domestic product among the population of 211 million is $690. The urban poor and middle class on heavily populated Java and Bali suffered a significant drop in living standards, caused in part by a wholesale shift in employment from the better paid formal sec-

tor to the less secure informal sector. Income and living standards improved for segments of the population in less populated, natural resource-rich Kalimantan, Sulawesi, Sumatra, and Irian Jaya. The uneven distribution of wealth and political power, in turn, exacerbated center-periphery tensions and intensified demands for greater regional autonomy. The Government has responded with plans for greater political and economic decentralization and for revenue sharing with the provinces.

The Habibie Government committed serious human rights abuses; while there was significant progress in institutionalizing democracy during the year, serious problems remained under the Wahid Government, although overall abuses decreased markedly. Security forces continued to commit extrajudicial killings. Elements of the security forces and prointegration militias, armed and largely supported by the military, were responsible for numerous extrajudicial killings in East Timor in the early months of the year. In April military-backed militias attacked displaced persons in a church in Liquica, killing at least 25 persons. Also in April, militias attacked the Dili home of proindependence activist Manuel Carrascalao, killing his son and many others. Prointegration militias in Suai also carried out numerous extrajudicial killings during the preconsultation period. In September at least many hundreds of persons were killed in a wave of violence and destruction after the announcement of the proindependence vote. Priests and displaced persons were massacred at a church in Suai and up to 60 civilians were killed in a single attack by militias and security forces in Oekussi. In November the Indonesian Commission Investigating Human Rights Violations in East Timor discovered a mass grave containing the bodies of 26 victims of the Suai killings, and the commission concluded that TNI personnel were directly and indirectly involved in this and other extrajudicial killings carried out following the consultation vote. There was evidence that many key militia members were, in fact, TNI intelligence personnel. There were numerous reports of disappearances in East Timor and from refugee camps in West Timor following the flight of over 250,000 East Timorese civilians in September. Mau Hodu, a prominent Timorese National Resistance Council (CNRT) activist, disappeared in West Timor in September. Human rights violations in East Timor by security forces and military-backed militias against proindependence supporters included: Summary executions, massacres, massive deportation, attacks on women and children, houses and buildings besieged and destroyed, attacks and burnings of property belonging to international organizations and to the Catholic Church, and an attack on the only functioning medical clinic in Dili. More than 250 bodies were found in Dili and other areas. An International Commission of Inquiry, as well as an investigative commission established by the Indonesian Human Rights Commission (KPP), were set up to investigate reports of widespread killings.

In Aceh the military forces and national police committed numerous extrajudicial killings and used excessive force to quell separatist movements. Military forces sometimes resorted to force in order to disrupt peaceful demonstrations. TNI personnel often responded with indiscriminate violence after physical attacks on soldiers. There continued to be credible reports of the disappearance of dozens of civilians, many of whom are believed to have been associated with separatist activities.

Security forces also were responsible for numerous instances of indiscriminate shooting of civilians, torture, rape, beatings and other abuse, and arbitrary detention in Jakarta, Irian Jaya, Maluku, and elsewhere in the country. Rapes by security forces continued to be a widespread problem throughout many of these areas, and security forces systematically employed arbitrary arrest and detention without trial in Aceh. Prison conditions are harsh. Most instances of excessive force by the military and police during the year went unpunished; however, a military officer and several enlisted personnel received jail sentences for the deaths of four detainees. In response to ongoing abuses, a joint civilian-military court is pursuing several cases involving military officers. Despite initial steps toward reform, the judiciary remains subordinate to the executive, suffers from corruption, and does not always ensure due process. Security forces infringed on citizens' privacy rights. Government respect for freedom of speech and press continued to improve; however, the military tightly controlled news about East Timor and journalists continued to suffer intimidation and assaults. The Government legally provides for religious freedom for five designated religions; unrecognized religions are subject to restrictions. The Government continued to restrict freedom of movement to a limited extent. Thousands of Acehnese residents fled their villages during various security crackdowns against separatist groups. The military and prointegration militia also forced the relocation of thousands of persons. The Government places significant controls on freedom of assembly and forcibly disrupted many demonstrations throughout the year. Both the Habibie and Wahid administrations placed significantly fewer controls on freedom of association than did the Soeharto administration.

Domestic human rights organizations continued to play a significant and increasing role in advocating improved human rights conditions; however, the authorities continued to subject some nongovernmental organizations (NGO's) to monitoring and interference. Violence and discrimination against women are endemic problems. Child abuse and child prostitution are problems, and female genital mutilation (FGM) persists in some areas. Discrimination against the disabled, the indigenous, and religious and ethnic minorities also are endemic problems. Violence between indigenous groups and transmigrants broke out in the spring. Interreligious violence and violence against ethnic minorities continued. Attacks against houses of worship continued, and the lack of an effective government response to punish perpetrators and prevent further attacks led to allegations of official complicity in some of the incidents.

During the year the Government ratified several International Labor Organization (ILO) conventions, revised the registration law, and allowed new trade unions to form and operate. Nonetheless, enforcement of labor standards remained inconsistent and weak in some areas. Millions of children work, often under poor conditions. Forced and bonded child labor remained a problem, although the Government took steps during the year to remove children from fishing platforms where bonded child labor most commonly occurs. Trafficking of persons in and from the country is a problem. Vigilante action and mob violence resulted in the death of over 130 suspected criminals. A large number of suspected practitioners of black magic also were killed.

In East Timor, proindependence groups committed serious abuses, including killings of security personnel. In Aceh dozens of low-level civil servants, police, and military personnel were murdered and abducted over the course of the year. It generally is believed that separatists carried out many of these, and other, killings. In Irian Jaya armed insurgents also committed killings and kidnapings.

Throughout the year—and in marked contrast to the previous year—there was a general improvement in the institutionalization of human rights protections. By year's end, national commissions of inquiry, the new Attorney General, and the military actively were pursuing investigations and trials of military officers for abuses. Under a law passed in August, the judiciary formally was separated from the executive branch. The Wahid Government appointed a forceful, respected Attorney General and, for the first time, a State Minister for Human Rights.

In April the Parliament repealed the 1963 Anti-Subversion Law, although it subsequently incorporated six crimes specified in that law into the Criminal Code. Parliament also enacted a law on human rights designed to strengthen protection of individual rights and the role of the National Human Rights Commission (KOMNASHAM), and a new press law that repealed older laws viewed as being more restrictive of press freedom.

In October the MPR amended the 1945 Constitution for the first time, limiting presidential powers and imposing a two-term limit on the President and Vice President. The MPR also created a working group to study further constitutional amendments to be considered during the August 2000 MPR session. In March the Habibie Government freed 52 political prisoners (with some restrictions), including labor leader Dita Indah Sari in July, and in September East Timorese leader Xanana Gusmao. In December the Wahid Government freed all known remaining political prisoners from the Soeharto era, a total of 196 persons.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Historically, politically related extrajudicial killings have occurred most frequently in areas where separatist movements were active, such as East Timor, Aceh, and Irian Jaya, and security forces continued to employ harsh measures against separatist movements in these areas. In addition security forces killed unarmed student demonstrators, and there also were numerous instances of reported extrajudicial killings by security forces in cases involving alleged common criminal activity.

Elements of the security forces and prointegration militias, armed and largely supported by the military, were responsible for numerous extrajudicial killings in East Timor in the early months of the year. Numerous credible reports indicate that over the course of many months the security forces distributed hundreds of guns, as well as sharp sticks and knives, to groups such as "Mahidi" (Live and Die for Integration), "Besi Merah Putih" (Red and White Iron) and "Halilintar" (Thunder) in Ainaro, Liquica, Maubara and other towns throughout East Timor. In the Dili area, TNI and local officials supported the "Aitarak" militia. It is widely alleged that the military, at senior levels, is responsible for mobilizing, paying, arming, and at

times protecting militia groups, which moved their operations to West Timor after September. The Habibie Government asserted that it was arming some civilians for their own protection—that the prointegration groups were given arms only after they were threatened or attacked by guerrillas and proreferendum forces. However, church, NGO, and independent observers strongly maintained that in most cases those given arms were not traditional, established prointegration supporters threatened by guerrillas but uneducated, unemployed men who were organized, paid, and provided arms for the purpose of sowing terror and instability. In early June, the Government officially designated East Timorese prointegration militias as "Pamswarkarsa" (civilian self-defense) units, thereby, providing the groups with greater legitimacy and helping to preserve them.

In East Timor security forces and government-backed militia groups killed numerous persons during ongoing sweeps aimed at "arresting" young males (see Sections 1.c., 1.d., and 2.d.). For example, credible reports indicate that security forces killed 11 persons in Alas in January. "Mahidi" militia members shot and killed four civilians, including a pregnant woman, on January 24 and 25. Violence erupted in Suai following these incidents, causing 300 to 500 residents from 3 villages outside Suai to flee. Witnesses allege that military personnel stood aside and allowed armed pro-Government civilians to fight referendum supporters, resulting in at least 22 deaths, and leading approximately 1,000 women, children, and old men to take refuge in a local church (see Section 2.d.). According to reliable NGO's, the typical pattern in such incidents was for militias, recently armed by the security forces, to provoke conflict to which regular military forces then responded. Military personnel in civilian clothes shot and killed two persons in Dili on February 24; a soldier also was killed.

Besi Merah Putih militia members, operating in tandem with local security forces, killed at least five persons on April 5 during clashes with local proindependence residents in Liquica, East Timor (see Section 1.c.). The next day, the militias attacked unarmed displaced persons in a church in Liquica. While the death toll remains uncertain, most credible observers, including the Indonesian Investigative Commission (KPP–HAM), which was established by the Indonesian Human Rights Commission (see Section 4), concluded that at least 25 persons died in this attack. It is widely believed that TNI personnel played a role in the assault on the church; at a minimum, they took no action to halt the attack. Local security authorities subsequently removed all evidence of the attack on the Liquica church compound and replastered and repainted the areas in question.

On April 13, following an incident the previous day in which suspected Falintil elements killed two soldiers and a civilian in an attack on a military vehicle, Halilintar militia and national troops executed six civilians in Cailaco, new Maliana.

With the clear support of local authorities, prointegration militias rallied in Dili on April 17, calling for the cleansing of the civil service of proindependence personnel and the expulsion from East Timor of lighter skinned "mestizos." Afterwards, hundreds of participating militias went on a rampage, attacking the home of proindependence activist Manuel Carrascalao, where they killed at least 15 persons (according to KPP–HAM), including Carrascalao's son. On April 21, attacks by militias and security forces at Bazartete and Hera left at least eight more civilians dead. There also were reports of violence and intimidation against proindependence East Timorese in the Los Palos area, leading students to flee to the hills (see Section 2.d.).

Militia and security forces mounted an operation against East Timorese independence supporters in the Viqueque area from April 30 to May 1, primarily targeting civil servants and traditional leaders. CNRT and other sources reported two persons killed on April 30 at Dilor, west of Viqueque. According to a report issued by the Baucau branch of the Catholic Church Peace and Justice Commission, KOPASSUS (Military Special Forces) personnel and the "59–75" militia killed two civilians on May 3–4 in Viqueque, and arrested and beat several other persons (see Sections 1.c. and 1.d.). The UNAMET office in Dili issued a statement on May 17 reporting the killing of at least 5 persons by the "Tim Pancasila" militia in Antara village, Atsabae district. In June an explosive device of unknown origin killed three children playing in a field near Becora, just outside central Dili.

The September 4 announcement of the results (an overwhelming vote for independence) of the August 30 consultation vote set off waves of violence, destruction, and looting of property. While the overall death toll remains unclear, most current estimates fall in the 1,000 to 2,000 range (see Sections 1.c. and 3). Tensions had grown in previous weeks, as prointegration leaders, militia commanders, and some military officers and government officials threatened that widespread violence would be unleashed if the vote went against autonomy. Police repeatedly failed to prevent truckloads of armed militia groups from entering Dili, to react to threats against

UNAMET, and to stop violence against civilians and restore order in Dili. For example, police in riot gear stood by as local militia destroyed the CNRT office on August 26, and took no action when weapons were pointed at UNAMET staff. On August 30, UNAMET local employee Joel Lopes Gomes was killed as he walked home from a polling station in Atsabe, Ermera district.

There were numerous eyewitness accounts of troops and police joining militias that fired weapons against departing UNAMET personnel. Among the more prominent post-vote incidents was the September 6 massacre of priests and displaced persons at a church in Suai. The Indonesian Investigative Commission concluded that at least 50 persons died in this assault, which was carried out by "Laksaur" militia and elements of the security forces. On September 4, militia and security force personnel carried out numerous killings during the destruction of Maliana. Victims included East Timorese UNAMET employees and displaced persons taking refuge in the police station. On September 26, members of the "Team Alfa" paramilitary force attacked a humanitarian convoy near Los Palos, killing eight persons, including Catholic nuns, religious workers, and an Indonesian journalist. Dutch journalist Sander Thoenes was killed in Dili on September 21 by assailants believed to be members of Indonesian Military Battalion 745.

In September, following what was in part a forced exodus of more than 200,000 East Timorese, there were reports that militia groups were searching ships departing Dili and the refugee camps in West Timor for proindependence activists, resulting in killings and disappearances. Following the entry of the U.N. Security Council-authorized multinational force (INTERFET), numerous bodies and gravesites were found in and around Dili, Liquica, Suai, Maliana, and in Oeukussi/Ambeno enclave. In November a KPP–HAM team discovered, just over the border in West Timor, a mass grave containing the bodies of 26 victims of the Suai killings. At year's end, Indonesian and international investigations continued.

In Aceh the military forces and national police committed numerous extrajudicial killings and used excessive force to quell separatist movements. On January 3, TNI forces shot and killed 5 civilians and wounded 25 others in a raid on Kandang village, just outside of Lhokseumawe; TNI forces also shot and killed 6 civilians in nearby Simpang Muliong village, and wounded 6 others. According to NGO's and press reports, on January 9, the military raided several villages around Lhokseumawe in an apparent attempt to capture Achmad Kandang, the suspected leader of the Aceh separatist organization, Aceh Merdeka (Free Aceh). The military detained 37 to 40 persons from rural villages and then brought them back to Lhokseumawe (see Section 1.d.). The military confirmed that the four persons were killed as a result of beatings and torture administered by TNI personnel. Twenty-five other detainees were beaten severely (see Section 1.c.). A military officer and several enlisted personnel later received 6-year jail sentences for the deaths of the four detainees; however, there were numerous other instances of excessive force by the military and police during the year that went unpunished.

According to numerous reports, on February 3, in Idi Cut, East Aceh military troops opened fire on a "religious" gathering (some of those assembled gave proindependence speeches) of at least 5,000 persons after issuing an order for them to disperse, killing at least 7 demonstrators; however, the exact series of events remain unclear and some NGO's continue to allege that several dozen persons were killed or are missing (see Sections 1.b. and 2.b.). TNI troops reportedly later dumped the victims' bodies in a nearby river. On May 3, troops opened fire on unarmed demonstrators in Krueng Geukeh, north of Lhokseumawe, Aceh, killing at least 40 persons and wounding over 100 more. Many of the dead and wounded persons were shot in the back. No one has yet been tried or punished for involvement in the February Idi Cut incident or the Krung Geukeuh (May 3) incident. The Government-sanctioned Independent Commission on Violence in Aceh included both incidents in their list of five recent Aceh human rights cases for which TNI personnel should be prosecuted. President Wahid was quoted as telling journalists that the July 23 incident should be thoroughly investigated. The Independent Commission produced a list of TNI personnel (none above the rank of lieutenant colonel) who should be prosecuted for their involvement in the case.

On June 12, security forces shot and killed five civilians, including two boys, in Aceh. On July 12, security forces opened fire on a vehicle that declined to stop at a checkpoint in Simpang Alue, East Aceh; three riders were killed and a fourth person was injured. A military spokesman stated that the victims were members of Aceh Merdeka. Also on July 12, security forces killed at least four Acehnese during a conflict along the Takengon-Bireun road in central Aceh. On July 23 to 24, the military killed at least 50 Acehnese civilians in the area around Beutong Ateuh, West Aceh. Military spokesmen claimed that the deaths were the result of an exchange of fire between the troops and armed separatist rebels, although no military

personnel were injured. Credible human rights monitors described the incident as an unprovoked massacre of unarmed civilians. At the instigation of the new Attorney General, the Wahid Government ordered a full investigation of military culpability in this incident. On August 5, the military killed nine separatists during a raid in Keumala, Aceh. Also on August 5, a 72-year-old woman was shot and killed in Triengadding, Pidie, Aceh; the circumstances remain unknown.

On December 4, the anniversary of separatist leader Hasan Di Tiro's 1976 Declaration of Acehnese Independence, police forces injured at least 11 civilians during clashes, 5 with gunshots in Sigli. In a separate incident, TNI forces allegedly shot a youth in Lhokseumawe after he raised a separatist flag (see Section 2.a.). According to credible reports, as many as four persons were killed and dozens injured the weekend of December 4–5. Numerous persons also were arrested and beaten (see Sections 1.c. and 1.d.). Security forces killed over 12 civilians during December; while some victims allegedly were armed separatists, most apparently were caught in a crossfire or, more often, were victims of arbitrary violence.

In an unprecedented procedure, in Aceh a joint civilian-military court (a five judge panel, three civilian, two from the military police dubbed the "connectivity court") is pursuing Aceh human rights cases involving military officers. These five incidents involve widespread human rights abuses committed by TNI from 1989–98, when Aceh was designated a "Military Operations Area" (DOM), as well as for more recent abuses. The first case heard by the court involved the trial of 8 persons for the July massacre by TNI troops of at least 51 civilians in West Aceh; however, no one above the rank of lieutenant colonel was to be tried.

In Irian Jaya police shot and killed at least one person involved in a proindependence demonstration in Sorong in July and one person involved in a melee at Manokwari port in September. In separate incidents, soldiers shot two youths in Jayapura in June and July. One soldier was sentenced to 5 years' imprisonment for the June killing; three were detained in connection with the July incident. On March 28, Obed Badii, an Irianese lecturer at a Catholic theological school in Jayapura, died in police detention. Police blamed his death on intoxication, a claim that was disputed by the victim's family and NGO's. In May one person died under suspicious circumstances in police custody in Manokwari, Irian Jaya. In July the Irian Jaya Catholic Diocese, the Evangelical Christian Church, the Indonesian Bible Camp Church, and the Institute for Human Rights Study and Advocacy called for an independent international investigation into the July 1998 killing of persons when security forces broke up a proindependence demonstration in Biak. These organizations stated that their investigation revealed that at least eight persons died at the hands of security forces during the incident; the Irian Jaya military command has acknowledged that one person was shot and killed. A National Human Rights Commission team visited Irian Jaya in August for a followup investigation of the Biak incident, and recommended that President Habibie establish an independent team to investigate the incident. The Government did not act on this recommendation by year's end. Police injured more than 50 persons while breaking up a separatist demonstration in Timika, Irian Jaya on December 2. One person died later the same day as a result of injuries sustained in the melee caused by the police action (see Sections 1.c., 2.b., and 5).

Security forces in the Maluku island chain, especially the centrally located island of Ambon, reportedly are responsible for at least some of the shooting deaths that occurred during riots and communal clashes since January (see Sections 2.c. and 5). The nature of military and police engagement in these clashes is twofold. In some cases, troops facing a riot or armed clash between religion-based gangs used live ammunition in an attempt to quell violent unrest. However, in other cases, numerous and diverse witnesses have observed elements of the security forces siding with one side or the other. The motivation for this intervention appears to be religious; i.e., troops who are Muslim or Christian assist gangs of the same religion. In some cases, this intervention has resulted in soldiers fighting soldiers.

The police and military on several occasions used deadly force to disperse demonstrators. On September 23–24, in the vicinity of Atma Jaya University, security forces reportedly shot and killed nine persons during large-scale, student-led demonstrations in Jakarta protesting the passage of a new security law (see Sections 1.c. and 2.b.). Although demonstrators threw rocks, large chunks of wood, and Molotov cocktails at them, security forces showed restraint in the early stages of these demonstrations; however, they resorted to firearms, including live ammunition, later on. After most demonstrators had dispersed, security forces in a passing convoy of trucks fired indiscriminately at persons along the roadside, killing a student and a bystander. Several others were injured seriously by the security forces' indiscriminate fire. One police officer was killed during the demonstrations when hit (apparently deliberately) by a car. On September 27, security forces shot and killed two

students in Lampung who were involved in a demonstration protesting the killing of demonstrators in Jakarta 3 days earlier.

The police often employed deadly force in apprehending suspects or coping with alleged criminals, many of whom were unarmed. In response to protests that the methods used were unjustifiably harsh and amounted to execution without trial, police generally claimed that the suspects were fleeing, resisting arrest, or threatening the police. Complete statistics about the number of these cases have not been released, but the press reported that police killed 13 suspected criminals during the first 3 months of the year.

In the past, the military or police rarely were held accountable for using excessive force. In October a court in Yogyakarta, Central Java, ordered the police to pay civil damages to the family of a student, Mozes Gatotkaca, whom police beat to death during student demonstrations in May 1998. However, no police officers have been investigated in connection with this case.

The domestic press reported in June that forensic ballistic experts in Canada had determined that two bullets taken from the bodies of two students killed at Trisakti University in May 1998 were fired from SS–1 and Steyr rifles. The SS–1 is issued to both police and military units; the Steyr is issued only to elite forces within the Police Mobile Brigade. Aside from two police officers who were court-martialed in August 1998 for shooting into the crowd of demonstrators at Trisakti, no other security force personnel have been tried in connection with this case.

There were no new developments during the year in the following cases in which security forces committed extrajudicial killings: The shooting deaths of at least nine demonstrators at Atma Jaya University in November 1998; the five cases of alleged human rights violations in Irian Jaya involving the death of Irianese civilians, which were cited in a 1995 report by the National Human Rights Commission; and the 1993 murder of labor activist Marsinah. In July 1998, East Java police resumed the investigation, questioning old and new witnesses, after NGO's and labor groups called for a fresh effort to solve the Marsinah case. In June the International Labor Organization's (ILO) Committee on Freedom of Association called on the Government to "institute without delay an independent judicial inquiry into the homicide . . . so as to identify and punish the guilty parties."

In Jakarta hospital sources reported that during the year 132 persons accused of committing crimes (usually theft or responsibility for vehicular accidents) were killed by mobs of persons who took the law into their own hands on the scene of the alleged crimes. Hospital personnel asserted that this was a significant increase over previous years.

In West Java unidentified persons killed suspected practitioners of black magic during the first 5 months of the year (see Section 5). West Java police announced in May that 37 persons were killed, but the independent Commission for Missing Persons and Victims of Violence (KONTRAS) stated that at least 57 persons were killed. KONTRAS also charged that relatives of victims were threatened and placed under surveillance by unknown persons.

In Maluku intercommunal warfare along religious lines (Christian and Muslim) throughout the year claimed well over 1,000 lives. Approximately equal numbers of Christians and Muslims are believed to have died or suffered injuries during the fighting. One of the major factors contributing to the continuation of violence in these once-peaceful islands is that the perpetrators of violence have not been brought to justice (see Sections 2.c. and 5).

In Sambas, West Kalimantan, more than 200 persons died in fighting between ethnic Dayak and Melayu groups on one side and ethnic Madurese (originally from the island of Madura near Java) on the other between February and April. Most of the dead persons were reported to be Madurese. An estimated 30,000 Madurese fled their homes to safe havens elsewhere, including approximately 7,000 who returned to Madura (see Section 2.d.).

In East Timor, abuses by proindependence groups also were reported. On April 30, authorities brought journalists to Ermera to view the bodies of what they claimed were 11 members of the Red and White militia group who were killed in late February, allegedly by independence supporters. In April, following violence in Liquica and Dili, then-imprisoned CNRT activist Xanana Gusmao gave the green light to his supporters to "defend themselves" from attacks by the prointegration forces. He subsequently retracted this statement and renewed his previous instructions for his followers to refrain from violence. On April 12, following the execution of six proindependence civilians at Cailaco militia and security personnel, a military vehicle was attacked in the same area, reportedly by Falintil forces. Two soldiers and one civilian were killed. According to prointegration and government sources, proindependence forces ambushed and killed three East Timorese members of the Indonesian military at Lototoe on May 17. With the above-mentioned exceptions,

independent observers, including Indonesian and international investigative commissions, were unable to verify claims by the Government that proindependence forces had carried out 30 violent acts following a cease-fire agreement of April 21.

In Aceh dozens of low-level civil servants, police, and military personnel were murdered over the course of the year. Two persons, a sergeant and a local official, were shot and killed on March 11 in Cut Nibong village, in the Kota Makmur district. On May 25, 4 persons were killed and 12 persons were wounded when a security forces' truck was ambushed in Pidie district, North Aceh. On May 29, nine military personnel were killed on an army patrol near Meulaboh, West Aceh. The security forces were responding to an attack the previous day that killed two persons. The Aceh Merdeka movement later claimed responsibility. During the national election period, a soldier was shot and killed as he guarded a polling station in West Aceh on June 7 (see Section 3). Two soldiers and one civilian were kidnaped and killed in Idi Cut on June 9. On June 11, separatists attacked a TNI truck in West Aceh, killing two persons and wounding six others. Separatists killed at least five TNI members on July 19. On August 5, in Kandang, a police officer disappeared and later was found dead. On August 27, in Pidie, a TNI soldier was shot and killed. On October 12, at least three TNI personnel were killed. On December 7, an unidentified person stabbed two soldiers, one fatally, in Pereulak, East Aceh. On December 9, a member of a police mobile brigade was shot and killed while eating a predawn (Ramadan) meal with his family in North Aceh (see Section 1.c.). In December at least 10 security force personnel were killed. Throughout many of these incidents, a great number of the victims were killed not in the course of an armed exchange with separatists, but as they shopped for food or commuted to or from work. It generally is believed that separatists carried out many of these, and other, killings. Armed separatist groups also allegedly carried out a number of attacks and ambushes against security forces, killing at least 30 persons and wounding dozens more. Some separatists allege that the TNI generates some violence in order to stoke unrest and create a pretext for increased use of force; however, such allegations remain unconfirmed.

In Irian Jaya armed insurgents of the Free Papua Movement (OPM) killed 4 persons and kidnaped 11 others from a plantation near Arso in May.

b. *Disappearance.*—There were many reports of disappearances in East Timor prior to the consultation vote, when kidnapings of proindependence activists were common. During the April 17 attack on Manuel Carrascalao's house in Dili, over 100 displaced persons at the scene were taken away by militias and it was unclear how many of these persons eventually were accounted for (see Sections 1.a. and 2.d.). Proindependence groups claim that on May 5, the Aitarak militia group abducted Mateus Da Silva, a local CNRT leader in Dili. According to Amnesty International, police detained two CNRT personnel, Kama Motan and Herikera, in Alieu and brought them to the provincial police headquarters in Dili on or about May 21. The police claim neither to have received the two persons nor to know their whereabouts.

There were numerous reports of abductions and disappearances in East Timor, and from refugee camps in West Timor following the flight and forced relocation of over 250,000 East Timorese civilians in September (see Section 2.d.). On November 1, the KPP–HAM issued a preliminary report describing systematic abuses in West Timor, including kidnapings by militias. For example, the report described sweeping operations by militias that entered churches to search for students and proindependence activists. It cited a case in which militias kidnaped a priest and two students in mid-October in the Kefamenanu area. At year's end, the persons' whereabouts remained unknown (see Sections 1.c., 1.d., 2.a., 2.c., 4, 5, and 6.f.). Dozens of East Timorese prisoners, including political prisoners, previously held in Becora prison in Dili reportedly were taken to West Timor in September and remain unaccounted for. Mau Hodu, a prominent CNRT activist, was abducted and disappeared in West Timor in September. It is believed that he later was killed.

In Aceh there continued to be credible reports of the disappearance of dozens of civilians. NGO's believe that TNI troops killed numerous persons who disappeared during the February confrontation in Idi Cut (see Section 1.a.). Many persons who disappeared are thought to have been associated with separatist activities. NGO's allege that TNI forces or police personnel killed many of these persons. Some victims are believed to have been killed by militia groups due to armed separatist group suspicions that they were collaborators or informants of the security forces. There are no reported accounts as to why other persons may have disappeared.

The 12 persons who disappeared during 1997–98 and were feared to have been killed by their abductors, were still unaccounted for. In April a military court handed down sentences of 12 to 22 months' imprisonment to 11 officers (none higher than major) and noncommissioned officers from the special forces for their alleged

involvement in the abductions of 9 student and NGO activists kidnaped in early 1998 and later released. The trial did not address the possible killing of 1 abductee and the fact that at least 12 others still are missing.

The July report by three church groups and an NGO on the investigation into the July 1998 killing of persons when security forces broke up a proindependence demonstration in Biak (see Section 1.a.) noted that there had been no progress in identifying the remains or cause of death of 32 "mysterious" bodies found floating around Biak after the incident.

The National Human Rights Commission continued to list 16 persons missing from the government-backed, violent takeover of Indonesian Democratic Party (PDI) headquarters in 1996.

There were no significant efforts by the Government to account for the missing and dead persons from the 1991 military shooting of civilians in Dili. No additional cases were resolved during the year. Knowledgeable observers continued to believe that most of the persons missing are dead and that members of the armed forces know where their bodies are located.

In East Timor, there were numerous reports of abductions and murders of police and TNI personnel, allegedly at the hands of separatists.

In Aceh there were reports of police abductions, allegedly at the hands of separatist groups.

In Irian Jaya armed insurgents of the Free Papua Organization (OPM) kidnapped 11 persons from a plantation near Arso on May 5. They were freed on May 31. On July 6, a group of armed men abducted six employees of the district forestry office on a survey in Arso subdistrict. Press reports stated that the abductors were suspected of being OPM members. At year's end, the fate of the hostages remained unknown.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession; however, in practice, legal protections are both inadequate and widely ignored, and security forces continued to employ torture and other forms of mistreatment, particularly in regions where there were active security concerns, such as Aceh, Irian Jaya, and East Timor. Police often resort to physical abuse, even in minor incidents.

In East Timor the Government organized and directed prointegration militias engaged in extensive torture, and intimidation directed against proindependence activists and ordinary citizens. Regular security forces and East Timorese paramilitary forces integrated into the TNI structure also perpetrated many such abuses. For example, militia groups and security forces routinely fired into neighborhoods in Dili at night for purposes of intimidation, and carried out killings. The militia group Besi Merah Putih, joined by the police auxiliary Kamra and Hansip (local guards), searched for proindependence figures in Dili, usually at night. Such militia-led searches were common throughout East Timor (see Sections 1.a., 1.b., 1.d., and 2.d.). On May 5, prointegrationist militia forces surrounded the home of East Timorese human rights activist Aniceto Guterres and threatened to kill him. This attack followed a presentation by Guterres earlier that day at a KOMNASHAM (National Human Rights Commission)-sponsored peace commission talk at which he reportedly severely criticized the militias. Proindependence supporters maintain that Eurico Guterres' "Aitarak" militia continually pressured residents of Dili to sign pledges of support for integration, threatening that any who refused to sign would be taken away during the night. Reliable witnesses observed Aitarak militia destroying and rampaging through houses in the Metiaut district of Dili late May 16, and it also is alleged that, in a separate incident that same day, the Aitarak militia attacked and burned the house of a Joao Almeida, a CNRT activist, in the Bidau section of Dili. According to reliable sources, 20 to 30 percent of the houses along the road from Dili to Maubara were burned or destroyed as of late May. Such destruction occurred in many other areas of the province. Homes in Northwestern Bobonaro and Southwestern Kovalima were burned or abondoned.

Despite a reported shortage of medical care in East Timor, in March the Health Ministry rejected an Australian proposal to send a medical team, insisting that the country had plenty of available staff and that it would send its own medical team.

The ICRC initially also was not permitted to send surgeons and other medical staff, and ICRC physicians later brought into East Timor on May 15 were not allowed to begin work. Despite the Government's promises to provide medical care, it withdrew most of the government doctors and closed most medical facilities during the preconsultation periods. While the Dili hospital remained open throughout the preconsultation period, toward the end there were no doctors, few nurses, and no patients. However, in many cases, despite a formal prohibition on their practicing, a number of foreign doctors continued to operate quietly in East Timor

throughout the preconsultation period. In September following the overwhelming proindependence victory in the August "consultation" vote, armed forces and militia groups attacked hundreds of persons in a wave of violence; as a result, numerous persons were killed, disappeared, tortured, harassed, and displaced (see Sections 1.a., 1.b., 2.d., and 3). The large-scale looting and burning of churches, houses (including Bishop Belo's home, on September 6), and ICRC, and other office compounds, also continued (see Sections 3 and 4). Numerous UNAMET vehicles and other UNAMET assets throughout East Timor were damaged, destroyed, or stolen.

In Aceh the Government sometimes violently has suppressed active separatist movements. On January 9, the military detained 37 to 40 persons from rural villages and brought them to nearby Lhokseumawe. While in detention, TNI forces beat and tortured numerous persons so severely that four persons died, three were put in a coma, and almost all others were hospitalized (see Sections 1.a. and 1.d.). A military officer and several enlisted personnel received jail sentences for their involvement. During the raid, a house in Kandang village was burned down. NGO's alleged that the military burned down the house, which was owned by Achmad Kandang's parents; however, the military alleged that local persons burned it down due to anger at Achmad Kandang. A human rights NGO alleged that security forces tortured a person dispatched to Idi Cut to investigate the February 3 killings (see Section 1.a.).

On March 26, in Banda, Aceh, security forces used tear gas, batons, and possibly rubber bullets to disperse thousands of students who were demonstrating in support of separation, threatening to "disrupt" a visit from President Habibie; as a result, 40 demonstrators were hospitalized.

According to news reports, on November 2 in Tuwi Kareung, West Aceh, security forces indiscriminately attacked numerous civilians in an attempt to find the assailants who killed one soldier and injured two others the previous day. TNI forces reportedly also burned 36 houses and arrested numerous persons (see Section 1.d.).

On December 4, the anniversary of separatist leader Hasan Di Tiro's Declaration of Acehnese Independence, TNI forces arrested at least 40 persons and some persons were beaten (see Sections 1.a. and 1.d.).

In Aceh TNI personnel often responded with indiscriminate violence after physical attacks on soldiers. For example, after two soldiers were stabbed on December 7, in Pereulak, East Aceh, the soldiers' colleagues quickly took revenge by rounding up dozens of young men in an adjacent neighborhood and beating them, sending at least six persons to the hospital. After a member of a police mobile brigade was shot and killed on December 9 in North Aceh (see Section 1.a.), soldiers entered the nearby village of Pante Pisang and fired their rifles into the air for several hours, terrifying residents. Also in December, after a police mobile brigade came under fire near Lameu village, Pidie district, and one policeman was killed, TNI forces and police personnel entered the village, burned many or most of the homes, and beat a number of residents. There are unconfirmed allegations that the TNI was responsible for the original shooting of the policeman.

In early March, in Merauke, South Irian Jaya, a policeman shot an Irianese youth in the head after he reportedly sought to evade a citation for riding on a motorcycle without a helmet. He survived after emergency surgery, but the shooting provoked strong public criticism. Police acknowledged the shooting and promised an investigation, but no followup is known to have been taken by year's end.

There were numerous reports of rape and sexual abuse perpetrated against East Timorese women who were displaced forcibly by militia groups from their villages in the western districts during the earlier part of the year. It also was widely reported that the TNI-supported militias (the Aitarak) kept women as sex slaves in their Dili headquarters (see Sections 2.d., 5, 6.c., and 6.f.). The KPP stated that it received reports that the TNI and the militias raped 60 women in East Timor during the September wave of violence; the KPP also received numerous reports that the TNI-backed militias sexually abused women, some of whom were quite young, in the refugee camps in West Timor. Cases of East Timorese women allegedly raped by soldiers and government civilian personnel in previous years remained unresolved.

There were unconfirmed allegations that TNI soldiers raped nine Acehnese women on August 19 in Kecamatan Tangse Selatan, Pidie district.

In May the Robert F. Kennedy Memorial Center for Human Rights published a report on rape and other human rights abuses by the military in Irian Jaya. The report described 12 cases of sexual and other violence against women and girls by military personnel between 1994 and 1998. The report calls for, among other things, an investigation by the Department of Justice and prosecution of the personnel responsible for rapes and other violence against women.

The Government failed to follow up on the recommendations of the fact-finding team (which had both government and NGO representation) that it commissioned to investigate the civil unrest that struck Jakarta and other cities in May 1998. The team's report, issued in November 1998, found evidence that some elements of the military may have been involved in provoking the violence, which included attacks against Sino-Indonesian women, and urged further investigation of the matter. At least 85 instances of violence against women, including 66 rapes during the 1998 riots were verified. However, at year's end, no further investigations had taken place.

In March U.N. Special Rapporteur on Violence against Women Radhika Coomaraswamy released her findings from a late 1998 visit to the country. She found that rape and sexual violence had been "used quite extensively" by sections of the military as "a means of intimidation and torture" during the Soeharto era. This was especially prevalent in East Timor, Aceh, and Irian Jaya. Coomaraswamy generally was positive about government cooperation during her visit, although her request to visit Aceh and Irian Jaya was denied.

Human rights monitors, both international and locally based, reported that the military continued routinely to torture detainees in Aceh. Methods of torture documented in the past included beating, whipping, electric shock, and rape.

There were instances in which security forces responded with brutality to peaceful demonstrations, although they usually allowed entirely peaceful demonstrations to proceed without resorting to force. Participants in several student- or NGO-led demonstrations in Jakarta and other cities suffered injuries when security forces seeking to disperse crowds beat and kicked demonstrators. On February 9, police allegedly beat 4 students for demonstrating over the Government's use of borrowed money at Atma Jaya Catholic University in Jakarta. At a March 31 antigovernment demonstration at the Defense Ministry in Jakarta, security forces beat students with truncheons, causing 11 students to become hospitalized. In April police mobile brigade troops opened fire on farmers who occupied a plantation warehouse in Jember, East Java, killing 1 person and wounding 11 others. Police fired on and wounded or killed demonstrators on several occasions in Irian Jaya when they forcibly broke up demonstrations (see Sections 1.a. and 5). For example, on the morning of December 2, police fired rubber bullets to break up a proindependence demonstration in Timika, Irian Jaya, injuring at least 55 persons, 5 seriously (see Section 2.b.).

Security forces often responded forcibly when demonstrators wielded canes, threw stones or Molotov cocktails, or tried to break through police lines. During a People's Democratic Party (PRD) demonstration outside of the National Election Headquarters in Jakarta on July 1, police beat demonstrators and shot rubber bullets after demonstrators threw stones and tried to push through police lines in front of the Elections Commission office. At least 37 demonstrators were hospitalized as a result. In September police injured numerous protestors who were demonstrating against the new security bill in Jakarta (see Sections 1.a. and 1.e.). In Jakarta from September 23 to 24 (see Section 1.a.), security forces shot at and beat demonstrators; at least 16 persons suffered gunshot wounds and scores of others were injured. During a demonstration in downtown Jakarta on October 20, security forces chased demonstrators who threw Molotov cocktails at them into the Jakarta Hospital. They discharged tear gas into the hospital, injured more than 60 demonstrators and bystanders with blows and rubber bullets, and destroyed an estimated $350,000 (2.5 billion Rp) worth of hospital equipment. The Jakarta city police conducted an investigation into the incident, the results of which were conveyed to the military police detachment of the Jakarta regional command. No action was taken against any security forces involved in these incidents by the end of the year.

Prison conditions are harsh, with mistreatment and extortion of inmates by guards and violence among prisoners common. The incidence of mistreatment drops sharply once a prisoner is transferred from police or military intelligence (BAIS) custody into the civilian prison system or into the custody of the Attorney General. Credible sources report that criminal prisoners in some facilities are beaten routinely and systematically as punishment for infractions of prison discipline and to extract information about developments within the prison. Punishments include use of electric shock batons and stapling of the ears, nose, and lips. Political prisoners sometimes were incarcerated with the general prison population. Political prisoners in the Cipinang, Salemba, and other prisons tend to be segregated from the criminal population and generally receive more humane treatment.

The Government generally does not permit routine prison visits by human rights monitors. However, human rights monitors occasionally have been able to visit prisoners.

Special arrangements for foreign dignitaries to visit some prominent political prisoners sometimes were made. Imprisoned East Timorese resistance leader Xanana Gusmao received a large number of high-level foreign visitors, was allowed to participate in meetings outside his detention quarters, and held frequent meetings with the press prior to his release on amnesty in September. Human rights monitors also have visited some nonpolitical prisoners, although this appears only to be permitted on a case-by-case basis.

The ability of the International Committee of the Red Cross (ICRC) to visit prisoners varied over the course of the year (see Section 4).

d. *Arbitrary Arrest, Detention, or Exile.*—The Criminal Procedures Code contains provisions against arbitrary arrest and detention, but it lacks adequate enforcement mechanisms and authorities routinely violate it. The code specifies that prisoners have the right to promptly notify their families and that warrants must be produced during an arrest except under specified conditions, such as when a suspect is caught in the act of committing a crime. The law authorizes investigators to issue warrants to assist in their investigations or if sufficient evidence exists that a crime has been committed. However, authorities sometimes made arrests without warrants.

The law presumes that defendants are innocent and permits bail. They or their families also may challenge the legality of their arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained. However, it virtually is impossible for detainees to invoke this procedure, or to receive compensation after being released without charge. In both military and civilian courts, appeals based on claims of improper arrest and detention rarely, if ever, are accepted. The Criminal Procedures Code also contains specific limits on periods of pretrial detention and specifies when the courts must approve extensions, usually after 60 days. In April the Parliament repealed the 1963 Antisubversion Law, which had given the Attorney General the authority to hold a suspect for successive 1-year periods without limit.

The authorities routinely approve extensions of periods of detention. In areas where active guerrilla movements exist, such as Aceh and East Timor, there are many instances of persons being detained without warrants, charges, or court proceedings. Bail rarely is granted, especially in political cases. The authorities frequently prevent access to defense counsel while suspects are being investigated and make it difficult or impossible for detainees to get legal assistance from voluntary legal defense organizations. Special laws on corruption, economic crimes, and narcotics do not come under the Criminal Code's protections.

The Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) operates outside the legal code and has wide discretion to detain and interrogate persons whom are perceived as threats to national security.

Security forces frequently detained participants suspected of inciting demonstrations, although most were released after questioning (see Section 2.b.).

There are no reliable data on the number of arbitrary arrests or detentions without trial, particularly in East Timor, Irian Jaya, and Aceh, but there is ample evidence that arbitrary arrests and detention without trial are employed systematically in Aceh. In East Timor arbitrary detention was a continuing problem in the months prior to the consultation vote. TNI-backed prointegration militias often arbitrarily detained persons suspected of proindependence sympathies. For example, in Baucau armed pro-Jakarta elements wearing unmarked black uniforms "arrested" numerous local opponents. In Aileu the local militia, led by the district chief, detained young men suspected of proindependence sympathies and interrogated and beat them in the militia headquarters. During sweep operations by the security forces, young males, anticipating that they would be detained and beaten simply as suspects if found in their villages, typically fled to the mountains or Dili, leaving behind women, children, and the elderly (see Sections 1.c., 2.d., and 5). On April 22, 30 students were detained in the Bekora section of Dili. Militia groups reportedly arrested four persons on May 1 and took them to the military post in Viqueque. A KPP–HAM report issued on November 1 cited eyewitness accounts of arbitrary detention by prointegration militia groups during the post-consultation period (see Section 4).

On January 9, the military detained 37 to 40 persons from rural villages and brought them to nearby Lhokseumawe, Aceh. Most of these persons were beaten and tortured severely and four died in custody (see Sections 1.a. and 1.c.). An NGO claimed on July 12 that the TNI rounded up 20 Acehnese young men in a village near Teunom, West Aceh, allegedly for separatist activities. According to news reports, on November 2 in Tuwi Kareung, West Aceh, security forces arbitrarily arrested 136 persons (see Section 1.c.). On December 4, the anniversary of separatist leader Hasan Di Tiro's Declaration of Acehnese Independence, TNI forces injured a number of persons. At least 40 persons were arrested, 20 of whom allegedly were mistreated (see Sections 1.a. and 1.c.).

On May 6, police arrested 74 Irianese in the western Irian Jaya town of Fak Fak. The Government claimed that it found independence materials, the Independent West Papua flag (see Sections 1.c. and 2.a.), and "sharp weapons" at the location. Those arrested were released the next day, charged with violating the ban on gatherings to publicize the results of the Irianese leaders' meeting with President Habibie (see Section 5), and fined $0.33 (RP. 2,500).

The United Nations Working Group on Arbitrary Detention visited the country during the first 2 weeks of February. The team was able to spend 3 days in East Timor, but was denied permission to visit Aceh and Irian Jaya (see Section 4).

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution stipulates the independence of the judiciary; however, in practice the judiciary is subordinated to the executive and the military. In August the Parliament passed and President Habibie signed a law providing for the gradual transfer of administrative and financial control over the judiciary from the Department of Justice to the Supreme Court over a period of 5 years. However, judges currently are civil servants employed by the executive branch, which controls their assignments, pay, and promotion. Low salaries encourage widespread corruption, and judges are subject to considerable pressure from governmental authorities, who often exert influence over the outcome of numerous cases.

A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from a district court to a high court to the Supreme Court exists in all four systems. The Supreme Court does not consider factual aspects of a case, only the lower courts' application of law. The Supreme Court theoretically stands coequal with the executive and legislative branches, but it does not have the right of judicial review over laws passed by Parliament.

In September the former Parliament enacted, and President Habibie signed, a new law on human rights that mandated creation of a human rights court within 4 years. On October 8, President Habibie signed a "government regulation in lieu of statute" creating a human rights court within the general judicial system. The court has the authority to hear and adjudicate cases that occur subsequent to October 8, that involve extinction of a national or ethnic group, extrajudicial killings, forced disappearance, slavery, systematic discrimination, and torture. The regulation allows the National Human Rights Commission to request an explanation at any time from the Attorney General on the status of a human rights case. The regulation also nullifies a provision of the 1997 law on military tribunals that allows a commanding officer discretion over whether to refer a subordinate to a military court. Some legal experts criticized the regulation on the ground that it usurped the Parliament's authority to enact laws, and some human rights organizations expressed suspicion that the regulation was designed to avoid trial of Indonesian human rights violators by an international tribunal.

A panel of judges conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment. Initial judgments rarely are reversed in the appeals process, although sentences can be increased or reduced. Both the defense and the prosecution may appeal.

Defendants have the right to confront witnesses and to produce witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court. In such cases, sworn affidavits may be introduced. However, the Criminal Procedures Code does not provide for witnesses' immunity or for defense power of subpoena. As a result, witnesses generally are unwilling to testify against the authorities. The courts commonly allow forced confessions and limit the presentation of defense evidence. Defendants do not have the right to remain silent and can be compelled to testify against themselves.

The Criminal Procedures Code gives defendants the right to an attorney from the moment of their arrest, but not during the prearrest investigation period, which may involve prolonged detention. Persons summoned to appear as witnesses in investigations do not have the right to be assisted by lawyers even though information developed in the course of rendering testimony subsequently can become the basis of an investigation of the witness. The law requires that a lawyer be appointed in capital cases and those involving a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the defendant desires an attorney and is indigent. In theory destitute defendants may obtain private legal assistance, such as that provided by the Indonesian Legal Aid Foundation. However, in practice defendants often are persuaded not to hire an attorney, or access to an attorney of their choice is impeded.

In many cases procedural protections, including those against coerced confessions, particularly those coerced by the police and the BAIS, are inadequate to ensure a

fair trial. Corruption is a common feature of the legal system and the payment of bribes can influence prosecution, conviction, and sentencing in civil and criminal cases.

Despite the beginning of the transfer of administrative and financial control over the judiciary from the Department of Justice to the Supreme Court, there were few signs of judicial independence. The court continued to be used to take action against, or deny legal remedy to, political activists and government critics. In January a court in Biak sentenced 19 persons to sentences ranging from several months to 6½ years for engaging in proindependence demonstrations. This group was freed as part of President Wahid's amnesty decree on December 23. Ten persons in Wamena who were arrested and charged for raising a Papuan Independence Flag were found guilty, sentenced to time already served, and freed in April. At year's end, four persons in Jayapura were on trial for raising Papuan independence flags. Several groups of students who conducted peaceful demonstrations in Jakarta during the first half of the year were convicted of violating a 1998 law prohibiting demonstrations without a permit, and were required to pay small fines.

The Parliament repealed the 1963 Anti-Subversion Law in April (see Section 1.d.); however, at the same time Parliament passed a law (Law No. 27 of 1999) transferring six crimes against the State specified in the Anti-Subversion Law (e.g., propagating communism, damaging government facilities, and interfering with distribution of essential goods) to the Criminal Code. All persons convicted under the law received amnesty by the end of the year.

In January the Government announced that imprisoned East Timorese resistance leader Xanana Gusmao would be removed from prison and detained in a house outside of Cipinang prison. The Government formally released him on September 7.

During its 16 months in office, President Habibie's Government released, by its own count, 213 political prisoners, including 52 persons released in March and labor leader Dita Indah Sari in July. In March the Government released 40 Acehnese political prisoners jailed under the Anti-Subversion Act; however, their release was only on condition that they swear allegiance to the national Constitution and to "Pancasila," the official state ideology. A number of East Timorese political prisoners who had been held in Dili and reportedly moved to West Timor during the violent aftermath of the consultation vote remained unaccounted for. On November 30, President Wahid promised to free 18 East Timorese political prisoners from Cipinang prison. On December 10, President Wahid signed decrees giving amnesty and abolition of sentence to 91 political prisoners, including 6 leaders of the People's Democratic Party (PRD), 70 East Timorese prisoners, and 15 prisoners associated with the Acehnese independence movement or Islamic movements. On December 23, he signed another decree giving amnesty and abolition of sentence to another 105 political prisoners. With the latest releases, according to domestic monitors of political prisoners, all political prisoners from the Soeharto era had been freed. However, at year's end six persons were on trial on political charges stemming from actions that they took when Habibie was president. In addition five persons remained under restricted freedom awaiting trial and three labor activists were in detention awaiting trial (see Section 6.b.).

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—Judicial warrants for searches are required except for cases involving suspected subversion, economic crimes, and corruption; security agencies regularly made forced or surreptitious entries. Security forces also engaged in surveillance of persons and residences and selective monitoring of local and international telephone calls without legal restraint. In February publication of a transcript of a telephone conversation between President Habibie and the Attorney General concerning the investigation of former President Soeharto caused strong public criticism. Habibie ordered an investigation into the matter, but no results were announced during the year.

The Parliament passed a controversial new law in September on overcoming dangerous situations that allows the military to conduct search and seizure operations for weapons during a declared state of emergency without a warrant, but requires that such searches be reported to a court within 24 hours. However, President Habibie did not sign this law, and its status is unclear.

Government security officials monitor the movements and activities of former members of the Indonesian Communist Party (PKI) and its front organizations, especially persons whom the Government believes were involved in the abortive 1965 coup. These persons and their relatives sometimes are subjected to surveillance, required check-ins, periodic indoctrination, and restrictions on travel outside their city of residence. They also are required to have official permission to change their place of residence. The requirement that "E.T." ("Ex-Tapol" or political prisoner) be stamped on the identification cards of these prisoners was ended officially in 1995, although in practice it continued in use in many cases. At least some individuals

who had E.T. stamped on their identity cards were able to have the stamp removed. This stamp has been one of the methods the Government has used to monitor the activities of these persons, allowing the Government and prospective employers to identify alleged former PKI members, thereby subjecting them to official and unofficial discrimination. Even when the stamp has been removed, these former political prisoners continue to face discrimination and restrictions on employment.

Under the government-sponsored transmigration program large numbers of persons were moved voluntarily from overpopulated areas to more isolated and less developed areas (this program began during the Dutch colonial period and has been carried out more or less continuously since then). It also was used to resettle local populations within East Timor and Irian Jaya. However, plans to revive the program, after several years during which the Government reduced its support for it, fell victim to the economic crisis. Human rights monitors state that in general the transmigration program violates the rights of indigenous people and dupes some transmigrants into leaving their home villages without any means of return. Human rights activists also have claimed that a number of those resettled are persons who have been forced off lands that are coveted by developers who have collusive arrangements with the Government or security forces. Conditions at some sites are life threatening, with inadequate measures to protect the transmigrant population against diseases endemic to the sites. Transmigrants and migrants outside the Government transmigration program received direct and indirect government support in the form of developmental assistance programs and contracts with the TNI or local government officials. This practice, particularly in East Timor, Irian Jaya, and parts of Kalimantan, led to resentment among indigenous populations, whose members believed that their rights were infringed upon and that they were being discriminated against by virtue of the disbursement of development funds to those who were in some cases their newly arrived economic rivals (see Section 5).

The Government used its authority, and at times intimidation, to acquire land for development projects, particularly in areas claimed by indigenous people, and often without fair compensation (see Section 5).

The Government prohibits the import of Chinese-language publications (see Sections 2.a. and 5).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The 1945 Constitution contains a general provision for freedom of expression; the new law on human rights provides for substantive protection of press freedom (see Section 1.d.); however, the security apparatus often attempted to control and restrict reporting on East Timor, and journalists continued to suffer intimidation and assaults.

Also in September, the Parliament enacted a new press law that provides for freedom of the press, prohibits censorship, and prescribes penalties for anyone who violates these rights. However, the law obliges the press to report events and opinions "with respect to religious and moral norms of the public," and to adhere to the presumption of innocence. Press companies that violate this provision can be fined up to $71,500 (500 million Rp). Advertising that degrades the dignity of certain religions or creates disorder among diverse religions, or is contrary to public morality, or refers to addictive substances, is prohibited. The new law establishes a Press Board to create and enforce a code of journalistic ethics. Membership of the board consists of journalists nominated by journalist associations, representatives of press companies, and public figures nominated by journalists and press companies. The new law replaced previous press laws that were viewed as being more restrictive of press freedom. In October President Wahid abolished the Department of Information, formerly used as the Government's propaganda and censorship arm.

During the year, the media often exercised press freedom with detailed and hard-hitting reporting on corruption, political protests, national unrest, the parliamentary election campaign, and the presidential selection process; however, the security apparatus often attempted to control and restrict reporting on East Timor. For example, after the April 17 militia assaults in Dili (see Section 1.a.), a cordon of military and police prevented journalists from approaching the scene. On April 17, prointegration militia attacked and destroyed the offices of the province's most important daily newspaper, Suara Tim Tim. There were reports that the newspaper faced continual threats not to publish any information sourced to proindependence East Timorese, or about civilian deaths due to militia attacks. In April the militia also threatened to attack the office and transmitter site of the Kamnek radio broadcasting center, the Church broadcasting system for East Timor, causing staff to board up the office's windows and doors.

During the transition in East Timor, the media largely conveyed uncritically government- and TNI-inspired disinformation directed against UNAMET and

INTERFET. Overall, domestic press and television coverage of East Timor highlighted the statements of government officials and prointegration leaders, and uncritically conveyed the government (prointegration) line on most issues, in many cases actively seeking to discredit INTERFET. After the consultation election results were announced, prointegration harassment, intimidation by security forces, and assaults against journalists greatly increased. However, later in the year the media did provide extensivest coverage of the findings of the Indonesian Commission Investigating Abuses in East Timor (see Sections 1.b., 1.c., 1.d., 2.d., 4, 5, and 6.f.). Also UNAMET's versions of events and reports of abuses by the militias sometimes did appear.

Police questioned three television and radio station news directors about their sources after the stations reported on a recording of a telephone conversation between President Habibie and Attorney General Andi Ghalib in February. Police said that they were investigating possible violations of a 1946 law on the dissemination of false information or news that stirs public unrest. In June police questioned as suspects the chairman and executive director of the NGO Indonesia Corruption Watch after the Attorney General filed a criminal complaint charging that they slandered him by accusing him of accepting bribes from local businessmen. Police also questioned as witnesses three editors of newspapers that reported on the Indonesia Corruption Watch accusations. In September police questioned a newspaper editor for publishing editorials critical of President Habibie, and the news director of a television station for airing an interview with an Acehnese separatist movement commander. A magazine editor and a magazine distributor went on trial in October for publishing material that allegedly was offensive to public morality. There has been no police followup to the interrogation of the newspaper editors or the television news director who were critical of President Habibie. However, court proceedings continue against the magazine editor accused of offending public morality.

The Government retained the right to suspend publishing licenses for an unspecified period of time, although no licenses were suspended during the year. Other means of control include regulation of the amount of advertising permitted and of the number of pages allowed in newspapers. Subsequent to the abolition of the Department of Information in October, many editors believed that they no longer required a license to publish a newspaper or magazine, since there was no controlling body to which to report.

The Government arrested 5 persons for raising the Papuan Independence Flag during the year, and proceeded with trial for 42 other persons arrested for flag-raisings in 1998. All but four persons were released by year's end under President Wahid's amnesty decrees. There were numerous flag-raisings around Irian Jaya on December 1, which is commemorated as the anniversary of Papuan independence. In most cases, authorities did not take action against persons who raised flags, but police broke up a flag-raising vigil in Timika, resulting in injuries and one death (see Sections 1.e. and 5).

The Government operates a nationwide television network with 12 regional stations. Private commercial television companies, most with ownership by, or management ties to, former President Soeharto's family, continued to expand. All are required to broadcast government-produced news, but they also all produce news and public affairs programming independently. Just prior to the appointment of the current Cabinet, the Minister of Information issued licenses for five new private television stations and granted them 2 years to prepare before beginning broadcast operations. Television networks increased their news coverage during the year, including live gavel-to-gavel coverage of the People's Consultative Assembly's General Session during which the new President and Vice President were elected.

More than 700 private radio-broadcasting companies exist in addition to the Government's national radio network. They all were required to belong to the government-sponsored Association of Private Radio Stations to receive a broadcast license. The Government radio station, Radio Republik Indonesia (RRI), produces the program "National News." Private radio stations and 53 regional government network affiliates relay the program throughout the country.

Regulations issued by the Government in June 1998 reduced the number of compulsory government programming broadcasts from 14 to 4 per day. While private radio stations in the provinces generally adhered to the Department of Information's edict governing the number of daily RRI news relays, many private radio stations in larger urban areas elected to relay the RRI news broadcast only once per day. The regulations allowed stations to produce their own news programs, and many have done so. Candid live coverage of demonstrations and other breaking stories increased markedly during the year. Moreover, "talk radio" call-in programs regularly address timely political and socioeconomic issues.

Foreign television and radio broadcasts are readily accessible. Satellite dishes have proliferated throughout the country, and there is access to the Internet. The Government made no effort to restrict access to satellite programming and has proclaimed an "open skies" policy. Foreign periodicals are widely available. The authorities have delayed distribution of publications by a day or more, although this is rare. The Government restricts the import of Chinese-language publications (see Sections 1.f. and 5).

The Government regulates access to the country, particularly to areas of unrest, by visiting and resident foreign correspondents. It occasionally reminds the latter of its prerogative to deny requests for visa extensions. Special permission is necessary for foreign journalists to travel to East Timor, Aceh, and Irian Jaya. In August the Government denied entry to a foreign journalist, Amy Goodman, who was on an immigration blacklist because of reporting critical of the Government's handling of East Timor (see Section 2.d.). She was intending to cover the August 30 popular consultation in East Timor. Several foreign and domestic journalists, including Washington Post correspondent Keith Richburg and the British Broadcasting Company's Jonathan Head, covering the events prior to East Timor's consultation vote were attacked and injured by prointegration militias. In September the Government detained foreign journalist Allan Nairn, who was visiting East Timor, for several days before deporting him.

East Timorese members of a TNI battalion killed Dutch journalist Sander Thoenes in September, and an Indonesian journalist, Agus Mulyawan, was among those killed when paramilitary forces attacked a convoy in Los Palos in September (see Section 1.a.).

The Government requires a permit for the importation of foreign publications and videotapes, which must be reviewed by government censors. Significant amounts of material bypass customs and censorship procedures.

Most books by the prominent novelist and former political prisoner Pramoedya Ananta Toer are banned, although some are in circulation. According to a study published in the newspaper Kompas, from 1969 to 1998 the Government banned 199 books, approximately 50 percent for religious reasons, 30 percent for political reasons, and 20 percent for ideological reasons. However, bookshops—especially "alternative bookstores" at university campuses and cultural centers—openly sell many new and newly reprinted titles. The Government banned no additional books during the year.

The new law on crimes against the State (see Section 1.d.) prohibits persons from disseminating or developing the teachings of communism or from seeking to eliminate or replace the state ideology of Pancasila in a way that causes harm to persons or property.

While the law provides for academic freedom, there are constraints on the activities of scholars. A Japanese scholar, Yoshihara Kunio, was denied entry to the country in March because he was on an immigration blacklist. Nevertheless, political activity and open discussions at universities increased significantly during the year.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government places significant controls on the exercise of this right. The Government promulgated regulations in 1995 that eliminated the permit requirements for some types of public meetings. A requirement to notify the police remained for most others, and in practice numerous public meetings continued to be prevented or broken up, sometimes with lethal force (see Sections 1.a. and 1.c.).

The 1998 law on freedom of expression requires that demonstrators notify the police 3 days in advance and appoint someone accountable for every 100 demonstrators. The law restricts demonstrations near specific sites. Nevertheless, frequent demonstrations are held in Jakarta and around the country. However, in some cases authorities invoked the law to detain and try demonstrators. Several groups of students who conducted peaceful demonstrations in Jakarta were convicted of violating the law and were required to pay small fines. Participants in several demonstrations in Jakarta and other cities were killed and suffered injuries when security forces seeking to disperse crowds beat and kicked demonstrators (see Sections 1.a. and 1.c.). During the campaign period in East Timor preceding the August 30 consultation vote, intimidation by the security forces and prointegration militias largely prevented independence supporters from holding public assemblies or openly campaigning. Military forces sometimes resorted to force in order to disrupt peaceful demonstrations. In February in Aceh military troops opened fire on a crowd of several thousand persons after issuing an order for them to disperse (see Section 1.a.). On March 26, in Banda, Aceh, security forces used tear gas, batons, and possibly rubber bullets to disperse thousands of student demonstrators (see Section 1.c.). On April 20, a standoff with police led to an exchange of gunfire in which at least one

police officer was killed and a student and a soldier were wounded. Police also broke up several peaceful demonstrations in Irian Jaya. For example, on December 2, police violently disrupted a proindependence demonstration in Timika, injuring numerous persons. One person died later the same day as a result of injuries sustained in the melee caused by the police action. The police action ended a 3-week long vigil over a Papuan independence flag on a Catholic church compound (see Sections 1.a., 1.c., and 5).

The Constitution provides for freedom of association; however, the Government places significant controls on the exercise of this right. The 1985 Social Organizations Law (ORMAS) requires the adherence of all organizations, including recognized religions and associations, to the official ideology of Pancasila. This provision, which limits political activity, is widely understood to be designed to inhibit the activities of groups seeking to engage in democratic political competition, make Indonesia an Islamic state, revive communism, or return the country to a situation of partisan ideological division. It empowers the Government to disband any organization that it believes to be acting against Pancasila and requires prior government approval for any organization's acceptance of funds from foreign donors.

The Government announced late in 1995 its intention to relax a regulation requiring police approval for all meetings of five or more persons of all organizations outside offices or normal work sites. However, in practice this regulation continues to apply to union meetings (see Section 6.a.).

The April law on crimes against the state (see Sections 1.d. and 2.a.) prohibits the formation of organizations that "are known to or properly suspected" of embracing the teachings of communism/Marxism/Leninism "in all its forms and manifestations."

c. *Freedom of Religion.*—The Constitution provides for religious freedom for members of five out of six officially recognized religions and belief in one supreme god, and the Government generally respects these provisions; however, there are some restrictions on certain types of religious activity, including unrecognized religions.

Although the population is over 85 percent Muslim, the practice and teachings of five out of six officially recognized religions generally are respected, and the Government actively promotes mutual tolerance and harmony among them. The law states that the Government "embraces" Islam, Protestantism, Catholicism, Buddhism, Hinduism, and Confucianism. However, subsequently issued regulations have restricted severely the practice of Confucianism. While the law only formally "embraces" these religions, it explicitly states that other religions, including Judaism, Zoroastarianism, Shinto, and Taoism are not forbidden. The Government permits the practice of the mystical, traditional beliefs of "Aliran Kepercayaan."

A 1976 decision by the Attorney General reinforced by a separate decision by the same office in 1978, banned Jehovah's Witnesses from practicing their faith. Although government hostility toward Jehovah's Witnesses has subsided, open practice of the faith remains banned, and members report that they continue to experience difficulty registering marriages, enrolling children in school, and in other civil matters. Members of the Bahai faith have not reported problems recently. The Government in some provinces has banned the messianic Islamic sect Darul Arqam. The Government closely monitors Islamic groups considered to be deviating from orthodox tenets, and in the past has dissolved some groups. Historically, the Government has tried to control "heterodox" Muslim groups, due to pressure by nongovernmental leaders of "mainstream" or "orthodox" Muslim groups as well as the Government's concern for national unity. In addition "mainstream" Christian leaders have influenced government policy to be biased against "fundamentalist" Christians. Non-Trinitarians (Jehovah's Witnesses) have faced government bans that they claim were instigated by Trinitarian Christians.

The legal requirement to adhere to Pancasila extends to all religious and secular organizations. Because the first tenet of Pancasila is belief in one Supreme God, atheism is forbidden. Although individuals are not compelled to practice any particular faith, all citizens must be classified as members of one of the officially recognized religions. As this choice must be noted on official documents, such as the identification card, failure to identify a religion can make it impossible to obtain such documents. The Government strongly opposes Muslim groups that advocate establishing an Islamic state or acknowledging only Islamic law.

The October selection of Abdurrahman Wahid as President was greeted with optimism by leaders of various religious communities. Harmony, tolerance, and mutual respect between different religious communities have been among Wahid's core principles throughout his public career. Other high-level officials continued to make public statements and emphasize by example the importance of respect for religious diversity. However, some lower level officials continued to show reluctance to facilitate and protect the rights of religious minorities.

Houses of worship, including both mosques and Christian churches, frequently were damaged or destroyed by opposing groups during clashes in Ambon (see Sections 1.a. and 5). In addition a Muslim crowd burned two Christian churches in Bandung in March. The perpetrators reportedly were angry at the local government's decision to allow a new church to be built in a predominantly Muslim neighborhood. In April Muslim crowds set fire to a church in Ujung Pandang, South Sulawesi after a bomb exploded at Jakarta's largest mosque, Istiqlal. In December Muslim crowds burned and ransacked a Christian seminary and a social service complex in southeast Jakarta, killing one person in the process. Attacks against minority houses of worship and the lack of an effective government response to punish perpetrators and prevent further attacks led to allegations of official complicity in incidents from current as well as prior years.

During the period following the August consultation vote in East Timor, security forces and government-backed militia groups killed numerous Catholic priests and nuns who were engaged in humanitarian activities; they also destroyed many Catholic places of worship, many of which were being used to shelter thousands of internally displaced persons (IDP's) (see Sections 1.a., 1.c., 2.d., 3, and 4).

A 1969 regulation dictates that before a house of worship can be built, agreement must be obtained from local residents living near the site, and a license must be obtained from the regional office of the Department of Religion. Some Christians claim that this regulation is being used to discriminate against them and to prevent them from building churches. Despite the problems, the building of churches continues.

The law allows conversion between faiths, and such conversions occur. Independent observers note that interfaith marriages between Muslims and non-Muslims have become increasingly difficult. Persons from religions outside the five accepted religions have difficulty having their marriages recognized officially.

The Government views proselytizing by recognized religions in areas heavily dominated by another recognized religion as potentially disruptive and discourages it. Foreign missionary activities are relatively unimpeded, although in East Timor, Irian Jaya, and occasionally elsewhere missionaries have experienced difficulties and delays in renewing residence permits, and visas allowing the entrance of new foreign clergy are difficult to obtain. Laws and decrees from the 1970's limit the number of years that foreign missionaries can spend in the country, with some extensions granted in remote areas like Irian Jaya. Foreign missionary work is subject to the funding stipulations of the "Mass Organizations" (ORMAS) law.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law permits the Government to bar persons from either entering or departing the country, and the Government continued to restrict freedom of movement to a limited extent. As of March, according to Department of Justice information quoted in the press, the Government maintained a list of 3,665 foreigners who are barred from entering the country, while 417 citizens are prohibited from leaving the country. In August it was reported in the press that, at the request of the armed forces commander, five prominent persons from Irian Jaya had been barred from leaving the country (see Section 5). The Government never officially confirmed the ban or notified the individuals concerned.

The Government also restricts movement by citizens and foreigners to and within parts of the country. The new law on overcoming dangerous situations (see Section 1.f.) also would allow the military to limit land, air, or sea traffic, to prohibit migration into and out of an area, to order relocation of persons outside an area, and to order house arrest in a declared state of emergency. However, this law did not take effect because President Habibie did not sign it.

The Government requires that individuals obtain permits to seek work in a new location in certain areas, primarily to control further population movement to crowded cities. Special permits are required to visit certain parts of Irian Jaya. In September the police expelled two foreign human rights monitors from Irian Jaya to Jakarta after the two traveled to Irian Jaya as part of a preliminary planning visit for an independent international human rights assessment undertaken in cooperation with the Indonesian National Human Rights Commission (see Sections 4 and 5). Although former political prisoners associated with the abortive 1965 coup are no longer officially required to carry the stamp "E.T." on their identity cards, in many cases the stamps have not been eliminated in practice (see Section 1.f.).

Among other restrictions, some former prisoners still are required to obtain permission if they want to move.

During the period prior to the consultation vote in East Timor, armed militia groups routinely set up road blocks in some areas, and closed off parts of Dili and elsewhere. The main road from Dili and West Timor was not usable during much of this time due to roadblocks by militia forces. Security forces did little or nothing

to prevent the militias from controlling movement in these areas. In the days following the consultation vote, armed militia groups were permitted to control access to the Dili airport and they also checked incoming passengers. Prointegration militia members reportedly confiscated cars of proindependence civil servants. At times the Government temporarily banned travel to East Timor by foreign diplomats.

According to churches and NGO's, over 45,000 persons were displaced in East Timor during the months prior to the consultation vote—a July UNAMET estimate placed the number of displaced persons at over 60,000. The displaced generally were not accommodated in "camps," as such, but were herded into defined areas, especially in the vicinity of Liquica and Maubara, which were under the control of prointegration militias. Reportedly, anyone seeking to leave these camps faced assaults by military-backed militias, which were permitted to operate road blocks and checkpoints. In addition, militia groups committed numerous other abuses against displaced persons (see Section 1.c.). ICRC representatives and other humanitarian groups, had great difficulty gaining access to the camps, which faced tremendous food and medical shortages.

Following the consultation vote in East Timor, there was credible evidence that, in a planned and orchestrated operation, the security forces forcibly removed or compelled to flee a substantial percentage of the 250,000 East Timorese who departed the territory. According to numerous credible reports the military and prointegration militia systematically forced the relocation of East Timorese refugees into West Timor, in part, for revenge; however, it also is alleged that forced relocations were meant to undermine the legitimacy of the U.N. referendum (see Section 3). More than 130,000 of the approximately 250,000 refugees returned to East Timor by year's end, but intimidation by TNI-backed militia forces in the camps in West Timor continued to prevent many others from returning.

During the summer, tens of thousands of Acehnese temporarily fled their villages claiming to be terrified of security force patrols/activity in their area (see Sections 1.a. and 1.c.). At one point, as many as 150,000 rural Acehnese were displaced. There were credible allegations that armed separatists hoping to draw international attention and sympathy were manipulating IDP movements.

While the law lacks provisions for dealing with refugees/asylees in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government cooperates with the U.N. High Commissioner for Refugees, which maintains a regional office in Jakarta. In past years, the Government offered first asylum to over 125,000 Indochinese boat persons. The Galang Island camp was closed in 1996 and by the end of the year the last remaining asylum seekers had been repatriated or permitted to settle permanently in the country. The Government has not formulated a policy regarding asylum seekers, but in practice it has respected the principle of not returning asylum seekers to the country from which they have fled.

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

Citizens for the first time successfully changed their government through an open, transparent democratic process. In January the Parliament passed new legislation governing the election, political parties, and the organization of the MPR and DPR. The MPR is constitutionally the highest authority of the State and is charged with meeting every 5 years to elect the President and Vice President and to set the broad guidelines of state policy. It is composed of the elected Members of Parliament plus appointed representatives of functional and regional groups. The June 7 election, contested by 48 political parties (who fielded candidates in every district) and monitored by international observers, was widely accepted as open, fair, and free. Members of the new Parliament and People's Consultative Assembly (MPR) were sworn in on October 1. On October 20–21, the MPR in a secret ballot procedure that was carried live on television elected Abdurrahman Wahid as President and Megawati Soekarnoputri as Vice President.

Under a doctrine known as dual function, the military assumes a significant sociopolitical as well as a security role. Members of the military are allotted 38 unelected seats in the DPR, and 10 percent of the seats in provincial and district parliaments, in partial compensation for not being permitted to vote. Active duty and retired military officers (many of whom retain strong ties to the military after retirement) occupy important positions at all levels of government. The military thus far has resisted strong pressure from student and reform groups for an immediate end to dual function, instead reaching an informal understanding with key political figures that it would be phased out over a period of several years.

The other 92 percent of national and 90 percent of regional parliamentary seats are filled through elections held every 5 years. All adult citizens, except active duty

members of the armed forces, persons in prison convicted of crimes punishable by more than 5 years' incarceration, persons suffering from a mental disorder, and persons deprived of voting rights by an irrevocable verdict of a Court of Justice, are eligible to vote.

More than 93 percent of the electorate nationwide voted in the June parliamentary election, ranging from a low of 70 percent in Aceh to 109 percent in Maluku (the reasons for this figure are still under investigation). The poor security situation, voter apathy and a desire among some citizens to boycott the election contributed to the relatively low voter turnout in Aceh, which was about 50 percent across Aceh, far below the national average. Turnout was less than 5 percent in several troubled districts. A halfhearted effort to organize a boycott appears to have had little impact in East Timor, where more than 94 percent of the electorate voted. Members of the banned PKI may not run for office.

International and domestic monitoring groups and the major political parties accepted the June 7 parliamentary election as generally free and fair, notwithstanding many technical problems and irregularities. Parties organized and campaigned without government interference and candidates were able to express their views freely. The new political laws were general in nature, granting sweeping authority in implementing the election to a newly formed General Election Commission (KPU), whose members included 5 government representatives and 1 representative from each of the 48 parties that were qualified to compete in the election. Under considerable public and political pressure, the KPU went forward with plans to hold the election on June 7, despite inadequate technical preparations and remaining ambiguities in the regulations. Numerous technical problems resulted, particularly in remote districts throughout the country, including inadequate supplies of ballots and reporting forms, poor training of poll workers, confusion over procedures, and a lack of funds to pay poll workers. These problems contributed to a substantial delay in vote counting.

There were numerous, and in some cases credible, allegations of vote buying in Sulawesi, mostly directed at the ruling Golkar party, which opposition parties saw as gaining advantage from longstanding patronage and civil service networks. There also were scattered allegations of voter intimidation, particularly in rural areas. Opposition parties in Sulawesi alleged that Golkar cadres threatened the physical safety of residents. The Government and others alleged that supporters of Acehnese separatism actively were discouraging residents to register. It is believed that this pressure, combined with a sense of alienation and apathy, was responsible for lower turnouts in Aceh. Election officials in Aceh postponed polling in most voting stations in the North Aceh and Pidie districts due to security concerns. The polls had not yet been held by year's end. The Elections Supervisory Committee (PANWASLU) had legal authority to investigate election irregularities, but acknowledged that it lacked the training, organization, manpower, and funding necessary to address more than a handful of the most egregious cases. In some cases, alleged violations were referred to judicial authorities for legal action. In most cases, political parties reached informal solutions among themselves.

In general monitoring groups and political parties concluded that irregularities were neither systematic nor sufficiently widespread to call into question the overall results of the election at the national level. The atmosphere in polling sites was transparent and even celebratory. The election campaign itself generally was free of violence; however, there were a few isolated outbreaks, such as on June 4 in Jakarta, when Golkar cadres were attacked in various areas of the city. In Aceh a soldier was shot and killed while guarding a polling station (see Section 1.a.). The military, which in past elections routinely used threats and intimidation to ensure voter support for Golkar, honored its pledge to stay neutral. The opposition Indonesian Democratic Party of Struggle (PDI–P) came in first with 33.7 percent of the vote (153 DPR seats), followed by Golkar with 22.4 percent (120 seats), the National Awakening Party (PKB) with 12.6 percent (51 seats), the Unity and Development Party (PPP) with 10.7 percent (58 seats), the National Mandate Party (PAN) with 7.1 percent (34 seats), and the Crescent and Star Party (PBB) with 1.9 percent (13 seats). In addition 5 parties won between 2 and 7 seats and 10 parties won 1 seat each. Because of the pattern of voting district distribution, parties that were stronger in the less populous outer islands (e.g., Golkar and the PPP) won more seats relative to their strength in percentage terms than parties stronger in the populous islands of Java and Bali (e.g., the PDI–P and the PKB).

The actions of some KPU members following the election contributed significantly to the delay in validating election results, providing scope for additional doubts about the process, and led to a considerable loss of public faith in the impartiality and integrity of the KPU. Election laws in February required that a party must win at least 2 percent of the seats in Parliament to qualify to compete in the following

election (in 2004). Forty-two parties failed to meet this threshold, 27 of which failed to win even a single seat. As the outcome of the election became evident, KPU representatives of several of the parties that failed to win seats launched a series of rearguard actions designed to force the KPU to give them DPR seats and to waive the 2 percent requirement. Among these actions was a refusal to certify the election results. On August 3, President Habibie stepped in and declared the results valid. Government representatives on the KPU generally showed impartiality and sought to preserve the spirit of electoral reform. Small party obstructionism and opportunism continued in subsequent stages of the process, including during DPR seat allocation, selection of groups eligible to send representatives to the MPR, and assignment of candidates to seats. At several junctures, regulations the KPU itself had written either were changed or ignored, in some cases to suit the interests of blocs of KPU party representatives. As a result, the election process fell far behind schedule. In order to meet the political imperative of opening the MPR as scheduled, authorities decided to convene the MPR on October 1 even though several provinces had not yet finalized their choices of regional representatives, who joined the body after it already was in session.

Such problems added momentum to a building consensus on the need for constitutional and further electoral reform, for the purpose of, among other things, limiting presidential powers, eliminating unelected representatives in the DPR and MPR, providing for direct election of the President and Vice President, and redefining the membership and roles of the Government's highest institutions. Amending the 1945 Constitution for the first time, the MPR took steps to limit presidential powers, including imposing a two-term limit on the President and Vice President. The MPR created a working group to study further constitutional amendments to be considered during the 2000 MPR session.

The Soeharto-era DPR elected in 1997 remained active until it went out of session on September 24. Although under Soeharto the executive branch dominated the DPR, it became increasingly independent under President Habibie. It has been active in scrutinizing government policy and in exercising oversight of government budgetary expenditures and program implementation through hearings at which members of the Cabinet, military commanders, and other high officials were asked to testify. The DPR made substantive alterations to bills that it reviewed, including changes that reflected the interests of outside groups, and in early September, rejected government-proposed legislation for the first time since the beginning of the Soeharto era.

On January 27, Minister of Information Yunus Yosfiah announced that East Timor would be offered an opportunity to vote on an autonomy plan, and that if the East Timorese rejected this offer the Habibie Government would suggest to the MPR that East Timor formally be released from the country. Foreign Minister Ali Alatas subsequently clarified that the Government would not accept any formula that called for a transition period of several years after which the East Timorese would render their verdict on autonomy, asserting that such a delay would lead to civil conflict. Rather, Alatas indicated that the East Timorese would be offered the option of accepting or rejecting the offered autonomy immediately. Alatas reiterated Yunus's statement that were the East Timorese to reject the plan, then they could "respectfully separate" from the country—the Government would then go to the new MPR, the body that approved East Timor's incorporation into the country in 1976, to make the decision to cut ties with East Timor. President Habibie stated that he would accept, in full, the draft East Timor Accords that were concluded in New York in April. Armed forces commander Wiranto also pledged to ensure security and to abide by the results of the consultation.

There is wide evidence that the TNI was not neutral; rather, it was determined to ensure through intimidation and violence that the autonomy option should prevail. TNI-backed militia groups committed numerous killings, attacks, rapes, arrests, forced displacements, and other abuses against proindependence East Timorese throughout the year (see Sections 1.a., 1.b., 1.c., 1.d., 2.d., 4, and 5). It is widely alleged that these attacks were intended to intimidate the population into voting for autonomy or to prevent persons from voting at all. Many observers also believed that they were aimed at derailing the negotiation process in New York (see Sections 1.a., 1.b., 1.c., 1.d., 2.d, and 4). According to UNAMET, the East Timorese were displaced for the purpose of the ballot and, therefore, essentially were "political hostages" (see Sections 1.c. and 2.d.). While the July registration period for consultation generally was conducted without numerous serious security problems, there are reports that in some localities militia members went door-to-door, usually at night, compelling persons to surrender documents required for registration. Numerous credible observers witnessed TNI personnel, local officials, and militias jointly threatening local residents in "socialization" gatherings meant to ensure support of

integration. Some NGO's allege that residents of West Timor were being provided with false East Timor identity cards so that they could participate in the August consultation. Intimidation during the vote registration process tended to be most prevalent in western areas of the province. Police authorities generally did not arrest any militia members or obstruct their activities.

In addition to attacks against civilians, TNI-backed militia groups sought to derail the consultation vote by intimidating and interfering with the activities of UNAMET. Throughout the vote registration process, TNI-backed militia groups made it impossible for U.N. staff to carry out its duties safely in many regions of the province. For example, on the evening of June 29, prointegration militias attacked the UNAMET office in Maliana. During a series of attacks from July 3 to July 4 in Liquica, aid workers sustained serious injuries; UNAMET personnel were threatened directly with firearms; and armed militia members threatened the U.N. helicopter deployed to evacuate personnel (see Section 1.a.). The Liquica attacks occurred while UNAMET was assisting internally displaced persons—a core aspect of the UNAMET mandate. The most serious attack occurred only about 100 yards from a police station. On August 18, several hundred armed prointegration militia members surrounded the UNAMET command compound in Maliana and threatened UNAMET personnel inside, with national police forces on the scene taking no action. (This is the same office that the militia attacked on June 29.) Police also did not react when the CNRT office in Dili was hit by gunfire on August 17. In addition TNI-backed militias greatly harassed and threatened, sometimes with death, NGO employees who sought to assist with poll monitoring, and who engaged in other activities aimed at ensuring a free and fair consultation vote (see Sections 1.c. and 4).

The period immediately preceding the consultation vote was marred by violence, threats, and intimidation, which led thousands of persons to flee from their homes. However, voter turnout was high, with many displaced descending from the hills to cast their ballots, and despite problems in areas such as Maubisa, Suai, Ainado, and Glenno, it appeared that the overwhelming majority of East Timorese were able to vote their conciences.

Some 98 percent of registered voters turned out to cast their ballots in the August 30 referendum on East Timor's future political status. The results were as follows: 94,388 East Timorese (21 percent of registrants) supported the autonomy proposal; and 344,580 (78.5 percent of registrants) opposed it, thus beginning the transition towards independence. On September 3, U.N. Secretary General Kofi Annan declared the ballot "an accurate reflection of the views of the East Timorese people." However, in the hours after the announcement of the results, incidents of killing, violence, and destruction increased throughout the province. Security forces allowed armed militia groups that opposed independence for East Timor free rein to intimidate and kill (see Sections 1.a., 1.b., 1.c., 2.d., 4, and 5). The military and prointegration militias allegedly systematically forced the relocation of East Timorese refugees into West Timor, in part, in order to undermine the legitimacy of the U.N. referendum. The purpose of the forced relocation was to make it appear that many East Timorese fled their homeland because they did not accept the "rigged" result (which could, at least in theory, have caused the MPR to reject the vote).

On October 19, all 11 MPR factions formally approved revocation of the 1978 MPR decree that annexed East Timor, clearing the way for the U.N. Transitional Authority in East Timor, which is endowed with, in full consultation with representatives of East Timor, overall responsibility for creating a civil administration for the territory of East Timor; facilitating humanitarian assistance; overseeing the creation of structures for sustainable governance and the rule of law; facilitating the process of development of a constitution for an independent East Timor; conducting elections to such bodies as are foreseen in a provisional constitution, and seeking to ensure that the development of any indigenous structures for security conform to the standards of civilian oversight, democratic accountability, and international human rights norms and standards. In addition UNTAET is responsible for maintaining a police and military apparatus.

On January 28, the All-Aceh Student Congress called for a referendum similar to the one in East Timor. The initiative for a referendum grew stronger during the year, and later was taken up by others including the local parliament and, on September 14, by the Ulema Council of Aceh.

While there are no legal restrictions on the role of women in politics, they are underrepresented in government. Women constitute about 8 percent of the new Parliament's membership, roughly the same percentage as in the previous Parliament. In the Cabinet, 2 of 35 ministers are women.

A vigorous public debate over the position of women in society emerged during the year following the success of the PDI–P, and the strong possibility that

Megawati Soekarnoputri, a woman, might emerge as the next President. Some representatives of the Muslim community, including the leadership of the state-sponsored Union of Ulema (Muslim Scholars) ruled that a woman could not rule a predominantly Muslim nation. Ironically Megawati also was criticized by women's groups, who charged that she failed to act as an advocate for women's issues with any vigor. Others challenged the basis of the religious argument and dismissed the debate as politically motivated. The gender/leadership debate faded later in the year, with Megawati's candidacy still intact. Megawati was selected as the first female Vice President in October (see Section 5).

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

Although still subjected to monitoring by and interference from the authorities, domestic human rights organizations were extremely active in pressing the Government to improve its human rights performance. They pushed for government investigation of human rights abuses, including the shooting of demonstrators by security forces, acted as defense counsel in political trials, advocated for the release of political prisoners, sought to offer assistance to the victims of human rights abuses, vigorously exposed governmental corruption, and urged improvements in government policies and legislation.

In East Timor specific threats against human rights monitoring groups were prevalent during the preconsultation period, but a more serious hindrance to their work was their inability to access most of the territory, due to the activities of the military-backed militia groups. Intimidation of NGO's greatly hindered humanitarian operations in both East and West Timor. Intimidation, threats, and violence towards NGO's escalated as the year progressed. Due to militia intimidation, numerous humanitarian organizations that sought to assist refugees in West Timor during the post-consultation period were unable to, particularly around the IDP camps.

Both the Habibie and the Wahid Governments generally considered outside investigations or foreign-based criticism of alleged human rights violations to be interference in the country's internal affairs and believed that the linkage of foreign assistance, or other sanctions, to human rights observance constituted interference in internal affairs and was therefore unacceptable.

The ICRC generally was allowed access to identified detainees by civilian and military officials at the central government level. The ICRC was able to visit prisoners convicted of involvement in the violence of 1965–66, convicted Muslim extremists, and East Timorese, as well as other political prisoners outside of East Timor, Aceh, and Irian Jaya. In Aceh the ICRC maintained an office in Lhokseumawe and was allowed to visit prisoners and others detained by security forces. The ICRC was granted permission to visit Irian Jaya, but did not do so during the year. In East Timor the ICRC was not able to visit all detention facilities to which it wanted access, and in some cases its ability to meet and communicate confidentially with prisoners was limited. When East Timorese prointegration militia went on a rampage after the August 30 popular consultation in East Timor, more than 2,000 persons took refugee in the ICRC compound in Dili (see Section 2.d.). On September 6, militia personnel attacked the compound, shooting, burning, and ultimately razing its buildings to the ground (see Section 1.a. and 1.c.). ICRC personnel were evacuated, but returned to East Timor after INTERFET restored order in late September. The ICRC conducted humanitarian operations in East and West Timor during the remainder of the year but largely was unable to gain access to refugee camps in West Timor. It offered humanitarian assistance in Ambon, but the Government did not accept its offer.

The government-appointed National Human Rights Commission, in its 6th year of operation, continued to be active in examining reported human rights violations and to show independence. Lacking enforcement powers, the Commission attempts to work within the system, sending teams where necessary to inquire into alleged human rights problems. It employs persuasion, publicity, and moral authority to highlight abuses, to make recommendations for legal and regulatory changes, and to encourage corrective action. The Government appointed the Commission's original chairman, who then appointed the other 24 original Commission members.

In September the Parliament gave the Commission a statutory basis and increased its membership to 35 members. Future members are to have 5-year terms and be nominated by the Commission but must be confirmed by the Parliament and made official by the President. The new law gives the Commission subpoena powers and provides that disputes settled by written agreement through the Commission's mediation are enforceable in the courts. However, the law does not give the Commission the power to enforce its recommendations or call for action by the Government.

During the year, the Commission conducted a followup investigation into human rights violations in Irian Jaya in August, and sent a fact-finding team to Ambon. The Commission issued highly credible public reports and press statements that carried significant weight in informing public opinion. In September the Commission formed a Commission for Investigation of Violations of Human Rights after the Popular Consultation in East Timor (KPP). The KPP's initial mandate was to gather facts and evaluate reports of human rights violations after the August 30 vote in East Timor; however, on October 22, the mandate was revised to include also abuses occurring from January onward. Its findings are to form the basis for cases to be tried in the recently established Human Rights Court (see Section 1.e.). The Commission's mandate originally ran until December 31, but was extended until January 31, 2000.

The Habibie Government ignored or moved lethargically in reaction to some Commission findings. Neither the Habibie nor the Wahid Government pursued recommendations in the Commission's 1998 report on violence against ethnic Chinese women during the May 1998 riots. In 1995 the Commission identified six cases of TNI killings, rapes, and other abuses of indigenous people in Irian Jaya; only one extrajudicial killing was ever brought to trial, and the Commission requested followup action in 1997. The Government made no further response to the Commission's October 1996 report on the July 27, 1996 forcible takeover of the headquarters of the Indonesian Democratic Party (PDI).

The Commission's East Timor branch remained ineffective throughout the year, and, prior to its closure in the wake of the post-consultation violence, had had little impact with regard to the more serious human rights problems in East Timor. In July the Commission opened an office in Aceh. In August the Commission announced that it would open an office in Irian Jaya.

The KPP sent a number of investigative teams to East and West Timor and issued an interim report directly linking the Indonesian security forces to the post-consultation vote violence and destruction in East Timor. The KPP pledged to cooperate closely with the U.N.'s International Commission of Inquiry for East Timor.

The U.N. High Commissioner for Human Rights (UNHCHR) program officer assigned to Jakarta continued his work throughout the year. Representatives of the U.N. Working Group on Arbitrary Detention visited the country in February. Also in February, a World Council of Churches delegation visited the country; some members were able to travel to Irian Jaya. In September members of an international assessment team under the auspices of the Robert F. Kennedy Memorial Center for Human Rights visited the country for preliminary planning for an independent international human rights assessment undertaken in cooperation with the Indonesian National Human Rights Commission. However, when two of its members went to Irian Jaya to investigate the human rights situation in and around the Freeport-MacMoran copper mine in Timika, they were expelled after 2 days (see Sections 2.d. and 5).

The country voted against formation of an International Commission of Inquiry on human rights violations in East Timor in the U.N. Human Rights Commission (UNHRC), arguing that its own Commission for Investigation of Violations of Human Rights after the popular consultation in East Timor (KPP) was sufficient. However, it did offer to cooperate with the International Commission. The Government initially refused to grant visas to two UNHRC rapporteurs to visit Jakarta and West Timor in early November, but later invited them to the country. Following U.N. Economic and Social Council approval of the ICOI on November 16, an ICOI team visited Jakarta and met with the KPP and senior government officials. However, the Indonesian Department of Foreign Affairs refused the ICOI's request to go to West Timor.

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

The Constitution does not forbid explicitly discrimination based on gender, race, disability, language, or social status. However, it stipulates equal rights and obligations for all citizens, both native and naturalized. The 1993 Guidelines of State Policy (legal statutes adopted by the MPR) explicitly states that women have the same rights, obligations, and opportunities as men. However, guidelines adopted in the past 20 years also state that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law dictates that the man is the head of the family. The Constitution grants citizens the right to practice their individual religion and beliefs; however, the Government only recognizes six religions and imposes some restrictions on other religious activity.

In April Indonesia ratified the International Convention on the Elimination of All Forms of Racial Discrimination.

Women.—Violence against women remains poorly documented. However, the Government has acknowledged the problem of domestic violence in society, which has been aggravated by social changes brought about by rapid urbanization. Rape by a husband of a wife is not considered a crime under the law. Although women's groups are trying to change the law, they have not made significant progress.

Cultural norms dictate that problems between husband and wife are private matters, and violence against women in the home rarely is reported. While police could bring assault charges against a husband for beating his wife, due to social attitudes they are unlikely to do so.

Rape is a punishable offense. Men have been arrested and sentenced for rape and attempted rape although reliable statistics are unavailable. The maximum prison sentence for rape is 12 years, but observers say that sentences are usually much shorter. Mob violence against accused rapists frequently is reported. Women's rights activists believe that rape is seriously underreported due to the social stigma attached to the victim.

Some legal experts report that unless a woman goes immediately to the hospital for an examination that produces physical evidence of rape, she can not bring charges. A witness also is required in order to bring charges, and only in rare cases is there a witness, according to legal experts. Some women reportedly fail to report rape to police because the police do not take their allegations seriously.

An August conference of forensic experts recommended that standard procedures be adopted for examining and taking statements from rape victims, in an effort to improve the successful prosecution of rapists.

Like rape, domestic violence is believed to be seriously underreported. Women's rights NGO's estimate that only 15 percent of domestic violence incidents are reported.

In 1998 the Government, in consultation with women's NGO's, established a National Commission on Violence against Women. During the year, the Commission reported a "significant" increase in violence against women as a result of the economic crisis. The Government provides some counseling for abused women, and several private organizations exist to assist women. Many of these organizations focus on reuniting the family rather than on providing protection to the women involved. Many women rely on the extended family system for assistance in cases of domestic violence. The Commission's mandate is to improve and coordinate government and NGO efforts to combat violence against women and to provide assistance to victims.

There are only a few women's crisis centers, including a drop-in center founded in Jakarta by the government-sponsored National Women's Organization (KOWANI) in 1996 and a crisis center for women in Yogyakarta run by an NGO. Women's Partner (Mitra Perempuan), a crisis center for women, which opened in 1997, runs a 24-hour hot line and a temporary shelter for abused women. The hotline receives several calls a day from battered women. The National Commission reports a general increase in the number of female victims of violence seeking assistance from crisis centers, attributing the increase both to a growing awareness of services and to a real increase in the incidence of violence against women.

In March International Women's Day was marked by rallies protesting violence against women in front of the Department of Women's Affairs and in front of the U.N. building in Jakarta. The latter rally ended when 99 participants were arrested as they protested violence against women.

The country is a significant source, transit point, and destination for trafficked women and children for the purpose of forced prostitution and sometimes for forced labor (see Sections 6.c. and 6.f.). It is widely alleged that TNI-backed militias raped numerous women in East Timor and kept many as sex slaves (see Sections 1.c., 2.d., and 6.c.).

Harassment is not a crime under the law, only indecent behavior. However, sexual harassment charges can damage a civil service career. The law reportedly covers physical abuse only, and requires two witnesses. Female job applicants and workers have complained of being victimized sexually by supervisors.

Female domestic servants also are vulnerable to exploitation and abuse. In some cases unscrupulous recruitment agencies have promised women placement as domestic servants overseas and then held them against their will for extended periods as details were worked out. Women working abroad as domestic servants often risk various forms of abuse, exploitation, and other cruel treatment. The Government has taken some steps to assist its citizens working abroad, but advocates charge that much more needs to be done.

According to the Constitution, women are equal to and have the same rights, obligations, and opportunities as men. However, in practice women face some legal dis-

crimination. Marriage law dictates that the man is the head of the family. Marriage law for Muslims, based on Islamic law, allows men to have up to four wives if the husband can provide equally for each of them. Permission of the first wife is required, but reportedly most women cannot refuse. Civil servants who wish to marry a second woman also must have permission from their supervisors. Cabinet officials and military personnel customarily have been forbidden to take second wives. In divorce cases, women often bear a heavier evidentiary burden than men, especially in the Islamic-based family court system. Divorced women rarely receive alimony, and there is no enforcement of alimony payment.

The 1958 Citizenship Law states that children's citizenship is based only on the citizenship of the father. Children of citizen mothers and foreign fathers are considered foreigners and need visas to remain in the country until the age of 18, when they can apply for citizenship. They are prohibited from attending public schools and must attend private, international schools, which are expensive.

Foreign women married to citizens also face difficulties. Their children are citizens and thus are not allowed to attend international schools. These women usually are taxed as a foreign head of household, but they do not have property, business, or inheritance rights. There has been much discussion about problems with the citizenship law, and NGO's and the Government appear to agree that the law needs to be revised. However, by year's end the Government still had not taken any action to remedy these problems.

Although some women enjoy a high degree of economic and social freedom and occupy important positions in both the public and private sectors, the majority does not enjoy such social and economic freedoms and are represented disproportionately at the lower end of the socioeconomic scale. Surveys have shown that while more than one-third of civil servants are women, less than 6 percent are in positions of authority.

A vigorous public debate over the position of women in society emerged during the year due to the strong possibility that Megawati Soekarnoputri would win the presidency. Megawati was selected as the first female Vice President in October (see Section 3).

Female workers in manufacturing generally receive lower wages than men. Many female factory workers are hired as day laborers instead of as full-time permanent employees, and companies are not required to provide benefits, such as maternity leave, to day laborers. Women's rights activists report that there is a growing trend in manufacturing to hire women to do work in their homes for less than the minimum wage. Unemployment rates for women are approximately 50 percent higher than for men. Women often are not given the extra benefits and salary that are their due when they are the head of household, and in many cases do not receive employment benefits for their husband and children, such as medical insurance and income tax deductions. Income disparity between men and women diminishes significantly with greater educational achievement.

Despite laws that provide women with a 3-month maternity leave, the Government has acknowledged that pregnant women often are dismissed or are replaced while on leave. Some companies require women to sign statements that they do not intend to become pregnant. Labor laws mandate 2 days of menstrual leave per month for women, although this leave is not allowed in all cases. Many groups criticized the 1997 Manpower Law for not addressing sexual harassment and violence against women in the workplace and for providing inadequate protection in areas of employment where women regularly have suffered abuse, such as overseas employment and household service. The Manpower Law is currently undergoing extensive revisions.

Women disproportionately suffer from illiteracy, poor health, and inadequate nutrition. The Government is making efforts to reduce the high maternal mortality rate, which is 425 per 100,000 live births, according to official figures, and up to 650, according to estimates from other sources. In March an international NGO estimated that up to 5.5 million women on the island of Java (with a total population of about 100 million persons) suffer from chronic undernourishment. The NGO also estimated that the number of women in Jakarta suffering from Vitamin A deficiency doubled from 1997 to 1998.

During the year, hundreds of thousands of women and children were displaced by violent conflicts in East Timor, Maluku province, West Kalimantan, and Aceh (see Section 2.d.). In addition to those directly victimized by violence, a substantial number of those displaced suffered from nutritional deficiencies and other health problems.

Women's advocacy groups remained assertive throughout the year. Numerous NGO-organized conferences and rallies concerned with women's issues were held throughout the year, as well as some that were organized by academic institutions

and government ministries. Women's groups marked Independence Day on August 17 with a rally that stressed the role of women in nation building and criticized violence against women, particularly in strife-torn regions such as the provinces of East Timor, Maluku, Irian Jaya, and Aceh (see Section 1.c.).

Children.—The Government has expressed a commitment to children's rights and welfare but a lack of resources prevents it from translating this commitment into practice. The Government allocates only 2.2 percent of GNP to education. Spending on education declined significantly in real terms during the year, due to economic contraction. A 1979 law on children's welfare defines the responsibility of the State and parents to nurture and protect children. However, implementing regulations have never been promulgated and the law's provisions on protection of children have yet to go into effect. The Government has made particular efforts to improve primary education and maternity services.

Low cost medical care is available, although access and availability are sometimes sporadic, especially in rural areas. Moreover, government spending on health care has dropped in real terms due to the economic crisis. In some cases, women and even children unable to pay medical bills have been detained by hospitals maintaining their own "debtor's prisons." There have also been reports of hospitals refusing treatment to children suffering from malnutrition, due to a lack of resources.

Research is beginning to document the drastic toll the Asian economic crisis has taken on children. According to a credible local NGO, infant mortality rates have nearly doubled as a result of the crisis, growing from 55 per 1,000 in 1995 to 100 per 1,000 deaths in 1998. (However, during the same period the mortality rate for children under age 5 slightly decreased.) A survey released during the year found that overall use of health care facilities by children dropped significantly after the economic crisis struck in mid-1997.

Throughout the year, the U.N. Children's Fund (UNICEF) continued to warn of a "lost generation" of youth as a result of the economic crisis. UNICEF estimates that 8 million preschool-age children were undernourished, threatening the development of brain function. According to U.N. data, as many as 37 percent of toddlers may be suffering from some form of malnutrition, up from 9.8 percent in 1995. Specifically, researchers have begun to document an increase in children suffering from deficiencies of Vitamin A, iron, and protein. A local NGO estimated that the deaths of up to 180,000 children were related to malnutrition.

On an anecdotal level, the media frequently reported on instances of children dying from malnutrition or those in need of treatment for the condition. Such reports have been most frequent in Java but also have come from Sumatra and other regions. In March newspapers quoted a provincial health official as saying that at least 13,000 infants in East Java were suffering from malnourishment. Also in March, local health officials claimed that at least 3,000 children less than 5 years old were suffering from malnutrition in Jakarta, and over 1,000 in Purwakarta, West Java. In August the Minister of Social Affairs reported at least 27,000 infants suffering from malnutrition in Cirebon, West Java.

A 1994 law raised compulsory education from 6 to 9 years, but the law has not been implemented fully due to inadequate school facilities and the lack of family financial resources to support children to stay in school. Official and unofficial fees for public education, including payments for registration, books, meals, transport, and uniforms have become prohibitively high for many families. According to a 1999 Rand Corporation survey, the percentage of 7 to 12 year olds who have dropped out of school tripled from about 1.0 percent in 1997 to 3.5 percent in 1998. According to ILO statistics, 6 million children between the ages of 7 and 15 dropped out of school since the economy plummeted in 1997.

Schooling for children in areas of conflict was disrupted severely during the year. Hundreds of thousands of Timorese children, and tens of thousands of children in Maluku and West Kalimantan, fled their homes to escape violence (see Section 2.d.), interrupting their education and exposing them to malnutrition, disease, and other hazards. In Aceh at least 150 schools were targeted for arson, leaving tens of thousands of children with no school. The military and armed separatists each blamed the other for the burning campaign. Schooling for Acehnese youth also was disrupted by the internal displacement of villagers as a result of ongoing violence. The number of internally displaced Acehnese peaked at about 150,000 in midsummer (see Section 2.d.).

According to the Department of Manpower, the number of working children increased from approximately 2 million before the economic downturn began in 1997 to an estimated 2.5 million at mid-year. Children's advocates and labor analysts agree that the number of working children has increased significantly due to the downturn, but contend that the number of working children was higher than the Government's current estimate even before the downturn, and has increased signifi-

cantly since 1997. According to recent government statistics, 8 percent of all children between the ages of 10 and 14 work. Half go to school and also work, and half work exclusively. Unofficial estimates of working children are higher. NGO's estimate that more than 10 percent of children worked more than 4 hours per day (see Section 6.d.).

Tens of thousands of street children live in Jakarta. According to the Department of Social Affairs, 20,000 street children lived in the city in 1997. NGO's report that the number may have increased by more than 60 percent as a result of the economic crisis. The number of street children also grew elsewhere. Medan, Bandung, Surabaya, Ujung Pandang, and other cities also have substantial populations of street children. Street children sell newspapers, shine shoes, help to park or watch cars, and otherwise attempt to earn money. Many street children work under hazardous conditions as scavengers and garbage pickers and on fishing platforms and fishing boats. According to credible sources, there are several thousand children working in hazardous conditions on fishing platforms off the east coast of North Sumatra (see Section 6.c.). Many thousands work in factories and fields (see Section 6.d.).

Street children and child laborers in some cities have become organized and interested in protecting their rights. In July impoverished children from slums around Jakarta, with organizational help from NGO's, staged a large rally in Jakarta to mark National Children's Day to publicize their plight and urge the Government and private sector to do more to invest in their future. Similar rallies were staged marking the day in other cities.

A number of local and international NGO's work with street children. NGO's have criticized the Government for making insufficient and inadequate efforts to help street children and working children. The Government is working in cooperation with the U.N. Development Program, UNICEF, the ILO, and with NGO's to create programs for street children and child laborers. One project incorporates many ideas generated by the NGO community, including establishing "open houses" in targeted areas that provide vocational training and basic education to street children. Efforts have been initiated to start open houses for street children in seven provinces.

Another approach to the street children problem utilizes the National Program for Discipline and Clean Cities Decree. Under this program, street children are removed physically from cities by bus. Usually, they are taken outside the city and left there. Sometimes they are taken to "holding houses" where they are first interrogated and later released. NGO's criticize this practice as ineffective and inhumane.

Child prostitution and other sexual abuses occur, but firm data are lacking. While there are laws designed to protect children from indecent activities, prostitution, and incest, the Government has made no special enforcement efforts in these areas. Although reliable nationwide statistics remain elusive, NGO findings indicate a growth trend in child prostitution and sexual exploitation. Instances of families in rural areas of Java and Sumatra being forced by economic circumstances to "sell" their daughters to local men continued to be reported. In June police uncovered a syndicate involved in trafficking young women, many below 18, to work in brothels on islands in Riau province, near Singapore (see Section 6.f.). Many of the women were hired under false pretenses. In July children's advocates warned of an increase in the number of teenage girls working as prostitutes in Surabaya, East Java. The increase, experts claimed, was primarily related to the economic downturn, but also to an increase in demand for young sex workers.

A separate criminal justice system for juveniles does not exist. Ordinary courts handle juvenile crime, and juveniles often are imprisoned with adult offenders. A Juvenile Justice Law was passed by Parliament in 1996 and was signed by President Soeharto in 1997. It defines juveniles as children between the ages of 8 and 18 and establishes a special court system and criminal code for them; however, it has not yet been implemented.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced in some parts of the country. The method varies depending on ethnic, cultural and religious tradition. However, the most prevalent practice is a ceremonial one that involves the pricking, scraping, or touching of the clitoris of a baby or young girl, often with the purpose of drawing several drops of blood. Sometimes, a plant root is used symbolically, and the girl is not touched. A more serious form of FGM involves the removal of the tip of the clitoris. Although reportedly still practiced in Madura, South Sulawesi, and other areas, this type of FGM appears to be declining, and there is disagreement about its prevalence. Since FGM is not regulated, and religious leaders have taken no formal position, the method used is often left up to the local traditional practitioner. FGM usually takes place within the first year after birth, often on the 40th day, though it is done in some areas up to the age of 10. It is performed

either at a hospital or, especially in rural areas, by the local traditional practitioner. There are no statistics available on FGM's prevalence.

People with Disabilities.—During the year the U.N. estimated that 5.43 percent of the population (about 10 million persons) in the country are disabled, while the Department of Social Affairs has estimated that 3 percent of the population (or 6 million persons) are disabled. Precise statistics are not available. Families often hide disabled family members to avoid social stigma or embarrassment. The disabled face considerable discrimination in employment, although some factories have made special efforts to hire disabled workers. Several provinces have established rehabilitation centers for the disabled. Disabled persons reportedly are taken off the streets by the authorities and brought to these centers for job training. Many disabled citizens beg for a living.

NGO's are the primary providers of education for the disabled. There are 1,084 schools for the disabled; 680 are private, and 404 are government schools. Of the government schools, 165 are "integrated," serving both regular and special education students. In Jakarta there are 98 schools for the disabled, 2 of which are government-run, and 96 of which are private. The Government also runs three national schools for the visually, hearing, and mentally disabled. These schools accept children from throughout the country.

A disability law was passed in 1997. The law strives to provide access to education, employment, and assistance for the disabled. It requires companies that employ over 100 persons to give 1 percent of their jobs to the disabled. The law mandates accessibility for the disabled to public facilities. However, virtually no buildings or public transportation have been designed with such accessibility in mind.

The Constitution requires that the Government provide care for orphans and the disabled, but it does not specify how the term "care" should be defined, and the provision of education to all mentally and physically disabled children has never been inferred. Regulations specify that the Government establish and regulate a national curriculum for special education by stipulating that the "community" should provide special education services to its children.

Indigenous People.—The Government considers the term "indigenous people" to be a misnomer, because it considers all Indonesians except ethnic Chinese to be indigenous. Nonetheless, it publicly recognizes the existence of several "isolated communities," and that they have a right to participate fully in political and social life. The Government estimates that the number of persons in isolated communities is 1.5 million. This includes, but is not limited to, groups such as the Dayak population in Kalimantan who live in remote forest areas, indigenous communities throughout Irian Jaya, and economically disadvantaged families living as sea nomads on boats near Riau in east Sumatra and near Ujung Pandang in southern Sulawesi. Critics maintain that the Government's approach is basically paternalistic and designed more to integrate indigenous people into society than to protect their traditional way of life. Human rights monitors criticize the Government's transmigration program for violating the rights of indigenous people (see Section 1.f.).

In March representatives of indigenous communities held the first Indonesian Indigenous People's Congress (KMAN) to share experiences, criticize abuses, and share strategies. The Congress, sponsored by a consortium of domestic and international NGO's, drew more than 200 participants. In a declaration at the end of the Congress, delegates called on the Government to respect indigenous groups' values and customs.

Following the meeting, the National Human Rights Commission convened a meeting of key Congress participants and senior government officials. The new law on human rights also provides for protection of customary and indigenous rights.

Sixty percent of the population of over 200 million persons lives in Java, which represents only 7 percent of the country's territory. The Government-sponsored transmigration program seeks to resettle persons from densely populated areas to sparsely populated areas outside Java. The majority of migrants are spontaneous migrants who are not part of the official program.

Critics of transmigration claim that it often threatens indigenous cultures and sparks social envy. Some critics claim that it has been used as a political tool to inject nonindigenous persons into certain areas to "Indonesianize" these areas, in part to preclude secessionist movements. A senior government official has confirmed this. In some areas, such as in certain parts of Kalimantan, East Timor, and Irian Jaya, relations between transmigrants and indigenous people are hostile. NGO's also report tensions between transmigrated Javanese and indigenous populations in the Mentawai Islands off the west coast of Sumatra. Indigenous groups often complain that they receive less government support and funding than transmigrants, and transmigrants complain that in some cases they are moved to areas with inad-

equate infrastructure to support them and less than desirable land. Transmigrants also may be settled on land of disputed ownership.

Acute tensions in West Kalimantan between the indigenous Dayak people and settlers from Madura, an island off the eastern coast of Java, escalated into violence that left hundreds dead in the spring. The violence was the culmination of over 30 years of conflict between the two communities, growing partly out of the Dayaks' perception that they were being marginalized in their native lands. The Madurese community in West Kalimantan grew around an earlier core of transmigrants, although the majority of Madurese in the area are spontaneous immigrants. Dayak-Madurese violence in the Sambas region north of Pontianak prompted tens of thousands of Madurese to flee for their lives. By early summer, more than 30,000 Madurese were encamped in squalid conditions in Pontianak, with apparently little hope of returning to their homes in Sambas. Thousands of Madurese displaced from Sambas remained in limbo at year's end. Thousands more returned to an uncertain future in Madura.

The Government's emphasis on relatively rapid growth and development strategies, burgeoning urbanization, and aggressive government-backed commercial exploitation of natural resources results in continued tension over land tenure issues. That tension often is expressed along racial/ethnic lines as developers are frequently ethnic Chinese Indonesians. Land disputes represent the largest category of complaints submitted to the National Human Rights Commission and a significant portion of the cases brought to legal aid foundations and other legal assistance organizations.

According to a law derived from colonial-era practices, all subsurface mineral resources belong to the Government. The Basic Agrarian Law states that land rights cannot be "in conflict with national and state interests," which provides the Government with a broad legal basis for land seizures. When disputes cannot be settled the Government has the authority to define fair compensation for land. There are numerous instances of the use of intimidation, sometimes by the military, and often by hired "thugs," to acquire land for development projects, particularly in areas claimed by indigenous people.

Such intimidation has been used in Jakarta, other parts of Java, North Sumatra, Aceh, and other areas. Compensation paid for the land is often minimal or even nonexistent. According to credible sources in West Sumatra, large tracts of land in the province have been confiscated over the past several years by commercial plantation developers who paid bribes to the local governor. In some cases, NGO's report, farmers were evicted from the land without compensation to make way for new palm oil plantations staffed by Javanese transmigrants. Competition for land and resources remains acute in Sumatra.

NGO's assert that violations of the rights of indigenous people are frequent in mining and logging areas and that violations stem from the State's denial of ownership by indigenous people of ancestral land, erosion of indigenous groups' traditional social structure, and forced takeover of land. These problems are most prevalent in Irian Jaya and Kalimantan.

In Central Kalimantan, NGO's report that local residents have suffered as a result of projects to convert peat land into agricultural land for rice cultivation. Vast tracts of land have been designated as transmigration areas. Tens of thousands of indigenous people have been forced to cease their traditional farming and forest-based livelihoods. Many become poorly paid laborers on new agricultural projects.

Bonded labor has become a problem for some Dayaks in East Kalimantan (see Section 6.c.). According to the ILO, on at least one project, a logging company established a company store in a remote area, where workers had to purchase necessities at inflated prices. Since the workers could not afford the prices, they bought the goods using vouchers representing future wages, thereby, according to the ILO, "turning once independent and relatively well-off farmers into impoverished bonded laborers trapped in an ever-mounting cycle of debt."

Where indigenous people clash with private sector development projects, the developers almost always win. Decisions regarding development projects, resource-use concessions, and other economic activities generally are carried out without the participation or informed consent of the affected communities. Some NGO's that sought to aid these communities were subjected to verbal attacks, raids, and other forms of intimidation by government security forces.

Tensions with indigenous people in Irian Jaya continued. Indigenous Irian Jaya residents complain of racism, religious bias, paternalism, and condescension as constant impediments to better relations with non-Irianese people, including members of the Government, the military, and the non-Irianese business community. A large percentage of the population of Irian Jaya consists of migrants, who are economically and politically dominant. Most civil servants in local governments in Irian

Jaya and other isolated areas continue to come primarily from other parts of Indonesia, rather than from the local indigenous population. Interethnic tensions flared in Manokwari in late September, when indigenous residents objected to the arrival of a boat carrying persons from East Timor and clashed with police at the harbor. The clash caused a crowd to go on a rampage through the town, during which police shot and killed one person, wounded three others, and arrested four. An argument between an indigenous resident in Timika and a shopkeeper from South Sulawesi led to rioting on September 30 and October 1 in which five persons died and eight persons were injured.

Government policy toward Irian Jaya varied between dialog and unilateral measures that evoked opposition from residents of the province. On February 26, President Habibie met with 100 Irianese leaders as part of a "National Dialogue on Irian Jaya" based on terms of reference negotiated by Irianese and government representatives. The Irianese leaders gave the President a statement that the populace of West Papua (Irian Jaya) wished to separate from the Republic of Indonesia. President Habibie asked them to reflect further on their demands. The terms of reference for the national dialog provided for followup workshops on specific aspects of the dialog, but the workshops were not held as scheduled. In late July, 34 of the leaders who met with President Habibie signed a statement of "reflections" responding to the President's request in which they reiterated their desire for independence. In September the Parliament passed a package of laws that divided Irian Jaya into three provinces. When governors were sworn in for the two new provinces, there were very large demonstrations in Jayapura, Biak, Nabire, and Merauke to protest the division. After crowds occupied the governor's office and the provincial legislature, the governor and chairman of the legislature made public statements saying that they agreed with the public's rejection of the division. When Abdurrahman Wahid became President in late October, he put Vice President Megawati Sukarnoputri in charge of resolving issues related to Irian Jaya along with several other provinces. In late November, the Government announced that it would postpone division of Irian Jaya and would engage in dialog with the province on options for special autonomy. President Wahid went on a 2-day visit, beginning December 31, to the provincial capital, Jayapura, and to Merauke; during his visit Wahid announced that the name of the province would be changed to Papua.

Irianese proindependence demonstrations and protests against government policies occasionally met with harsh responses from the security forces, who shot and killed four persons in separate incidents during the year, and wounded several others (see Sections 1.a. and 1.c.). However, at other times security forces allowed large demonstrations to proceed peacefully, including demonstrations in Jayapura in February and August against past human rights violations, large gatherings in several cities to protest the division of Irian Jaya into three provinces, and peaceful demonstrations around Irian Jaya on December 1 in which persons raised Papuan independence flags (see Section 1.b.). In April the regional police commander from Irian Jaya issued an order banning activity to publicize (through town meetings) the results of the meeting between 100 Irianese leaders and President Habibie. The order also banned the formation of a "West Papua National Youth Committee" or any similar organization, and the establishment of "command posts affiliated with separatist movements." In May police briefly detained and fined 74 persons in Fak Fak for alleged proindependence activity. Police questioned persons in Merauke (in March) and Kaimana (in September) for alleged proindependence activity. Police charged five persons in connection with the raising of an independent Papua flag in Jayapura on July 1. In August there were press reports that, based on a request from the armed forces commander, the Government banned travel outside of the country by five prominent Irianese (Thom Beanal, Reverend Benny Giay, Reverend Herman Awom, Octovianus Mote, and Willem Mandowen) (see Section 2.d.). The Government never officially confirmed the ban. In December police shot and wounded more than 50 demonstrators maintaining a vigil around an independence flag when they refused an order to disperse. One person died later the same day as a result of injuries sustained in the melee caused by the police action.

The Free Papua Organization (OPM) abducted persons in May and July, killing four persons in May (see Sections 1.a. and 1.b.).

In early August, KOMNASHAM sent a team to Irian Jaya to conduct a followup investigation of the July 1998 killings when security forces broke up a proindependence demonstration in Biak (see Section 1.a.). On August 25, the Commission issued a statement calling on the Government to create an independent commission to investigate human rights abuses in Irian Jaya, to abandon plans to proceed with the division of Irian Jaya into three provinces, to cancel the travel ban on five Irianese leaders, and to involve the Irianese in correcting policies they consider detrimental.

A large foreign mining concession area near Timika continued to draw attention and controversy. In February the Government approved the company's request to increase production of ore to 300,000 tons per day, and the company announced that it would double the royalties that it pays on copper and gold produced in excess of 200,000 tons per day. In mid-September, two members of an international human rights assessment team came to Jakarta for a preliminary planning mission to prepare for an assessment of conditions in the area of the mine. They held meetings with KOMNASHAM and company representatives, then went to Irian Jaya with the intention of meeting with Indonesian team members in Jayapura and Timika. Once they arrived in Jayapura they were questioned by the police and ultimately placed on a plane back to Jayapura under police escort with a deportation order from the regional chief of police (see Section 4). After returning to Jakarta, members of the team met with KOMNASHAM and company management to resolve misunderstandings and prevent recurrence of the problems that occurred in Jayapura. It was agreed that national members of the assessment team would continue preparations for a subsequent visit by the entire assessment team.

Religious Minorities.—During the year, there were instances of attacks on churches, temples, and other religious facilities, ranging in nature from minor vandalism to arson. There also were instances of preaching and publications against Christians, which led to concerns that societal support for religious tolerance was under pressure. Christian groups recorded 116 instances of attacks in which churches and other Christian facilities were closed, damaged, or burned during the year. The attacks ranged in severity from broken windowpanes to total destruction. The Government did not resolve fully many cases of attacks on religious facilities and churches that occurred during riots and, in other cases, did not investigate such incidents at all (see Section 2.c.).

Attacks on churches clearly reflect religious tensions, but other contributing factors are underlying socioeconomic and political tensions between poor Muslims and relatively more affluent ethnic Chinese Christians.

Some of the worst interreligious violence erupted in Maluku province in January and continued well into the year, spreading to neighboring islands (notably the Kai island chain). The fighting had both religious and ethnic overtones but principally involved Muslims—both Muslims from the neighboring island of Sulawesi and Ambonese Muslims on one side—and Christians, mostly Protestants, on the other. More than 300 persons died and tens of thousands were displaced by the fighting in the early part of the year (see Section 2.d.). Clashes began in the provincial capital of Ambon in January, then spread to other islands in the Maluku province. According to some Ambonese, the traditionally good relations between Christians and Muslims were strained due to the arrival of less integrated Muslim newcomers from other parts of the country, who threatened to upset the ethnic balance of the province. Economic competition between the two communities also appeared to play a role in the violence. Extensive damage resulted in Ambon, where houses, shops, and places of worship were burned and violent mobs fought, some armed with spears or machetes.

Throughout the year, citizens were attacked, and in hundreds of cases killed, because of their religious identity in Ambon, Tual, and other parts of Maluku province in the eastern part of the country. According to Christian groups, at least 79 churches were attacked in Maluku during the year. Dozens of mosques also were targeted. As in other instances of interreligious violence, economic tensions between native Christians and Muslims who migrated to Maluku in recent decades were a significant factor. Christian and Muslim communities in Maluku blamed each other for initiating and perpetuating the violence. Exhaustive mediation efforts, including an initiative launched by the military in April, failed to secure a durable peace. Moreover, predominantly Muslim units dispatched from Sulawesi were accused of siding with Muslim vigilantes and using excessive force against Christians. Muslims on Ambon charged that the predominantly Christian police force also was acting with bias.

Muslims are a religious minority in the easternmost province of Irian Jaya. Christian-Muslim tensions in Irian Jaya remain acute. Local sentiment against the efforts of Muslim missionaries to win converts in the predominantly Christian province, as well as resentment of the arrival in the province of mainly Muslim migrants from other parts of the country, has in the past led to attacks on mosques in Irian Jaya. However, there were no reports of attacks on mosques in Irian Jaya during the year.

On April 19, a small bomb exploded in the Mesjid Istiqlal, the country's largest mosque, injuring six persons. An arson attack against a Catholic community center in Ujung Pandang, South Sulawesi early on April 20 reportedly was intended as retaliation for the mosque bombing.

Beginning in January, a series of killings occurred in Ciamis, West Java. While some of the victims were alleged to practice traditional magic, there does not appear to have been a clear connection to that religious tradition as was the case in East Java, where such "black magic" figures were hunted down and killed. In Banyuwangi, East Java, killings of religious mystics by unknown elements, which began in mid-1998, subsequently expanded to include Islamic figures and spread to neighboring districts. Scores of murders occurred. The motives and identities of those behind the killings remain obscure. Associates of the victims criticized the lack of police or military response and said that the attacks were politically motivated.

During the early part of the year in West Kalimantan, fighting broke out between the indigenous population—Dayaks (mostly Christian or animist) and Malayu (mostly Muslim)—who clashed with Madurese migrants (Muslims). Again, ethnic differences and tensions between indigenous people and newcomers appeared to be the source of the conflict, rather than religious differences.

National/Racial/Ethnic Minorities.—The Government officially promotes racial and ethnic tolerance. Ethnic Chinese, at approximately 3 percent of the population—by far the largest nonindigenous minority group—historically have played a major role in the economy. In 1998 anti-Chinese sentiment led to serious and widespread attacks on Chinese-owned businesses. During the year, the Government failed to followup on the recommendations of an officially sanctioned factfinding team commissioned to investigate the civil unrest that struck Jakarta and other cities in May 1998 (see Sections 1.a., 1.c., and 4). The team's report, issued in November 1998, found evidence that some elements of the military may have been involved in provoking the violence, which included attacks against Sino-Indonesian women, and urged further investigation of the matter. At least 85 instances of violence against women, including 66 rapes during the 1998 riots were verified. The majority of the victims were ethnic Chinese.

Racially motivated attacks against ethnic Chinese citizens dropped sharply during the year, although Sino-Indonesians continued to report instances of discrimination.

Since 1959 noncitizen ethnic Chinese have been denied the right to run businesses in rural areas. Regulations prohibit the operation of Chinese schools, formation of exclusively Chinese cultural groups or trade associations, and public display of Chinese characters, although Chinese characters are seen on some products. The Government permits the publication of a government-owned, Chinese-language daily newspaper, but otherwise legislation bans the import, sale or distribution of Chinese-language material (see Sections 1.f. and 2.a.). However, Chinese-language materials have begun to appear with greater frequency in Chinese neighborhoods in Jakarta and other cities. Since 1994 the Government has allowed Chinese-language instruction for employees in the tourism industry, and has allowed distribution of locally printed Chinese-language tourist brochures, programs, and similar material to Chinese speaking tourists.

Private instruction in Chinese generally is prohibited but takes place to a limited extent. The University of Indonesia offers Chinese-language courses. State universities have informal quotas that limit the number of ethnic Chinese students. The law forbids the celebration of the Chinese New Year in temples or public places, but enforcement is limited. Chinese New Year decorations were displayed prominently and sold in public shopping areas in at least a few cities. Senior officials previously had shown reluctance to relax the ban on Chinese-language publications, citing concerns that such an action could promote interracial tensions.

Indigenous residents of Irian Jaya and various human rights groups charge that the Irianese are underrepresented in the civil service in that province. The Government has made some efforts to recruit more civil servants in Irian Jaya, and there has been some increase in the number of civil servant trainees for this province, despite a "no growth" policy for the civil service as a whole.

During the pre-consultation period in East Timor, some prointegration militia groups asserted that persons of mixed Timorese-Portuguese blood (which include prominent proindependence leaders like Mario Carrascalao), should be expelled from East Timor (see Sections 1.a., 1.b., 1.c., 1.d., 2.d., and 3).

Section 6. Worker Rights

a. *The Right of Association.*—Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect their representatives. In June 1998, the Government issued a new regulation on the registration of workers' organizations. The 1998 regulation eliminated numerical and other requirements that previously were a barrier to union registration. It provided for registration of unions at the factory, district, provincial, and national level and allowed unions to form federations and

confederations. The regulation prohibited unions based on political orientation, religion, gender, or ethnic groups. The Department of Manpower issued a new registration regulation in September that eliminates this prohibition but requires that unions be open to all persons without reference to political orientation, religion, ethnicity, or gender. Under these registration regulation, at least 20 new or previously unrecognized unions have notified the Department of Manpower of their existence since 1998, and thousands of workplace-level units have registered with the Department of Manpower, although some unions have complained of difficulty in registering their workplace units.

The Federation of All-Indonesian Trade Unions (SPSI), which was formed by the fusion (under the Government's direction) of existing labor organizations in 1973, is the oldest trade union organization. The head of the SPSI and many members of the executive council also are members of the Golkar political organization and its constituent functional groups. In August 1998, the SPSI leadership split over the issue of reforming the Federation's structure. Following the split, the Department of Manpower stated that it would no longer intervene in organizational disputes within trade unions or provide guidance to any unions.

Under the Law on Manpower Affairs enacted in October 1997, workers may form unions on the basis of "democratic consultation" with other workers in the same company and may join with other unions to form sectoral and intersectoral federations. The law was scheduled to take effect on October 1, but in October 1998 Parliament amended it to postpone implementation until October 1, 2000 to allow time for revision, consultation with concerned groups, and preparation of implementing regulations.

Although, as with other mass organizations, the Government may dissolve a union if it believes that the union is acting against Pancasila, it has never done so and there are no laws or regulations specifying procedures for union dissolution.

The Minister of Home Affairs announced during the early part of the year that civil servants no longer would be required to belong to KORPRI, a nonunion association. Employees of several government departments announced that they would form their own employee associations, and union organizations began to seek members among civil servants. Unions also are seeking to organize state-owned enterprise (SOE) employees, defined to include those working in enterprises in which the State has a 5-percent holding or greater, although they have encountered some resistance from enterprise management and the legal basis for registering unions in SOE's remains unclear. Teachers must belong to the Teachers' Association (PGRI). While technically classified as a union, the PGRI continues to function more as a welfare organization and does not appear to have engaged in trade union activities such as collective bargaining. Mandatory PGRI contributions are deducted automatically from teachers' salaries.

The Government announced late in 1995 its intention to relax a regulation requiring police approval for all meetings of five or more persons of all organizations outside offices or normal work sites. However, in practice this regulation continues to apply to union meetings. Permission routinely was given to the faction of the SPSI that retains strong links to the Golkar party leadership, but other labor organizations claim that local civilian and security officials on a number of occasions have discouraged or denied permission to their gatherings.

In 1994 the International Confederation of Free Trade Unions lodged a formal complaint against the country with the ILO, accusing the Government of denying workers the right to set up unions of their own choosing, harassing independent workers' organizations, and of taking other actions contrary to ILO standards on freedom of association and the right to collective bargaining. In June the ILO Committee on Freedom of Association noted that a series of measures taken by the authorities over the past year had constitute "significant progress" with regard to freedom of association.

While Pancasila principles call for labor-management differences to be settled by consensus, all organized workers except civil servants have the legal right to strike. State enterprise employees and teachers rarely exercise this right, but private sector strikes are frequent. Before a strike legally can occur in the private sector, the law requires intensive mediation by the Department of Manpower and prior notice of the intent to strike. However, no approval is required. In practice, dispute settlement procedures rarely are followed, and formal notice of the intent to strike rarely is given because Department of Manpower procedures are slow and have little credibility with workers. Therefore, sudden strikes tend to result from longstanding grievances, attempts by employers to prevent the formation of union branches, or denial of legally mandated benefits or rights. The Government has stated that it would address strike procedures and industrial dispute resolution in revising the 1997 Law on Manpower Affairs and in new legislation on dispute resolution.

On January 5, as part of a rash of strikes and demonstrations in Surabaya against soaring inflation, approximately 4,000 utility workers blocked a major artery for 4.5 hours before dispersing. The largest strike involved an estimated 25,000 workers during a 2-week strike in February at a Surabaya manufacturing company over allowances for food, transportation, and attendance. According to press reports, security forces used tear gas, water canon, and rubber bullets after strikers threw stones at factory offices and nearby buildings. The strike was settled after company management agreed to an increase in allowances. In March security forces fired rubber bullets at striking workers at a plywood factory in Central Java after workers threw stones at company buildings, according to press reports. Eight workers were hospitalized with gunshot wounds. On May 25, an estimated 2,000 striking workers from a factory in the Tangerang industrial suburb of Jakarta blocked the main toll road west of Jakarta for several hours. The workers sought to dramatize their demands for an increase in pay and allowances and an end to sexual harassment of female workers. In July up to 9,000 contract employees at a Caltex oil well complex in Sumatra went on strike over having been kept on permanent contract status. Police broke up their strike by shooting rubber bullets. Strikers stoned company offices and damaged structures. The strike was settled in August. A similar strike at an oil facility in East Kalimantan in October was resolved peacefully.

For the first time in 3 years, the approach of the December Idul Fitri holiday, when required annual bonuses are paid (or sometimes not paid) caused a wave of strikes in the Jakarta area. Company and union representatives attribute the return of this "strike season" to the proliferation of unions, more confrontational and coordinated tactics by worker representatives, and a slightly improved economic climate that affords workers in some industries a measure of job security. A further complicating factor is the lack of clear rules for handling jurisdictional disputes among unions. Some of the strikes turned violent, resulting in property damage.

According to Human Rights Watch, on February 8 police arrested Endang Suparmono in Palembang, South Sumatra. Endang helped organize shrimp farmers from the village of Bumi Pratama Mandira in Ogan Komering Ilir, South Sumatra.

Dita Indah Sari, head of the center for the struggle of Indonesian Workers (PPBI), Labor Wing of the People's Democratic Party (PRD), was released from the Tangerang Women's Prison in July. Dita initially was jailed in June 1996. In 1997 Dita was charged with subversion and given a 5-year sentence. The anti-Subversion law under which she was convicted was repealed in April (see Section 1.e.).

The SPSI maintains international contacts but its only international trade union affiliation as a federation is with the Association of Southeast Asian Nations Trade Union Council. Some of the SPSI's federated sectoral unions are members of international trade secretariats. The independent Indonesian Prosperity Trade Union (SBSI) is affiliated with the World Confederation of Labor and some international trade union secretariats.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is provided for by law, and the Department of Manpower promotes it within the context of the national ideology, Pancasila. Until 1994 only recognized trade unions—the SPSI and its components—could engage legally in collective bargaining. By issuing new regulations on union registration in 1998 and September, the Government made it possible for new workers' organizations that register with the Government to conclude legally binding agreements with employers. Under the union registration regulation signed in September, if there is more than one union represented in a company, a union or coalition of unions must have the support of a majority of workers in order to bargain or negotiate on their behalf.

In companies without unions, the Government discourages workers from utilizing nongovernment outside assistance, e.g., during consultations with employers over company regulations. Instead, the Department of Manpower prefers that workers seek its assistance and believes that its role is to protect workers. However, there are credible reports that for many companies, consultations are perfunctory at best and usually only occur with management-selected workers; there also are credible reports to the contrary from foreign companies. According to government statistics, approximately 80 percent of the factory-level SPSI units have collective bargaining agreements. The degree to which these agreements are negotiated freely between unions and management without government interference varies. By regulation negotiations must be concluded within 30 days or be submitted to the Department of Manpower for mediation and conciliation or arbitration. Most negotiations are concluded within the 30-day period. Agreements are for 2 years and can be extended for 1 year.

According to NGO's involved in labor issues, in current practice the provisions of collective bargaining agreements rarely go beyond the legal minimum standards established by the Government, and the agreements often merely are presented to

worker representatives for signing rather than being negotiated. Although government regulations prohibit employers from discriminating against or harassing employees because of union membership, there are credible reports from union officials of employer retribution against union organizers, including firing, which is not prevented effectively or remedied in practice. Some employers reportedly have warned their employees against contact with union organizers. The SBSI documented 30 cases during the year in which companies violated their workers' right to organize by intimidating, punishing, or firing SBSI members because of their affiliation with the union or because they sought to organize SBSI units within their factories—a problem other labor organizations and activists have encountered in trying to form unions.

Regional and national labor dispute resolution committees adjudicate charges of antiunion discrimination, and their decisions can be appealed to the State Administrative Court. In September 1997, the State Administrative Court reversed a National Labor Dispute Resolution Board ruling that ordered the Hong Kong Bank to reinstate 166 union members who went on strike, despite government regulations making it illegal to fire workers solely for striking or other union activity. Decisions such as this lead many union members to believe that the dispute resolution committees generally side with employers. As a result, workers frequently present their grievances directly to the National Human Rights Commission, Parliament, and NGO's. Administrative decisions in favor of dismissed workers tend to be monetary awards; workers rarely are reinstated. The law requires that employers obtain the approval of the Labor Dispute Resolution Committee before firing workers, but the law often is ignored in practice.

Commenting on antiunion discrimination and restrictions on the right to organize and bargain collectively, the ILO's Committee of Experts on the Application of Conventions and Recommendations in June 1998 expressed the hope that the Government would take the necessary measures in the very near future to bring its legislation, including the 1997 Manpower Law, into conformity with ILO Convention 98 on the right to organize and bargain collectively.

In 1996 the Minister of Manpower issued a new regulation permitting unions affiliated with the SPSI to collect union dues directly through the checkoff system, rather than having the Department of Manpower collect dues and transfer them to the SPSI. Implementation of this system remains uneven, but labor observers generally believe that it has given more power to factory-level union units where the checkoff system is practiced. Union officials at SPSI headquarters stated that not all local branches of the unions send a portion of dues collected to regional and central headquarters as provided in the SPSI's bylaws.

A 1990 decree giving the BAKORSTANAS authority to intervene in strikes in the interest of political and social stability remains in effect. The police, as well as the military, continue to be involved in labor matters, although since the mid-1990's there has been a shift from open intervention and demonstrations of force by uniformed troops to less visible measures. On several occasions security forces fired on striking workers when strikes or workers' demonstrations became unruly (see Section 6.a.). In March according to NGO sources, police arrested 17 workers and SBSI union representatives for planning a strike at a tire factory in Tangerang, and beat an SBSI official during interrogation. At year's end, two SBSI officials were on trial for "inciting" workers at the factory. The SBSI documented eight other cases of police or military interference in labor matters during the year; three SBSI activists involved in these cases were under police detention at year's end (see Section 1.e.). In April police in Surabaya detained three members of the SPSI-Reformasi-affiliated Textile, Garment, and Footwear Workers Union for more than a week after a series of strikes at a textile factory. However, the most common form of military involvement in labor matters, according to union and NGO representatives, is a longstanding pattern of collusion between police and military personnel and employers, which usually takes the form of intimidation of workers by security personnel in civilian dress. The military also employs baiting tactics: infiltrating workers' ranks and encouraging protest or worker actions, sometimes attempting to provoke a violent worker action, to which the military then forcefully responds. Employer and union representatives also have complained about the "invisible costs" of corruption, which they and others estimate constitute up to 30 percent of a company's expenses.

Labor law applies in export processing zones (EPZ's) as in the rest of the country, although nongovernmental observers believe that in practice enforcement of laws in EPZ's is weaker. There are seven EPZ's in the country. Batam Island, near Singapore, is the largest.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor, including forced and bonded labor by children, and the Government generally enforces it; however, forced and bonded labor by children remains a problem, and there also

were instances of debt bondage of adults. There are credible reports that several thousand children are forced to work on fishing platforms ("jermals") off the east coast of North Sumatra in conditions of bonded labor (see Sections 6.d. and 6.f.). Most are recruited from farming communities, and once they arrive at the work site, miles offshore, they are held as virtual prisoners and are not permitted to leave for at least 3 months or until a replacement worker can be found. The children receive average monthly wages of $17 to $32 (119,000 to 224,000 Rp), well below the regional minimum wage. They live in isolation on the sea, work 12 to 20 hours per day in often dangerous conditions, and sleep in the workspace with no access to sanitary facilities. There are reports of physical, verbal, and sexual abuse of such children. In November 1997, the Department of Manpower issued a circular letter having the force of law that prohibits the hiring of persons under the age of 14 on fishing platforms. In April the Government ratified ILO Convention 105 on Forced Labor. The Government stopped issuing permits to build new jermals, and announced plans to physically remove children from the jermals and provide them with educational and economic alternatives (see Sections 6.d. and 6.f.). Jermals operate under the paid protection of national naval vessels; reportedly, the navy has a financial interest in some jermals. The program yielded modest success by year's end.

In East Kalimantan a logging company reportedly traps Dayak laborers in a cycle of debt and turns them into bonded laborers (see Section 5).

The TNI-supported militias (the Aitarak) in East Timor kept women as sex slaves in their Dili headquarters (see Sections 1.c., 2.d., 5, and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Labor law prohibits children under the age of 15 from working more than 4 hours per day; however, government enforcement of child labor laws is weak or nonexistent. With one exception, there were no domestic efforts of significance to strengthen enforcement during the year. Up to 2.5 million children meet or exceed this daily limit, especially in the informal sector.

Indonesia signed a memorandum of understanding with the ILO in 1992 to guide collaboration under the ILO's International Program on the Elimination of Child Labor (IPEC). The Government and the ILO signed another memorandum of understanding on child labor in March 1997, committing both parties to "promote conditions to enable the Government to protect working children and progressively prohibit, restrict and regulate child labor with a view to its ultimate elimination." In April the Government ratified ILO Convention 111 on discrimination, and Convention 138, which established a minimum working age of 15. Ratification of Convention 138 was a major step forward in that it formalized the Government's commitment to the principle of restricting child labor; however, the impact of ratification was not felt by year's end, as most children continued to work in unregulated environments. Although the ILO has sponsored training of labor inspectors on child labor matters under the IPEC program, enforcement remains lax.

The Government acknowledges that there is a class of children who must work for socioeconomic reasons, and in 1987 the Minister of Manpower issued a regulation on "Protection of Children Forced To Work." This regulation legalized the employment of children under the age of 14 who must work to contribute to the income of their families. It required parental consent, prohibits dangerous or difficult work, limits work to 4 hours daily, and requires employers to report the number of children working under its provisions. It did not set a minimum age for children in this category, effectively superseding the colonial-era government ordinance of 1925 on "Measures Limiting Child Labor and Nightwork of Women." Both regulations presumably were superseded by the ratification of ILO Convention 138.

The Government prohibits forced and bonded labor by children, but does not enforce this prohibition effectively (see Section 6.c.).

The 1997 Manpower Law prohibited employers from hiring children under the age of 15; however, employers may hire children who are forced for economic reasons to work. The Manpower Law currently is undergoing revisions. The 1997 law stated that adolescents (ages 15 to 17) cannot work during certain hours of the night, below ground, in mines, or in jobs that would have an adverse effect on morality, such as in entertainment facilities. Employers, especially in the informal sector have long flouted labor law as it pertains to children. This practice has increased since the economic crisis struck in 1997.

According to government labor force data, most working children work in the agricultural sector, although the number of working children in urban areas has risen significantly with urbanization. A prominent NGO estimated in 1998 that 1.92 million children worked more than 4 hours per day. Of this number, 1.67 million worked in rural areas and 249,000 worked in urban areas. According to the NGO's estimates, boy workers outnumbered girl workers in the rural areas: 1.01 million

boys worked and 662,000 girls worked. By contrast, girls outnumbered boys in the urban areas: 119,402 boys worked and 130,000 girls worked.

More child laborers work in the informal sector than the formal sector. Where children work in the formal sector, such work tends to occur on the border line between the informal and formal economies, such as alongside their parents in home enterprises and on plantations, and in family-owned shops and small factories, particularly those that are satellites of large industries. There are children working in large factories, although the number is unknown, especially since documents verifying age are falsified easily. In the informal sector, children sell newspapers, shine shoes, help to park or watch cars, and otherwise earn money. Many children work in hazardous conditions as scavengers and garbage pickers, and on fishing platforms and fishing boats.

In February after years of negative publicity, the Government launched an initiative to eliminate child labor on fishing platforms off the coast of North Sumatra (see Sections 6.c. and 6.f.). In the past, NGO's had estimated that up to 3,000 children worked on the isolated platforms, known as "jermals" under inhumane and dangerous conditions. Children working on jermals performed exhausting and dangerous work for low pay. They are isolated from families and peers, and may be subject to physical and sexual abuse. As part of the initiative launched in February, the Government stopped issuing permits to build new jermals, and announced plans to remove physically children from the jermals and provide the children with educational and economic alternatives. Toward year's end, the program had yielded some modest success. NGO's reported that at least 150 children had been removed from jermals, but the program lacked funding to provide all of the children with sustainable alternatives on shore; thousands more still work on the jermals, and the active kidnaping/recruiting still is continuing, i.e., the system remains in place and is functioning.

Many domestic workers are female children under the age of 15. Although accurate figures are unavailable, estimates put the number of child domestic workers at up to 1.5 million. Observers agree that this number increased in 1998 as a result of the economic crisis. A survey done in 1995 revealed that these children work long hours, receive low pay, generally are unaware of their rights, and often are far from their families.

A 1994 law raised compulsory education from 6 to 9 years, but the law has not been implemented fully due to inadequate school facilities and lack of family financial resources to support children staying in school. One prominent NGO reported that 8 million children had dropped out of primary school after the economic crisis began in 1997. Some employers hire children because they are easier than adults to manage and tend not to organize or make demands on employers. Children working in factories usually work the same number of hours as adults. Children work in the rattan and wood furniture industries, the garment industry, the footwear industry, food processing, toy making, and small mining operations, among others.

e. *Acceptable Conditions of Work.*—There is no national minimum wage. Rather, area wage councils working under the supervision of the National Wage Council establish minimum wages for regions and basic needs figures for each province—a monetary amount considered sufficient to enable a single worker to meet the basic needs of nutrition, clothing, and shelter. The Government increased the average minimum wage 70 percent (when adjusted for inflation) between 1992 and 1997. However, the high inflation rate in 1998 depressed sharply the purchasing power of the minimum wage, and it is not sufficient to meet the government-determined "minimum living need" for a single person, much less a family. After the latest minimum wage increases in April, which averaged 16 percent nationwide, the average minimum wage was equal to 70 percent of the government-determined "minimum living need" for a single person, down from 95 percent in 1997. In Jakarta the monthly minimum wage is about $33 (231,000 Rp). There are no reliable statistics on the number of employers paying at least the minimum wage. Independent observers' estimates range between 30 and 60 percent. Enforcement of minimum wage and other labor regulations remains inadequate, and sanctions are light, although the new Manpower Law increased penalties for not paying the minimum wage from about $14 (100,000 Rp) to $28,600 (200,000,000 Rp). According to government figures, 38 companies applied for relief from the minimum wage increases on the ground that they would otherwise close. The Department of Manpower granted 2 of the applications and denied the other 36 requests.

Labor law and ministerial regulations provide workers with a variety of other benefits, such as social security, and workers in more modern facilities often receive health benefits, free meals, and transportation. The law establishes 7- or 8-hour workdays and a 40-hour workweek, with one 30-minute rest period for each 4 hours of work.

The law also requires 1 day of rest weekly. The daily overtime rate is 1.5 times the normal hourly rate for the first hour, and 2 times the hourly rate for additional overtime. Regulations allow employers to deviate from the normal work hours upon request to the Minister of Manpower and with the agreement of the employee. Workers in industries that produce retail goods for export frequently work overtime to fulfill contract quotas. Observance of laws regulating benefits and labor standards varies from sector to sector and by region. Employer violations of legal requirements are fairly common and often result in strikes and employee protests. The Department of Manpower continues publicly to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards are weak.

Both law and regulations provide for minimum standards of industrial health and safety. In January 1997, the Government announced a new occupational safety and health management system under which companies with more than 100 employees could obtain public recognition of their compliance with safety and health standards by submitting to a safety audit procedure. In the largely Western-operated oil sector, safety and health programs function reasonably well. However, in the country's 100,000 larger registered companies outside the oil sector, the quality of occupational health and safety programs varies greatly. The enforcement of health and safety standards is hampered severely by the limited number of qualified Department of Manpower inspectors, as well as by the low level of employee appreciation for sound health and safety practices. Allegations of corruption on the part of inspectors are common. Workers are obligated to report hazardous working conditions. Employers are forbidden by law from retaliating against those who do, but the law is not enforced effectively. As a result, workers who remove themselves from hazardous working conditions may risk loss of employment.

f. *Trafficking in Persons.*—The country is a source, transit point, and destination for trafficked women and children for the purpose of prostitution and sometimes for forced labor.

There are credible reports of trafficking in women and of temporary "contract marriages" with foreigners in certain areas, such as Kalimantan and Sumatra, though the extent of this practice is unclear. These marriages are not considered legal, and the children born from them are considered born out of wedlock. Prostitution is widespread. Official statistics show 75,106 registered prostitutes in 1999, up from 72,000 in 1995. NGO's estimate that there may be as many as 650,000 prostitutes in the country. While an increase in prostitution since the economic crisis has not been documented thoroughly, the sex trade is widely believed to have increased sharply as women hurt by the economic crisis seek means of support for their families.

Prostitution rackets are known to engage in internal trafficking of women, some of whom may be minors, in different regions of the country. One tactic commonly employed is to offer young women in rural areas jobs as "waitresses" in distant regions, typically at island resorts. Only when the new recruits arrive at the site do they learn that they have been recruited as sex workers. In some instances, women are held forcibly at the brothels or are prevented from leaving the island. In other cases, in the absence of travel funds, and facing other economic pressures, the women find no option other than to accept the work. Islands in Riau province such as Tandjung Balai, just southwest of Singapore, have been identified as centers of prostitution, attracting an international clientele. In June police uncovered a syndicate involved in trafficking young women, many below age 18, to work in brothels on islands in Riau province. However, the domestic sex industry is not limited to Riau province.

Although reliable nationwide statistics are not available, NGO findings indicate a growth trend in child prostitution and sexual exploitation. An ILO study on prostitution in Southeast Asia released in August 1998 estimated that the country's sex industry makes up 0.8 to 2.4 percent of the country's GDP. Instances of families in rural areas of Java and Sumatra being forced by economic circumstances to "sell" their daughters to local men continued to be reported. In July children's advocates warned of an increase in the number of teenage girls working as prostitutes in Surabaya, East Java. The increase, experts claimed, was related primarily to the economic downturn, but also to an increase in demand for young sex workers. NGO's report that the brothels in these locations thrive on customers from Singapore and Malaysia. There were numerous international media reports that over 40 East Timorese children were flown from refugee camps in West Timor and possibly others for the domestic sex trade. The TNI-supported militias (the Aitarak) in East Timor kept women as sex slaves in their Dili headquarters (see Sections 1.c., 2.d., 5, and 6.c.).

NGO's and the media report that women and girls are trafficked to Malaysia (particularly to Sabah and Borneo), Taiwan, and Japan as sex workers. In addition some government officials believe that women are trafficked as prostitutes to Saudi Arabia. However, little is known about trafficking methods used to transport sex workers overseas, and there is very little data available on the extent of the phenomenon.

Trafficking in children for forced labor, particularly onto "jermals" (fishing platforms) off the coast of North Sumatra, is an extensive problem (see Sections 6.c. and 6.d.).

Hundreds of thousands of women are exported abroad to work as domestic servants. Importing countries include Singapore, Hong Kong, and the Arabian Gulf states. In numerous cases, these women may be subjected to a process fitting common definitions of trafficking. Women recruited as domestic servants for export sometimes are abused and held against their will by recruiting agencies even before they depart the country. Late payment and lower than expected salaries are the most common complaints among women working abroad, but complaints about extreme working conditions and severe physical and sexual abuse also are common. The Government, prompted by negative publicity and NGO efforts, has taken steps to improve practices at home and to step up consular protection for citizens working abroad; however, many women remain vulnerable. In contrast to NGO assertions, a consortium of labor recruiters insists that horror stories are the exception rather than the rule.

Some government agencies, as well as local and international NGO's, are involved in combating trafficking in women and children, in its various forms; however, corrupt government officials, both at the policy level and at the working level, historically have contributed to the process. With regard to internal trafficking and the sex trade, government responses have been sporadic and localized. In a well-published incident in October 1998, more than 100 young women from West Java were rescued by authorities after having been recruited under false pretenses, and forced to work on an island in Riau province, just south of Singapore. This rescue was initiated by police in West Java, acting on complaints from the young women's families, and carried out in cooperation with authorities in Riau. Nonetheless, the sex industry continues to flourish on Tanjung Balai and other resort islands in Riau province, relying at least in part on coercive recruitment practices.

There are no reports of recent national law enforcement or policy initiatives to address the internal sex trade in a comprehensive manner. Government efforts to combat the problem are sporadic, relatively small-scale, and of limited effectiveness. NGO's allege that there still is considerable reluctance to acknowledge, both within the country at large and within the Government, that prostitution is a major industry.

Domestic NGO's lead the fight in monitoring and prevention efforts. At least a dozen NGO's generally are active in combating trafficking in persons. The Indonesian Women's Association for Justice (APIK) facilitates public awareness programs in Jakarta to sensitize young women to the dangers of trafficking. The Indonesian Child Advocacy Foundation (LAAI) and the City Social Worker Group (KKSP) advocate on the specific case of child employment on jermal fishing platforms in North Sumatra. Mitra Perempuan operates a hot line to record and help abused women. The Indonesian Child Welfare Foundation (YKAI) issues anecdotal reports on trafficking occurrences.

JAPAN

Japan is a parliamentary democracy based on the 1947 Constitution. Sovereignty is vested in the people, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two-house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The Liberal Democratic Party (LDP), Liberal Party, and the Komeito Party formed the current Government in October. The judiciary is independent.

A well-organized and disciplined police force generally respects the human rights of the populace and is firmly under the control of the civil authorities. However, there continued to be credible reports that police committed some human rights abuses.

The industrialized free market economy is highly efficient and competitive in world markets and provides residents with a high standard of living.

The Government generally respected the human rights of its citizens; however, there continued to be problems in several areas. There continued to be some credible reports that police physically and psychologically abused prisoners and detainees. Officials sometimes are dismissed for such abuse but seldom are tried, convicted, and imprisoned. Violence against women and children, child prostitution, and trafficking in women are problems. Women, the Ainu (Japan's indigenous people), the Burakumin (a group whose members historically are treated as outcasts), and alien residents experience varying degrees of societal discrimination, some of it severe and longstanding. The Ministry of Justice handles complaints of discrimination by issuing instructions recommending that such practices be avoided. However, the Ministry's Human Rights Defense Bureau has a small staff and limited investigative or enforcement powers. Since the administrative system for combating human rights violations is weak, many cases end up in court.

The Justice Ministry's Human Rights Commission continued to work on a 5-year mandate to develop measures to educate citizens with regard to human rights violations. The Commission also is tasked with advising the Education Ministry and the Management and Coordination Agency on how to educate citizens about the importance of respecting human rights. In July the Commission submitted a report calling for greater attention to human rights education, particularly at the municipal level. The Commission cited a number of ongoing human rights problems, including sexual harassment, violence in the home, and discrimination against the elderly, the disabled, minorities, and foreigners. The panel is to submit recommendations on relief measures by 2002.

RESPECT FOR HUMAN RIGHTS

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

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

Cases still are pending in district courts against 8 senior members of the Aum Shinrikyo cult for the killing of 12 persons on the Tokyo subways in 1995.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The Constitution provides for freedom from torture and cruel, inhuman, or degrading treatment or punishment; however, reports by several Japanese bar associations, human rights groups, and some prisoners indicate that police sometimes use physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. There are also scattered allegations of beatings of detainees in immigration detention facilities. Despite a 1998 court ruling that police beat a suspect in custody in Kanagawa, as of September no disciplinary action has been taken against the policemen involved in the incident. In July Japan ratified the U.N. Convention Against Cruel, Inhuman, or Degrading Punishment.

In Japan confession is regarded as the first step in the rehabilitative process. Although under the Constitution no criminal suspect can be compelled to make a self-incriminating confession, roughly 90 percent of all criminal cases going to trial include confessions, reflecting the priority the system places on admissions of guilt. The Government points out that the high percentage of confessions, like the high conviction rate, is reflective of a higher standard of evidence needed to bring about indictment in the Japanese system. Since a system of arraignment does not exist, a suspect, if indicted, is brought to trial even if that person has confessed to the crime. This process results in a higher conviction rate than would otherwise be the case. There are persistent allegations of coerced confessions.

Appellate courts have overturned several convictions in recent years on the grounds that they were obtained as a result of forced confessions. In addition civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

Some human rights groups allege that physical restraints, such as leather handcuffs, have been used as a form of punishment and that some prisoners have been forced to eat and relieve themselves unassisted while wearing these restraints. Ministry of Justice officials state that restraints are used inside the prison only when prisoners have been violent and pose a threat to themselves and others, or when there is concern that a prisoner might attempt to escape. In 1998 the Tokyo District Court ruled that the use of metal and leather handcuffs was not a violation of the Constitution.

Prison conditions meet most minimum international standards; however, prisons in most areas of the country are not heated, and prisoners are given only minimal additional clothing to protect themselves against cold weather. There have been

cases of frostbite among the prison population. The Ministry of Justice requested funding in August to install heaters in prison cells nationwide. Many foreign inmates complain that the quantity of food is insufficient and that they are constantly hungry. Prisoners may not purchase or be given supplementary food. The authorities read letters to and from prisoners, and the letters may be censored, or, with a court order, confiscated. All visits with convicted offenders, including visits by legal representatives, are monitored, and prisoners are discouraged strongly from complaining about conditions. Prison officials claim that the "no complaining" rule is designed to keep family members from worrying about their loved ones. For the same reason, the Justice Ministry usually does not inform a condemned inmate's family prior to the person's execution.

The Japanese Federation of Bar Associations and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous arbitrary rules. Prison rules remain confidential. Wardens are provided broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days and in which the prisoner is made to sit (for foreigners) or kneel (for Japanese) motionless in the middle of an empty cell. In April a District Court in Hokkaido dismissed a suit filed by an inmate who was kept in solitary confinement for over 13 years.

The Government restricts access to prisons and detention facilities by human rights groups.

d. *Arbitrary Arrest, Detention, or Exile*.—Constitutional provisions for freedom from arbitrary arrest or imprisonment generally are respected in practice. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists in order to detain the accused. Under the Code of Criminal Procedure, a suspect may be held in police custody for up to 72 hours without judicial proceedings. A judge may extend preindictment custody by up to 20 additional days based on a prosecutor's application. These extensions are sought and granted routinely. If an indictment follows, the suspect is transferred to a criminal detention facility.

During the preindictment phase, under the Criminal Procedure Code, police and prosecutors have the power to control and may limit access by legal counsel when deemed necessary for the sake of the investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations may provide detainees with one free counseling session. Critics charge that access to counsel is limited both in duration and frequency; the Government denies that this is the case. An attorney is provided at government expense after indictment if the arrested person cannot afford one. In 1997 presentencing bail was available in 15.6 percent of cases.

Human rights groups have criticized the continued detention of Yoshihiro Yasuda, chief legal counsel to Aum Shinrikyo cult leader Shoko Asahara. The Tokyo District Court denied a March request for bail. Amnesty International alleges that Yasuda's arrest, on charges of financial irregularities, called into question the ability of Asahara, who is facing charges stemming from his cult's 1995 subway gas attack, to receive a fair trial.

Bar associations and human rights groups have criticized the use of a "substitute prison system" for prisoners awaiting court hearings. Although the law stipulates that suspects should be held in "houses of detention" between arrest and sentencing, a police detention facility may be substituted at the order of the court. This provision originally was added to cover a shortage of normal detention facilities. According to the most recent Ministry of Justice White Paper on Crime, published in 1995, normal detention facilities were filled to 53 percent of capacity in 1994. Critics charge that allowing suspects to be detained by the same authorities who interrogate them heightens the potential for abuse and coercion. The Government counters that adequate safeguards to prevent abuse, including strong judicial oversight, were built into the system. A 1997 Justice Ministry regulation permits detention house officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The length of time before a suspect is brought to trial depends on the nature of the crime but rarely exceeds 3 months from the date of arrest; the average is 1 to 2 months.

The Government does not use forced exile.

e. *Denial of Fair Public Trial*.—The judiciary is independent and free from executive branch interference. The Cabinet appoints judges for 10-year terms, which can

be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70 but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the highest judicial authority. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court.

The Government respects in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials are completed within a reasonable length of time, cases also may take several years to work their way through the trial and appeals process. For example, more than 4 years after the Aum Shinrikyo cult's sarin gas attack in the Tokyo subway killed 12 persons, the trials of cult leader Shoko Asahara and 7 other cult leaders are still underway. During the year, 13 others were convicted for their parts in the subway attack. Four were sentenced to punishments ranging from 3 years' imprisonment to death. In July Masahiro Tominaga was sentenced to 18 years in jail for the 1994 attempted murder of a lawyer and other crimes. More than 20 years after court proceedings were first initiated, in March 1998, the Kobe District Court for the second time acquitted a former teacher accused of a child's murder. The teacher initially was indicted in 1977. The prosecution appealed the first not-guilty verdict in 1985, and the Osaka High Court had ordered a retrial. There were no developments regarding this case during the year, although the Kobe district public prosecutor's office again is appealing the verdict. Critics note that the case has dragged on longer than the 13-year prison sentence the prosecution originally sought and longer than the 15-year statute of limitations on murder cases.

There is no trial by jury. The defendant is informed of the charges upon arrest and assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel. However, the Government contends that the right to consult with attorneys is not an absolute one and can be restricted if such restriction is compatible with the spirit of the Constitution. Access is sometimes abridged in practice. For example the law allows prosecutors to control access to counsel before indictment, and there are persistent allegations of coerced confessions (see Section 1.c.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment has been made. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claim that legal representatives of defendants do not always have access to all relevant material in the police record needed to prepare their defense. A defendant who is dissatisfied with the decision of a trial court of first instance may, within the period prescribed by law, appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, although the Supreme Court publishes handbooks explaining the legal procedures and terms for court interpreters. No standard licensing or qualification system for certifying court interpreters exists, and a trial may proceed even if the accused does not understand what is happening or being said. Human rights groups allege that there is a chronic shortage of qualified court interpreters, particularly for non-English speaking defendants in rural areas. Foreign prisoners frequently claim that police urge them to sign statements in Japanese that they cannot read and that the police interpreter cannot translate adequately.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—Under the Constitution, each search or seizure must be made upon a separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. An opposition Diet member filed a complaint in July with the Tokyo Public Prosecutor's office alleging that police wiretapped his telephone. A wiretapping law passed by the Diet in August established strict guidelines for the use of wiretapping and imposed penalties for the unsanctioned use of wiretaps by police authorities.

In 1997 the Government acknowledged that nearly 16,500 disabled women were sterilized without their consent between 1949 and 1992. In its acknowledgment the Government stated that it did not plan to apologize or pay compensation to these women or to further investigate the program, despite the demands of the National Federation for the Mentally Handicapped and several other groups representing women and the disabled. A Ministry of Health official said that no apology was planned because the procedure was legal at the time. The Eugenic Protection Law, revoked only in 1996, allowed doctors to sterilize persons with mental or physical

disabilities or certain hereditary diseases without their consent, after the approval of committees appointed by local governments. Women's and disabled persons advocacy groups still are pressing for a government investigation into all sterilization cases and for a formal apology and compensation.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

However, recent cases appear to indicate that certain types of professionals, such as teachers and jurists, are subject to limitations on their freedom of speech. In August the Education Ministry asserted that the Government retains the right under the Local Public Service law to punish teachers who refuse to teach the official meaning of the lyrics to Japan's national anthem, "Kimi ga Yo." In July an elementary school music teacher in Tokyo received a reprimand for refusing to play the anthem at a school graduation ceremony. In December 1998, the Supreme Court upheld the reprimand of a judge who took part in a meeting organized by a citizen's group opposed to a wiretapping bill, citing the Court Law, which bans judges from engaging in "aggressive political activity," on the grounds that the judge's presence at the meeting "created a clear impression there is a judge opposing the bill." According to a Supreme Court official, this was the first case of a judge being reprimanded for political activity.

Academic freedom is protected, except in the case of school textbooks. The Education Ministry has the authority to censor or order revisions to elementary, middle, and high school textbooks. In 1997 the Supreme Court ruled that state censorship of textbooks did not violate the constitutional provisions for freedom of expression. In June the Education Ministry cautioned five textbook publishers to show greater respect for Japan's flag and anthem in their next editions.

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

c. *Freedom of Religion.*—Freedom of religion and the separation of state and religion are provided for in the Constitution and are respected in practice. While Buddhism and Shintoism are the two major religions, there are many others, including several Christian denominations. Some temples and shrines continue to receive public support as national historic or cultural sites. However, this situation may change in the wake of a 1997 Supreme Court ruling that a prefectural government may not contribute public money to only one religious organization, if the donations supported, encouraged, and promoted a specific religious group. In 1998 the Kochi District Court ruled that using village government money to repair two Shinto shrines was tantamount to allocating public funds to a religious group and therefore unconstitutional.

The Government does not require that religious groups be licensed. However, to receive official recognition as a religious organization, which brings tax benefits and other advantages, a group must register with local or national authorities as a "religious corporation." In practice almost all religious groups register. Following the 1995 Aum Shinrikyo terrorist attacks, a 1995 amendment to the Religious Corporation Law gave government authorities increased oversight of religious groups and required greater disclosure of financial assets by religious corporations. The amendment allows authorities to more effectively monitor the operations of registered religious corporations. The Ministry of Education's Cultural Affairs Agency estimates that nearly 5,000 religious groups appear dormant. In 1998 a district court ordered the dissolution of a registered Shinto religious group that had been dormant since 1982. This was the first time that a court had approved a request by the Education Ministry to dissolve a religious group since the Religious Corporation Law went into effect in 1951.

In 1998 the Nagoya High Court upheld a lower court ruling ordering the Toyama prefectural government to pay monetary damages to 88 followers of a Buddhist sect for violating their rights by ignoring for more than 10 years their application for certification as a religious sect.

The only religion under active government surveillance is the Aum Shinrikyo cult. Aum Shinrikyo lost its legal status as a religious organization in 1996 following the indictment of several cult members. In May 1998, a court sentenced Ikuo Hayashi, a leader of the Aum Shinrikyo cult, to life imprisonment for the killing of 12 persons in that incident. In October 1998, a court sentenced to death another leader of the Aum Shinrikyo cult, Kazuaki Okazaki, for the 1989 killings of four persons, including an antisect lawyer, his wife, and their 1-year-old son. Cases still are pending

in district courts against eight senior Aum members, including cult leader Shoko Asahara. During the year, 13 members of the cult were convicted for taking part in the subway gas attack and other criminal activities and given sentences ranging from 3 years in jail to death. In response to reports of increased cult fundraising and recruitment activities, local police and communities have taken measures against cult members and chapters including denying residency permits to cult leader Asahara's children. In December the Diet passed a set of bills that allow the authorities to crack down on the group and force it to pay compensation to victims of its past crimes.

Members of the Unification Church and Jehovah's Witnesses have alleged that police do not act in response to allegations of forced deprogramming of church members. They also claim that police do not enforce the laws against kidnaping when the victim is held by family members, asserting that Unification Church members are subjected to prolonged arbitrary detention by individuals, who are not charged by police.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect Japanese citizenship at the required age.

Asylum and refugee policy is in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In recent years, the Government has granted asylum to those claiming fear of persecution if they return to their homeland in only a small number of cases. It believes that most persons seeking asylum in the country do so for economic reasons. According to the U.N. High Commissioner for Refugees (UNHCR), Japan granted asylum to only 15 persons (4.3 percent of applicants) in 1998.

The Government has shown flexibility in dealing with visa extensions for Chinese student dissidents, although it continues to be reluctant to grant permanent asylum. Burmese asylum applicants have complained that asylum cases can go on pending for years without a formal decision.

The Government's 60-day rule requires applicants to appear at an immigration office within 60 days of arrival or within 60 days of learning that they are likely to be persecuted in their home country. Individuals who do not present their applications within the 60-day time frame due to extenuating circumstances may apply for an exception. An alien who is recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits. An alien who is denied refugee status may appeal the decision to the Ministry of Justice. Rejected applicants also may take their cases to court if Ministry authorities do not recognize their objections. In an effort to make procedures clearer to applicants, the Government distributes an English-language pamphlet to those interested in the asylum process.

While the Government sometimes grants first asylum, there are no standard procedures established, and the Justice Ministry and the Foreign Affairs Ministry jointly decide upon such grants on a case-by-case basis. In response to a 1998 appeal by the UNHCR, the Justice Ministry in May reversed an earlier decision to deny asylum to a group of Burmese prodemocracy activists. In April 1998, a pregnant Chinese woman accused of illegally entering the country filed for refugee status on the grounds that she would be forced to undergo an abortion if she returned to China, in accordance with China's one-child family policy. In July 1998, the Matsue District Court rejected the prosecution's request that she be imprisoned for 1 year for illegal entry. After her release from detention, the women gave birth, abandoned the child, and went into hiding.

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

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

Citizens have the right to change their government peacefully and are able to exercise this right in practice through frequent, free, and fair elections on the basis of universal suffrage by secret ballot. In 1998 the Diet granted citizens living overseas the right to vote for candidates in national elections in races based on proportional representation. In August the Diet extended this privilege to fishermen and mariners.

A parliamentary democracy, Japan is governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The Liberal Democratic Party, the Liberal Party, and the Komeito Party formed the current Government in October.

There are no legal impediments to women's participation in government and politics, but cultural attitudes are not favorable to their participation, and they are underrepresented in both areas. As of August, women held 24 seats in the 500-member lower house of the Diet (4.8 percent), and 43 seats in the upper house (17.1 percent), the highest number since 1950. There is 1 woman in the 18-member Cabinet.

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

A number of local and international human rights organizations function freely, without governmental restrictions or impediments, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views, although the Government restricts access to prisons and detention facilities by human rights groups (see Section 1.c.).

The Justice Ministry's Human Rights Commission continued to work on a 5-year mandate to develop measures to educate citizens with regard to human rights violations. The Commission also is tasked with advising the Education Ministry and Management and Coordination Agency on how to educate citizens about the importance of respecting human rights. In July the Commission submitted a report calling for greater attention to human rights education, particularly at the municipal level. The Commission cited a number of ongoing human rights problems, including sexual harassment, violence in the home, and discrimination against the elderly, the disabled, minorities, and foreigners. The panel is to submit recommendations on relief measures by 2002.

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

The Constitution prohibits discrimination on the basis of race, creed, sex, social status, or family origin, and, in general, the Government respects these provisions.

Women.—According to a 1998 report from the Prime Minister's Office of Gender Equality, there were 1,755 rapes and 4,398 indecent assaults reported in 1997, down slightly from previous years. However, violence against women, particularly domestic violence, often may go unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or offspring. Typically, victimized women return to the home of their parents rather than file reports with the authorities. Therefore, National Police Agency statistics on violence against women undoubtedly understate the scope of the current situation. According to a survey conducted by the Prime Minister's Office in 1998, one in three women reported some form of physical abuse in the home. Frequent complaints by female commuters that they have been groped or otherwise molested on crowded trains led the Tokyo Metropolitan Police Department to set up special molestation complaint offices at three Tokyo train stations. Many local governments are responding positively to a need for confidential assistance by establishing special women's consultation departments in police and prefectural offices.

According to the Ministry of Justice, there were 126,982 foreign women who overstayed their visas in 1998. Trafficking in women is a problem (see Section 6.f.).

A revision to the 1997 Equal Employment Opportunity (EEO) Law intended to address problems of sexual harassment and discrimination against women went into effect in April. Sexual harassment in the workplace is widespread, as evidenced by a 1996 report compiled by the Japanese Trade Union Confederation (RENGO) in which 40 percent of working women reported that they had experienced some form of sexual harassment. According to the survey, 2 percent of respondents said that they were forced to have a sexual relationship. A 1997 survey by the Ministry of Labor's working group on the implementation of the revised EEO Law reported that 62 percent of women claimed to been experienced at least one act of sexual harassment. The revised EEO Law includes measures to identify companies that fail to prevent sexual harassment, although it does not include punitive measures to enforce compliance. The new law's only penalty is that names of companies that practice sexual discrimination can be publicized. The Ministry of Labor does not enforce compliance through fines or other punitive penalties. Also in 1997, the Government revised the Labor Standards Law to allow an arbitration committee to initiate procedures to help ensure the rights of female workers at the worker's request, without first having to obtain approval from both management and the worker's union.

Despite public awareness of discrimination against women and sexual harassment, there is no indication that incidents of discrimination and sexual harassment are decreasing. Women make up 40 percent of the labor force, and women between the ages of 15 and 64 have a labor force participation rate of 51 percent. According to a National Personnel Authority survey conducted in the winter of 1997, roughly 36 percent of female civil servants reported being sexually harassed by their direct

superiors, and over 50 percent reported being harassed by supervisors of other sections. One in six women said that their bosses had pressured them into a sexual relationship. More than 20 percent of the women surveyed said that they were unable to work efficiently as a result of harassment and wanted to move to another office or change jobs. However, according to a Management and Coordination Agency survey conducted in 1996, 93 percent of companies surveyed had not taken any preventive measures against sexual harassment. Seventy-five percent of the firms stated that they felt no need to take such measures. In March 1998, the National Personnel Authority distributed 60,000 pamphlets to civil servants in all ministries and agencies in an effort to curb sexual harassment at government offices. A growing number of government entities are establishing hot lines and designating ombudsmen to handle complaints of discrimination and sexual harassment.

In December the governor of Osaka, Isamu Yamada, resigned when prosecutors filed charges against him for molesting a 21-year-old campaign worker. The court ordered him to pay the campaign worker $107,000 (11,235,000 yen), which was the largest award ever in the country in a sexual harassment suit. Women's groups viewed the result as a positive step forward in the effort to combat sexual harassment.

The Constitution prohibits sexual discrimination and provides for individual dignity and the essential equality of the sexes in the family. The Labor Standards Law forbids wage discrimination against women. Under the revised EEO Law, women may work overtime shifts for the first time.

Although the law prohibits wage discrimination against women, in 1997 female workers on average earned only 63 percent of average male earnings. Much of this disparity results from the "two-track" personnel administration system found in most larger companies. Under this system, newly hired employees are put into one of two categories: Managerial track (those engaged in planning and decisionmaking jobs and with the potential to become top executives), or clerical track (those engaged in general office work). According to an April survey by the Prime Minister's Office, women held 9.3 percent of managerial positions. A 1998 Labor Ministry survey found that 42.2 percent of companies with two-track systems stated they considered both men and women for managerial track positions. According to the National Personnel Authority, as of 1995 women made up 16 percent of all national government workers, but held only 4 percent of top (director level and higher) government posts. According to the Home Ministry, women constituted 31 percent of all local government workers but held only 3 percent of top local government positions. In July the Osaka District Court awarded $273,000 (30 million yen) to a woman for wage discrimination over a 16-year period. Female workers have suffered disproportionately from the continued sluggishness of the economy. A 1998 survey by the Ministry of Labor found that the job placement rate for female college graduates was 90.5 percent, compared with 94.6 percent for men.

In addition to discrimination, the traditional male/female division of labor at home places disproportionate burdens on working women. According to a 1997 report from the Prime Minister's Office on Gender Equality, women perform 90 percent of the housework and child rearing, while men do 10 percent. The report found that there was little difference in the time spent on housework by men whose wives had jobs and those whose wives did not work outside the home.

In 1997 the Government acknowledged that nearly 16,500 disabled women were sterilized without their consent between 1949 and 1992 but refused to apologize or pay compensation to those women (see Section 1.f.).

In 1993 the government spokesperson publicly acknowledged and apologized for the former Imperial Government's involvement in the army's practice of forcing as many as 200,000 women (including Koreans, Filipinos, Chinese, Indonesians, Dutch, and Japanese) to provide sex to soldiers between 1932 and 1945. The Government consistently refused to pay government compensation to individual victims, arguing that postwar treaties already settled all war claims.

The "Asian Women's Fund," (AWF) was established in 1995 as a private, government-sponsored fund to compensate former "comfort women." The AWF supports three types of projects: Providing direct compensation payments to individual victims; providing medical and welfare assistance to individual comfort women; and funding projects to improve the general status of women and girls. Projects in the first category are funded by private donations, while the second and third types of projects are financed by the Government and administered by the AWF. As of August, the AWF had collected donations totaling approximately $4.36 million (480 million yen) and given lump-sum payments of almost $18,200 (2 million yen) each and a letter of apology signed by the Prime Minister to more than 130 women. These women also received medical and welfare assistance from the AWF. In 1998 the AWF reached an agreement with a Dutch affiliate to start compensation pay-

ments to former Dutch comfort women. Government officials estimate that up to 100 Dutch women were forced to provide sexual services during World War II.

The Government's refusal to take more than "moral responsibility" and to pay direct compensation continues to draw international criticism. In July nine former comfort women from Taiwan filed a suit demanding $99,000 (10 million yen) each directly from the Japanese Government as compensation for being forced to provide services. Similar suits previously have been filed by women from China, Korea, and the Philippines. In 1998 the Yamaguchi District Court ordered the Government to pay $2,542 (300,000 yen) in state compensation to three Korean former sex slaves for neglecting its constitutional duty to enact compensation legislation following the Government's 1993 admission. However, the Court denied the plaintiffs' demand for an official government apology.

This was the first court judgment rendered in favor of foreign war victims. Five other cases concerning former comfort women are pending in Tokyo District Court. The plaintiffs are seeking $169,492 (20 million yen) each in damages and an official apology from the Government. In May 1998, the South Korean Government made a lump-sum payment of $27,072 (35.6 million won) each to over 130 documented Korean victims on condition that they not receive redress from the AWF (although more than 10 of these victims accepted AWF money afterwards). The South Korean program excluded the seven Korean women who had already received compensation from the AWF. The AWF project was suspended in South Korea in July 1998 and remains suspended.

In August 1998, the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities issued a report that included a recommendation that the Government provide state compensation to these women and prosecute those responsible for setting up and operating "comfort stations" during World War II. In March a committee of the International Labor Organization called on the Government to take swift measures to compensate former comfort women. In August a subcommittee of the U.N. Commission on Human Rights issued a nonbinding resolution calling for governments to pay compensation for wartime slavery even when subsequent international agreements absolve bilateral claims. The Foreign Ministry interprets the resolution as referring only to acts subsequent to the subcommittee's decision.

Children.—The Government is committed to children's rights and welfare, and in general, the rights of children are protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level. Education is free and universally available at the upper secondary level through the age of 18.

In recent years, both the Government and society in general appeared to take a lenient attitude toward teenage prostitution and dating for money, which may or may not have involved sexual activities. However, in May the Diet passed a law, which went into effect in November, banning sex with children under age 18 as well as the production, sale, or distribution of child pornography. The law was passed following heightened public attention to a growing problem of teenage prostitution and international criticism over Japan's lax laws on child pornography. According to National Police Agency statistics, 40 percent of the over 3,000 pornographic Internet sites based in Japan contained images of minors. In 1998 INTERPOL estimated that 80 percent of Internet sites with child pornography originate in Japan.

In 1998 the U.N. Committee on the Rights of the Child recommended that Japanese children be protected from corporal punishment and bullying at school and from exposure to violence and pornography in the media and on the Internet.

In August 1998, the Government revised the law regulating "adult" entertainment to require operators of pornographic home pages and suppliers of images to register with local safety commissions and to ban offering such pages to persons under the age of 18. The revisions took effect in April.

In July parents of a middle school student alleged that two teachers severely beat their daughter after falsely accusing her of committing an infraction off campus. According to a 1998 Management and Coordination Agency study, one in three elementary and junior high school students has been bullied, but more than one-third of the victims did not report the bullying to anyone. Education experts suggest that pressures at home and school to excel academically may be contributing to the increase in student violence and long-term (30 days or more) absenteeism. In 1994 the Ministry of Justice established the Office of the Ombudsman for Children's Rights to cope with bullying and other children's issues. In addition to compiling statistics on bullying and consulting with various groups concerned with children's welfare, the Office of the Ombudsman provides counseling services for children 18 years of age and younger who have been victims of bullying.

In recent years, the problem of severe bullying, or "ijime," has received greater public attention. At elementary and junior high schools, bullying most often involves verbal abuse, with physical abuse occurring more often at the high school level. However, because many cases go unreported, it is difficult to determine the exact number. Teachers also increasingly are becoming the targets of student violence.

Public attention also is focused increasingly on reports of frequent child abuse in the home. An August survey by a social welfare organization reported that 40 percent of mothers committed abuse or acts bordering on abuse against their children. A June report by the Ministry of Health and Welfare found that from 1992 to 1996, 328 children died of abuse or neglect. A separate report by the Ministry released in March warned that recent cuts in funding by local governments to centers handling child abuse cases was exacerbating the problem, particularly since caseloads at counseling centers nearly doubled from 1988 to 1996.

Under juvenile law, juvenile suspects are tried in family court and are not allowed a retrial. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. The number of juveniles arrested or taken into protective custody in 1998 was up 3.1 percent, according to the National Police Agency, despite a drop in the overall juvenile population. Criminal offenses committed by those under age 14, who are exempt from criminal liability, rose by 4.4 percent. Minors accounted for nearly half of all crimes committed in 1998. In March the Cabinet endorsed a proposal to revise the Juvenile Law to allow public prosecutors, who previously were barred from family court proceedings, to try serious cases in family court, and to appeal family court decisions to a higher court.

People with Disabilities.—The law does not mandate accessibility to buildings for the disabled; however, 1994 legislation on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax breaks if they build wide entrances and elevators to accommodate those with disabilities. There are an estimated 2.9 million physically disabled and roughly 2 million mentally disabled persons. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, the disabled face limited access to public transportation, "mainstream" public education, and other facilities. Under civil law, persons with hearing problems or speech impediments cannot create valid wills because they cannot "convey orally" to a notary the contents of a will or affirm that the text the notary reads back to them is correct.

The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated since 1976 that private companies with 300 or more employees hire a fixed minimum proportion of disabled persons. The penalty for noncompliance is a fine. A 1998 cabinet directive ordered private companies to raise the proportion of physically disabled persons in their work force from 1.6 to 1.8 percent and raised the percentage of disabled persons among civil servants from 2 to 2.1 percent. However, there is evidence that only half the companies covered by the directive comply with the law. The ongoing economic recession hit disabled employees particularly hard, with the number fired from their jobs increasing by 40 percent in 1998 over the previous year.

An amendment to the Law to Promote the Employment of the Handicapped to include the mentally disabled took effect in 1998. The amendment also loosened the licensing requirements for community support centers that promote employment for the disabled, and it introduced government subsidies for the employment of mentally disabled persons in part-time jobs. In 1997 a former factory owner in Ibaraki prefecture who had received generous government subsidies was sentenced to 3 years' imprisonment for physically abusing mentally disabled workers at his plant and for withholding portions of their salaries. A March survey by a disabled citizens support group showed that 44 percent of the staff at homes for mentally disabled persons admitted to mistreating those under their care.

In 1995 the Headquarters for Promoting the Welfare of Disabled Persons, set up by the Prime Minister's Office, recommended that municipalities draw up formal plans for the care of disabled citizens by the end of March 1997. In 1996 the Ministry of Health and Welfare also instructed local governments to set numerical targets for the number of home help providers and care facilities allocated to the disabled. However, according to newspaper reports, only one-third of the nation's municipalities currently have formal care plans for disabled citizens.

In 1997 the Government acknowledged that nearly 16,500 disabled women were sterilized without their consent between 1949 and 1992 but refused to apologize or pay compensation to those women (see Section 1.f.).

Indigenous People.—The Ainu are a people descended from the first inhabitants of Japan. The Ainu Association of Hokkaido estimates their total number at 50,000, less than 0.05 percent of the country's 124 million population. Almost all Ainu live

on Hokkaido, the northernmost of the country's four main islands. Their primary occupations are fishing, small-scale farming, and jobs in the tourism industry. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of only approximately 0.15 percent of their original land holdings.

In 1993 two Ainu filed a suit against the Government, challenging its right to expropriate their land, which the Ainu consider sacred, to build a dam. In 1997 the Sapporo District Court ruled that the Government had expropriated the land illegally, but did not order the Government to return the land to the plaintiffs because the dam already had been completed. However, the Court ruled that the Ainu were a minority aboriginal race.

Ainu Diet member Shigeru Kayano was instrumental in the Diet's passage of the Law To Promote Ainu Culture in 1997. The law officially recognized the Ainu as an ethnic minority and required all prefectural governments to develop basic programs for promoting Ainu culture and traditions. It canceled a series of previous laws that discriminated against the Ainu, including the 1899 law. With the new law, the Government for the first time acknowledged the existence of an ethnic minority in the country. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, and also failed to address whether they deserved special rights as a distinct ethnic group. The new law did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal Japanese minority. A 1998 report submitted by the U.N. Special Rapporteur to the 16th U.N. Working Group on Indigenous Populations stated that the Ainu had never entered into a consensual juridical relationship with any state and stated that the lack of such an agreement deprived them of their rights. Many Ainu criticize the Law to Promote Ainu Culture for not advancing Ainu political rights and criticize the Government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status.

The Ainu continue to face societal discrimination while engaging in an uphill struggle against complete assimilation. An Ainu-language newspaper was established in 1997. In April 1998, a local Hokkaido radio station began broadcasting a weekly 15-minute Ainu-language program. In July 1998, the Japan Ainu Association, a nationwide organization of Ainu, was established to lobby the Government for economic assistance and greater social welfare benefits for Ainu throughout the country.

National/Racial/Ethnic Minorities.—The ethnocentric nature of Japanese society, reinforced by a high degree of cultural and ethnic homogeneity and a history of isolation from other cultures, impedes the integration of minority groups. This primarily affects Burakumin, Koreans, and alien workers.

The Burakumin (descendants of feudal era "outcasts" who practiced "unclean" professions such as butchering and undertaking), although not subject to governmental discrimination, are frequently victims of entrenched societal discrimination, including restricted access to housing and employment opportunities. They are estimated to number approximately 3 million, but most prefer to hide their identity. Beginning in 1969, the Government introduced with some success a number of social, economic, and legal programs designed to improve conditions for the Burakumin and hasten their assimilation into mainstream society. However, in recent years, some within the Burakumin community have questioned whether assimilation is an appropriate goal. When the basic legislation to provide funding for Burakumin programs expired in 1997, the Government enacted legislation effective for 5 years that retains 15 of the original 45 programs for Buraku communities. One of these programs is aimed at completing housing plans already in progress.

In 1997 the Buraku Liberation League rewrote its manifesto for the first time in 13 years, placing less emphasis on class struggle and more emphasis on civil rights, social welfare, and the environment. The new platform also replaced the term Burakumin (hamlet people) with Buraku Jumin (hamlet residents), to try to debunk the false concept that these people are a different race from other Japanese. The platform was adopted at a national convention.

According to the Ministry of Justice, there were nearly 1.5 million legal foreign residents as of December 31, 1997, accounting for 1.18 percent of the population. Of these approximately 645,400 were ethnic Koreans, followed by 252,200 Chinese, and 233,300 Brazilians. The number of Korean residents has been decreasing steadily as Korean nationals naturalize or marry Japanese, which allows their children to gain Japanese citizenship automatically. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) still are subject to various forms of deeply entrenched societal discrimination.

By law aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote. However, in practice most eligible aliens choose not to apply for citizenship, in part due to fears that their cultural identity thereby would be lost. Obstacles to naturalization include broad discretion available to adjudicating officers and great emphasis on Japanese language ability. Naturalization procedures also require an extensive background check, including inquiries into the applicant's economic status and assimilation into Japanese society. Koreans are given the option of adopting a Japanese surname. There have been allegations in the media that applications are turned down routinely. The Government defends its naturalization procedures as being necessary to ensure the smooth assimilation of foreigners into Japanese society. Alien permanent residents may live abroad up to 5 years without losing their right to permanent residence.

In 1995 the Supreme Court ruled that the Constitution does not bar permanent foreign residents from voting in local elections. However, the Court also ruled that existing laws denying voting rights to foreign residents are not unconstitutional. In February the Osaka High Court rejected an appeal by 43 Korean permanent residents demanding the right to vote in local elections, stating that any decision on voting rights for foreign residents should be made by the national Government. In March the Osaka Prefectural Assembly passed a measure granting permanent residents local suffrage, becoming the third prefecture to pass such a bill.

Under the School Education Law, students attending Chinese, Korean, or other non-Japanese schools are not eligible to take national university examinations. However, in August the Education Ministry announced that beginning in 2001, graduates of non-Japanese schools would be eligible to take national university examinations if they pass a state-run high school equivalency test. Although a number of local governments provide subsidies to Korean schools, the central Government does not.

In 1993 the Government halted the fingerprinting of permanent foreign residents, and in August the Diet passed a revised law to end the practice officially. Instead of fingerprinting, the Government established a family registry system that uses the resident's picture and signature and contains information on parents and spouses living in the country, a system similar to that used for Japanese nationals. All foreign residents still are required to carry alien registration certificates at all times, but the revised law reduces the penalties imposed on those found without documentation. In June two Korean residents returned their residency cards to protest the law's failure to fully eliminate the alien card requirement.

In 1953 the Government decreed that public servants with administrative authority and the ability to influence public opinion must be Japanese. Noncitizens were prohibited from taking examinations for local government positions. Nevertheless, some municipal governments began lifting restrictions on noncitizen civil servants. In 1996 the Home Affairs Ministry reversed the long-held national policy of opposition to localities lifting the nationality clause and instructed local governments to decide at their own discretion. However, the Ministry instructed local governments to restrict noncitizens' access to jobs that involved the exercise of public authority and formation of public opinion. The directive also required local governments to clearly state which jobs were closed to noncitizens. Some of the jobs considered off limits include tax collection, construction permit issuance, sanitation inspection, and firefighting.

Several local governments already have changed their rules in response to the Government's new position. In 1997 the cities of Kawasaki, Yokohama, Osaka, Kobe, and Hisai, and Kanagawa and Koichi Prefectures opened many jobs to noncitizens. The Osaka municipal government introduced new guidelines allowing noncitizens with permanent residency to take jobs in 276 fields, including public relations, engineering, and social welfare services. Under the new guidelines, noncitizens can be promoted to section chief or higher within the specified fields. In 1998 the Hakodate municipal government announced that in fiscal year 1999 it would allow foreign residents to take employment tests for all city jobs except firefighters. According to a 1997 joint survey conducted by the All Japan Prefectural and Municipal Workers Union and the Korean Residents Association in Japan, 19.8 percent of local governments still forbid the hiring of noncitizens.

Critics complain that opening some but not all jobs to noncitizens perpetuates institutional discrimination and the perception that noncitizen residents cannot be trusted to act in the community's best interest. The system also allows each local government to develop it own rules without uniformity being imposed by the national Government.

Section 6. Worker Rights

a. *The Right of Association*.—The Constitution provides for the right of workers to associate freely in unions. Approximately 12 million workers, 22 percent of all employees, belong to labor unions. Unions are free of government control and influence. Most unions are involved in political activity as well as labor relations, but they are not controlled by political parties. The Japanese Trade Union Confederation, which represents 7.6 million workers and was formed in 1989 through the merger of several confederations, is the largest labor organization. There is no requirement for a single trade union structure, and there are no restrictions on who may be a union official. Members of the armed forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute before the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations over observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and again in November asked the Government to consider any measures it could take to encourage negotiations with public employees.

The right to strike, implicit in the Constitution, is exercised. During 1998 105,000 workdays involving 42,000 employees were lost to strikes. The law prohibits retribution against strikers and is enforced effectively. Public employees do not have the right to strike.

Unions are free to affiliate internationally and are active in international bodies, most notably the International Confederation of Free Trade Unions, and maintain extensive international contacts.

b. *The Right to Organize and Bargain Collectively*.—The Constitution provides unions with the right to organize, bargain, and act collectively. These rights are exercised freely, and collective bargaining is practiced widely. The annual "Spring Wage Offensive," in which individual unions in each industry conduct negotiations simultaneously with their firms, involves nationwide participation. Management usually consults closely with its enterprise union. However, trade unions are independent of management and aggressively pursue the interests of their workers. The law prohibits antiunion discrimination, and adequate mechanisms exist for resolving cases that occur, including the reinstatement with back wages of any workers fired for union activities. However, the collective bargaining rights of public employees are limited. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor*.—The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children are not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children. Although in general forced or bonded labor does not occur, women are trafficked to Japan and coerced into prostitution (see Section 6.f.).

During the year, Allied prisoners of war filed individual and class action suits against Japanese companies seeking compensation for forced labor during World War II. The suits were filed overseas, including in the United States. Survivors and families of Chinese and Korean workers also continue to press claims for damages and compensation for their forced labor during WW II, both in Japanese civil courts and in complaints to the ILO. In September the Tokyo High Court ordered the Kajima Corporation to settle with surviving Chinese workers of a mine it operated during the war. In March an ILO committee called on the Government to take additional measures to satisfy individual Chinese and Korean victims of forced labor during the war.

The Asian Women's Fund continued to compensate former comfort women, who were forced to provide sexual services to Japanese troops during World War II (see Section 5).

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. The Government prohibits forced or bonded labor, including that performed by children and enforces this prohibition effectively (see Section 6.c.).

Child labor is virtually nonexistent. By law children under the age of 16 may not be employed and those under age 18 may not be employed in dangerous or harmful jobs. The Labor Inspection Division of the Ministry of Labor, which vigorously enforces the Labor Standards Law, reports no violations. Society places an extremely high value on education, which is compulsory through the lower secondary (i.e.,

ninth grade) level. Enrollment levels for both boys and girls through the free and universally available upper secondary level (age 18) exceed 95 percent.

e. *Acceptable Conditions of Work*.—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages is considered widespread. Minimum wage rates, effective in fiscal year 1998 (starting September 1), ranged from $50 (5,465 yen) per day in Tokyo and Osaka to $34 (4,712 yen) in Miyazaki prefecture and are considered sufficient to provide a worker and family with a decent standard of living. The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticize the Government for failing to enforce maximum working hour regulations in smaller firms.

The Immigration Bureau of the Justice Ministry estimated that, as of January 1, 1998 there were 276,810 foreign nationals residing illegally in the country. Illegal immigrants come primarily from: South Korea, the Philippines, Thailand, China, Peru, Iran, Malaysia, and Taiwan.

While many foreign illegal residents came in search of better paying manufacturing and construction jobs, these opportunities decreased during the economic slowdown. Thus, more of the foreign workers are unemployed or marginally employed. Activist groups claim that employers can exploit or discriminate against foreign workers, who often have little or no knowledge of the Japanese language or their legal rights. The Government has tried to reduce the inflow of illegal foreign workers by prosecuting employers. Recent revisions of the Immigration Law provide for penalties against employers of undocumented foreign workers. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. The August revision to the immigration law also established penalties for illegal stays separate from existing injunctions against illegal entry. The Government continues to study the foreign worker issue, and several citizens' groups are working with illegal foreign workers to improve their access to information on worker rights.

The Ministry of Labor effectively administers various laws and regulations governing occupational health and safety, principal among which is the 1972 Industrial Safety and Health Law. Standards are set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Tripartite Labor Standards Commission. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

f. *Trafficking in Persons*.—The Constitution prohibits holding persons in bondage, and in April the Business Entertainment Law was amended in order to supplement the Prostitution Prevention Act as an instrument against trafficking. The amended law sanctions employers rather than just prostitute/victims and, inter alia, places a 5-year waiting period for a business license on anyone convicted of the "crime of encouragement" to engage in prostitution. In May the Diet enacted a law intended to prevent all forms of sexual expoitation of children, whether trafficked or not, and imposing a 3-year sentence upon conviction (see Section 5).

Japan is a destination country for trafficking in women for purposes of sexual exploitation. Brokers in source countries (e.g., the Philippines and Thailand) recruit women and "sell" them to Japanese intermediaries, who in turn coerce them into the sex trade by subjecting them to excessive debts and seizing their passports. Reliable statistics on the number and origin of women trafficked to the country are unavailable, but according to the Ministry of Justice 2.5 percent of the 15,823 women deported in 1997 were prostitutes.

In recent years there has been a surge in the smuggling of illegal immigrants from China. These illegal immigrants often are held in debt bondage to make them pay off the smugglers.

KIRIBATI

Kiribati is a constitutional republic with a popularly elected president and a legislative assembly 40 members of which are elected by universal adult suffrage, and 2 of whom are members by virtue of their office. The country has a population of 78,400, who occupy 33 small islands widely scattered across 1.365 million square miles of the central Pacific. The population is primarily Micronesian, with a significant component of Polynesian origin. The judiciary is independent.

A police force of about 250 personnel is controlled effectively by civilian authority.

Economic activity consists primarily of subsistence agriculture and fishing. The islands' isolation and meager resources, including poor soil and limited arable land, severely limit prospects for economic development.

The Government generally respected citizens' human rights; however, in the traditional culture, women occupy a subordinate role and have limited job opportunities.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although torture and inhuman or degrading treatment or punishment are forbidden by the Constitution, corporal punishment is permitted under traditional mores for criminal acts and other transgressions. On some outer islands, the island councils occasionally order strokes with palm fronds to be administered for public drunkenness and other minor offenses such as petty thievery.

The authorities seek to meet minimum international standards for prisons but have limited financial resources. Food and sanitation are limited. Family members and church representatives are allowed access to prisoners.

The question of monitoring prison conditions by local human rights groups has not arisen, and no policy concerning such monitoring has been formulated.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

e. *Denial of Fair Public Trial.*—The judiciary is independent and free of governmental interference.

The judiciary consists of a high court, magistrate courts, a court of appeal, and land courts. Litigants also have the right of appeal to the Privy Council in London.

The right to a fair public trial is provided by law and observed in practice. The Constitution provides that an accused person be informed of the nature of the offense for which he is charged and be provided adequate time and facilities to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is provided for in law. Procedural safeguards are based on English common law.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities respect these provisions, and violations are subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice; however, there were some instances in which the Government limited these rights.

The radio station and the only newspaper are government owned. An opposition leader recently tried to open a private radio station before the national elections in November 1998, but the Government closed it, citing the need to comply with licensing regulations prior to broadcasting. The station remained closed throughout the year, pending litigation of the issue. In addition, in August the Cabinet declared a foreign journalist a prohibited immigrant and precluded his return to the country, after the journalist published articles that "gave a bad impression of the country," according to Cabinet officials. Churches publish newsletters and other periodicals.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, including the right to form or belong to associations for the advancement or protection of a group's interests, and the Government does not impose any significant restrictions in practice.

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

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

There were no reports of refugees. The Government has not formulated a policy regarding refugees, asylees, or first asylum.

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

Citizens choose the Government in periodic free and open elections. The President, who is elected for a 4-year term, exercises executive authority. No less than three and no more than four presidential candidates are nominated by the elected Legislative Assembly from among its members. Under the Constitution, the President is limited to three terms.

Voters reelected President Teburoro Tito to a second term in November 1998, with 52.3 percent of the votes. Most of President Tito's cabinet ministers have served in the previous cabinet.

Women are underrepresented in politics and government. Two women hold permanent secretary positions, and one is a Member of Parliament.

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

There are no restrictions on the formation of local nongovernmental organizations that concern themselves with human rights, but to date none has been formed. There have been no reported allegations of human rights violations by the Government and no known requests for investigations.

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

The Constitution prohibits discrimination on the basis of race, creed, national origin, or sex, and the Government generally observed this prohibition in practice. Society is fundamentally egalitarian and has no privileged chiefly class.

Women.—Violence against women does not appear to be a major problem in this isolated, rural society. Rape is a crime under the law, and the law is enforced when charges are brought to court. To the extent that it exists, wife beating is dealt with informally and in a traditional way; frequently, communal pressure is brought to bear.

The traditional culture in which men are dominant has been an impediment to women taking a more active role in the economy. This is slowly changing, and more women are finding work in unskilled and semiskilled occupations. There are also signs of increased government hiring and promotions of women. However, women may not work at night except under specified circumstances (generally in service jobs such as hotel clerks). Statistics on the participation of women in the work force and on comparative wages are unavailable. Women have full rights of ownership and inheritance of property. Women have full and equal access to education.

Children.—Within its limited financial resources, the Government makes adequate expenditures for child welfare. Primary education is compulsory for children between the ages of 6 and 12 years. Following a national examination, about 40 percent of primary school graduates qualify to attend secondary school.

If child abuse exists, it is rare and has not become a source of societal concern.

People with Disabilities.—There is no evidence or complaint of discrimination in employment, education, or provision of other state services. Accessibility for the disabled has not been mandated.

Section 6. Worker Rights

a. *The Right of Association.*—Freedom of association is provided for in the Constitution. Workers are free to organize unions and choose their representatives. The Government does not control or restrict unions. Over 90 percent of the work force is occupied in fishing or subsistence farming, but the small wage sector has a relatively strong and effective trade union movement. In 1982 the seven registered trade unions merged to form the Kiribati Trade Union Congress (KTUC). It has approximately 2,500 members, mostly from the public service sector. The law provides for the right to strike. However, strikes are rare, the last one having taken place in 1980.

Unions are free to affiliate internationally. The KTUC is affiliated with the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is provided for under the Industrial Relations Code. The Government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees may negotiate wages and other conditions. In the private sector, individual employees also may negotiate wages with employers. Negotiations are generally nonconfrontational, in keeping with tradition. There have been no reports of antiunion discrimination. However, mechanisms exist for resolving any such complaints.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor, and it is not practiced. The prohibition does not specifically mention children, but forced and bonded labor by children does not occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14. Primary education is compulsory for children between the ages of 6 and 12. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Commerce, Industry, and Employment normally enforce these laws effectively, given the rudimentary conditions of the economy and its industrial relations system. Children rarely are employed outside the traditional economy. Although not prohibited specifically, forced and bonded labor by children does not occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Government has taken no concrete action to implement longstanding legislation authorizing the establishment of minimum wages. There is no legislatively prescribed workweek. The Government is the major employer in the cash economy.

Employment laws provide rudimentary health and safety standards for the workplace. Employers must, for example, provide an adequate supply of clean water for workers and ensure the existence of sanitary toilet facilities. Employers are liable for the expenses of workers injured on the job. The Government's ability to enforce employment laws is hampered by a lack of qualified personnel. Workers can remove themselves from hazardous work sites but they risk loss of employment if they do not first obtain approval from their employers.

f. *Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

REPUBLIC OF KOREA

The Republic of Korea is governed by a directly elected president and a unicameral legislature selected by both direct and proportional voting. Kim Dae-jung was elected president in a free and fair election in December 1997 and was inaugurated in February 1998. The next National Assembly elections are scheduled for April 2000. The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence; however, several recent scandals involving alleged illegal influence peddling and cronyism have damaged the image of prosecutors and judges.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS—formerly known as the National Security Planning Agency), the Korean National Police (KNP), and the Defense Security Command (DSC). Legislation passed in 1993 restricts the NIS and DSC from involvement in domestic politics and grants the NIS investigative authority only in cases involving terrorism, espionage, and international crime organizations. The Government revised this law in 1996 to allow the NIS to investigate members of domestic organizations that are viewed as supporting the North Korean Government. The statutory restrictions on the DSC remain in place. There continued to be credible reports that some members of the security forces were responsible for occasional human rights abuses.

The economy rebounded significantly during the year, following the most severe economic crisis since the 1950's in late 1997 and 1998. Underpinning the recovery is the Government's ambitious and comprehensive financial and corporate restructuring plan. Nonetheless, the economy remained susceptible to external shocks. Gross domestic product grew 9.8 percent in the second quarter and growth for the year was expected to be 7 to 8 percent. Unemployment was steady at 6.2 percent.

The Government generally respects the human rights of its citizens; however, there were problems in some areas, although there were also some improvements. Credible sources reported instances in which police subjected detainees to verbal and physical abuse, although human rights groups report that the number of such cases continues to decline. The Ministry of Justice (MOJ) continued to implement guidelines requiring that suspects be told when arrested of their right to remain silent and their right to a lawyer. The Government continued to require released political prisoners to report regularly to the police under the Social Surveillance Law, and it still has not authorized independent investigations of the cases of some prisoners who were sentenced on charges believed to have been fabricated by previous governments. Some of these prisoners reportedly were subjected to torture to extract confessions and received trials that did not meet international standards of fairness. The use or threatened use of the National Security Law (NSL) continued to infringe upon citizen's civil liberties, including the right to free expression. The President de-

clared in his August 15 Independence Day speech that areas of the NSL had to be revised to protect human rights and make the law consistent with the Government's attempts to expand contacts with the North. In March, 17 "long-term, unconverted" prisoners were released despite their refusal to sign an oath to obey the law. Violence against women and physical abuse remain serious problems, and there is still insufficient legal redress for dealing with them. Women continued to face legal and societal discrimination. President Kim, a long-time democracy and human rights activist, stated repeatedly that promoting the rights of women would be a priority goal, and in January the Equal Employment Act was amended to stiffen the penalties for sexual discrimination in hiring and promotion. In addition in July a new sexual harassment law went into effect, requiring companies to establish guidelines to prevent sexual harassment in the workplace and punishing firms that fail to discipline those guilty of sexual harassment. Ethnic minorities, very small in number, face legal and societal discrimination. In July legislation legalized the activities of teachers' unions. This and other recent labor law reforms bring the country's labor laws close to international standards. The country is considered to be a major transit point for traffickers of Asian women and children destined for the sex trade and domestic servitude.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits mistreatment of suspects; the Government has ordered investigating authorities to protect the human rights of suspects; and allegations of abuse by authorities of those in custody for questioning continued to decline. Nonetheless, prosecutors continued to place much emphasis on securing convictions through confessions. This focus is driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of wrongdoers. While the Supreme Court has ruled that confessions obtained after suspects have been deprived of sleep during an interrogation cannot be used in court, there continued to be reports that police questioned suspects throughout the night. Credible sources also reported that in some cases police verbally or physically abused suspects, including beatings, threats, and sexual intimidation in the course of arrest and police interrogation. However, human rights groups report that the number of such cases continues to decline. In February the MOJ announced that criminal suspects, who previously had been required to wear prison garb in court, would be allowed to wear street clothes until proven guilty.

In October 1998, three defendants, accused of a plot to create a North Korean military provocation in order to ensure the 1997 election of the Grand National Party's presidential candidate, alleged during their trial that they were tortured into confessing by NIS (then the National Security Planning Agency) agents.

Former detainees who claimed that officials of past military governments had tortured them continued to request compensation. However, the Government has not provided an effective mechanism for redress, such as an independent body to investigate complaints of past human rights violations. Security officials accused of abuse or harassment of suspects rarely have been prosecuted, and public concern with police abuse appears to be growing. In February following extensive press coverage, several police officers were disciplined after it was discovered that they had shackled the feet and tied the hands of a 63-year-old man who was arrested for a traffic violation.

Prison conditions are Spartan. Prison diets are adequate, but the facilities offer little protection against cold in the winter and heat in the summer. Some prisoners claim that these conditions damaged their health and that medical care was inadequate. Inmates occasionally have criticized guards for using excessive force or needlessly putting prisoners in manacles. Inmate access to reading materials, telephones, and television broadcasts has improved significantly in recent years.

There is little independent monitoring of prison conditions, although representatives of human rights groups may visit certain prisoners at the discretion of the prison warden.

d. *Arbitrary Arrest, Detention, or Exile.*—The law is often vague, and prosecutors have wide latitude to interpret the law. The NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea and therefore dangerous to the country. Authorities arrested not only persons spying on behalf of North Korea but also those who praised

North Korea, its former leader Kim Il Sung, or its "self-reliance" ("juche") political philosophy. The U.N. Human Rights Committee has termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." President Kim Dae-jung, who himself was arrested and sentenced to death under the NSL, has acknowledged that the law has "problematic areas" and announced during his August 15 Independence Day address his intention to pursue major revisions. According to MOJ data, as of November 30, 456 persons had been arrested for violating the NSL (a 35 percent decrease from 1998). Of these, 161 were indicted without detention. These figures represent a 23 percent and 20 percent decrease, respectively, from the same period in 1998.

The NSL permits the imprisonment for up to 7 years of anyone who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization." The legal standard for knowing that one might endanger the security of the State is vague. Consequently, a number of persons have been arrested for what appeared to be the peaceful expression of opposing views, which the authorities considered pro-North Korean or antistate. In August the Government prosecutor questioned the 37 members of a labor union soccer team that returned to Seoul following a match in North Korea. Team representatives had visited a statue of Kim Il-sung and laid a wreath at its base. As of year's end, the investigation appears closed. In August 1998, Catholic priest Moon Kyu Hyun was arrested on charges of violating the NSL, after he returned from North Korea. Father Moon was released on bail in October 1998; as of year's end, his trial still was underway. Although he had received permission from the Government to travel to North Korea, prosecutors alleged that Father Moon wrote in praise of Kim Il-sung in a North Korean visitors book and participated in a North Korean-sponsored reunification festival in Panmunjom. The eight other priests who traveled with Father Moon were not arrested.

The Government's rationale for retaining the NSL is that North Korea is trying actively to subvert the Government and society, and that due to this special circumstance, some forms of expression must be limited to block the greater danger to freedom and democracy posed by North Korean totalitarianism. The effect sometimes is to relieve the Government of the burden of proof in a court of law that any particular speech or action in fact threatens the nation's security. For example the Government has prosecuted citizens for unauthorized travel to North Korea (see Section 2.d.). In September Yonsei University student Hwang Hye-ro and five other persons were arrested upon returning to the country after making an unauthorized trip to North Korea. On the occasion of a special March amnesty, the Government announced the reinstatement of novelist Hwang Sok-yong's civil rights. Hwang had served 4 years of a 7-year sentence for making an unauthorized visit to North Korea and had been released in March 1998 by an earlier special presidential amnesty.

The Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if the person is apprehended while committing a criminal act, or if a judge is not available and the authorities believe that the suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension, or, if a court is not located in the same county, within 72 hours. Police may detain suspects who voluntarily appear for questioning for up to 6 hours but must notify the suspects' families. The police generally respected these legal requirements.

The standards for issuing warrants were tightened in 1997, but following complaints from prosecutors that the new system was administratively cumbersome, the National Assembly voted to ease standards for issuing warrants. Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detainees are a relatively small percentage of the total prison population.

The Constitution specifically provides for the right to representation by an attorney, and in May the National Police Agency announced that it would enforce a suspect's right to have a lawyer present during police interrogation. The police agency also announced that, starting in 2000, individual police stations would employ lawyers as legal advisors to aid in examining relevant legal clauses in charging suspects.

In 1993 the Government began to permit suspects to consult with "duty lawyers" during breaks in interrogation. These duty lawyers are hired and paid by the individual suspects, who often are billed at reduced rates as a public service. In 1995 the MOJ also issued guidelines requiring police to inform suspects at the time of arrest about their right to be represented by a lawyer, and there were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers say that bail generally is not granted when detainees are charged with committing serious offenses.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence; however, several recent scandals involving alleged illegal influence peddling and cronyism have damaged the image of prosecutors and judges. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. In recent years, the judiciary has shown increasing independence. For example, judges in some district courts have ruled, that, contrary to prosecutors' assertions, activists' exchange of faxes with North Korean students or meetings with North Korean representatives in third countries were not, in themselves, sufficient grounds to convict them of violating the NSL.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Defendants can appeal a verdict to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court, which was created in 1988.

The Constitution provides defendants with a number of rights in criminal trials including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is detained physically, the initial trial must be completed within 6 months of arrest. These rights generally are observed. Trials are open to the public but the judge may restrict attendance if he believes spectators may seek to disrupt the proceedings.

Judges generally allow considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters are tried by the same courts. Although convictions rarely are overturned, appeals often result in reduced sentences. Death sentences are appealed automatically.

Human rights groups believe that many dissidents tried under past military governments during the 1970's and 1980's were sentenced to long prison terms on false charges of spying for North Korea. Furthermore, these persons reportedly had been held incommunicado for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. In July 1998, the Government repealed the system by which "ideological prisoners" had to renounce their real or alleged beliefs and instituted a system by which prisoners had to sign a written promise to obey the law and pledge to recognize the Republic of Korea in order to be released from prison. A total of 103 prisoners were freed in this manner in the 1998 Independence Day amnesty. Although the new system was a significant step for the Government, human rights groups criticized the requirement of a promise to obey the law, including the NSL, as tantamount to forcing citizens to renounce their beliefs. However, on the occasion of a special presidential amnesty in March, 17 long-term, unconverted prisoners were released without having to renounce their beliefs or sign an oath of obedience. Included among these was U Yong-gak, who had served 41 years in prison following his conviction on espionage charges. Some released political prisoners were required to report their activities regularly to the police. At year's end, most such prisoners had been released, and two persons remained imprisoned.

Also on the occasion of the August 15 Independence Day amnesty, seven prisoners serving sentences for NSL violations were released after signing an oath of allegiance. In addition 49 other NSL violators were released following the completion of more than half of their sentences.

It is difficult to estimate the number of political prisoners, because it is not clear whether particular persons were arrested for merely exercising the rights of free speech or association or were detained for committing acts of violence or espionage. Some human rights monitors estimate the number of political prisoners at around 300. However, these monitors' definition of political prisoner often includes all persons imprisoned for politically motivated acts, without distinction as to whether the acts themselves included violence or other criminal behavior. The number of political prisoners and detainees as defined by international standards appears to number under 200.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In general the Government honors the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps, of political dissidents. The 1995 Antiwiretap Law and the law to reform the NIS (then known as the National Security Planning Agency) were designed to curb government surveillance of civilians, and largely appear to have succeeded. The Antiwiretap Law lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal. It requires government offi-

cials to secure a judge's permission before placing wiretaps, or, in the event of an emergency, soon after placing them, and it provides for jail terms for those who violate this law. Some human rights groups argue that a considerable amount of illegal wiretapping still is taking place, and they assert that the lack of an independent body to investigate whether police have employed illegal wiretaps hinders the effectiveness of the Antiwiretap Law.

In late December 1998, several opposition lawmakers broke into the NIS (the then National Security Planning Agency) liaison office in the National Assembly building and removed documents that they claimed substantiated allegations that the office was being used by the NIS to conduct surveillance of National Assembly members. Several opposition legislators have alleged that they are under surveillance by the Government and that their homes, offices, and cellular telephones are tapped.

Citizens are not allowed to listen to North Korean radio in their homes or read books published in North Korea if the Government determines that they are doing so to help North Korea. Student groups make plausible claims that government informants are posted on university campuses.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—While most political discourse is unrestricted, under the NSL the Government limits the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allow for restrictions on peaceful dissent.

Although the Government has abandoned direct control over the news media, it continues to exercise indirect influence, and government officials vigorously lobby reporters and editors. The latent threats of tax investigations against companies and pressure on advertisers still are believed to induce newspapers and broadcasters to soften criticism of the Government in some cases. Moreover, while the Government's anticorruption campaign curtailed politicians' payments of money to reporters, it did not eliminate them. Nevertheless, press criticism of the Government is extensive in all fields, and authorities have not used repressive measures to stop media reporting. Many radio and television stations are state supported, but they maintain a considerable degree of editorial independence in their news coverage.

Journalists allege that the libel laws are used to harass publications for articles that are unflattering but not necessarily untrue, and in the past some journalists have been arrested and jailed for libel.

Prosecutors continued to indict dissidents under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allow citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the State. Prosecutors have wide discretion in determining motives for possessing or publishing such material.

The Government continued to allow, within its guidelines, substantial media coverage of North Korea. Television networks continued to broadcast edited versions of North Korean television programs, and reported extensively on United States and South Korean talks with North Korean officials. In September 1998, a television station received permission for the first time to broadcast a North Korean-produced film.

The Government Censorship Board, which screens movies for sex and violence, has followed more liberal guidelines in recent years and allowed release of a broader range of films.

In 1997 Suh Jun Shik, the publisher of a daily human rights newsletter in Seoul, was arrested under provisions of the NSL along with several other activists for attempting to screen an allegedly pro-North Korean movie. Suh was released on bail in October 1998; in September he was found not guilty.

The Government generally respected academic freedom, and no instances of prosecution for scholarly writing were reported during the year. However, student groups plausibly report the presence of government informants on university campuses (see Section 1.f.).

b. *Freedom of Peaceful Assembly and Association.*—The Law on Assembly and Demonstrations prohibits assemblies considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies, and the police must notify organizers if they consider the event impermissible under this law. In August police prevented students from marching to Panmunjom on the border with North Korea for a Liberation Day rally to be held jointly with their North Korean counterparts. The authorities labeled the attempted march and rally as illegal.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. There are no registration requirements. Asso-

ciations operate freely, except those deemed by the Government to be seeking to overthrow the State.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Most citizens can move freely throughout the country; however, police may restrict the movements of some former prisoners. Foreign travel generally is unrestricted; however, the Government must approve travel to North Korea. To obtain approval, potential visitors must demonstrate that their trip does not have a political purpose—that is, to praise North Korea or criticize the South Korean Government. During the year, the Government continued to promote the expansion of North-South contacts, including allowing the Hyundai Group to transport tourists to North Korea's Kumgang mountain and granting permission to a labor union's soccer team to play a soccer match in Pyongyang. However, travelers to North Korea who do not receive government permission are likely to be arrested upon their return.

In January a travel ban was placed on, but subsequently lifted from, 11 opposition politicians for their involvement in the removal of documents from an NIS liaison office in the National Assembly building at the end of 1998 (see Section 1.f.).

In the past, the Government forbade some Koreans convicted of politically related crimes from returning to Korea, and some citizens still face sanctions if they return.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers. However, the issue of provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they had a fear of persecution.

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

Citizens have the right to elect their own government. The Constitution, as amended in 1987, provides for the direct election of the President and for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. The President serves a single 5-year term and may not be reelected. The National Assembly's term is 4 years. All citizens 20 years of age or older have the right to vote, and elections are held by secret ballot.

Because of cultural traditions and discrimination, women occupy few important positions in government. There is one woman in the Cabinet, the Minister of Environment. Eleven female legislators were elected to the 299-seat National Assembly, one of whom chairs a special committee on women's affairs.

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

Several nongovernmental organizations are active in promoting human rights, and they operate without government restriction. Chief among these groups are the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and "Mingahyup," an association of the families of political prisoners. These groups publish reports on human rights and make their views known both inside and outside the country. Government officials generally have been willing to meet with international human rights groups.

In July President Kim reiterated his intention to establish a human rights commission to investigate accusations of human rights violations, which he first mentioned as one of his 100 presidential policy pledges in February 1998. The Government is preparing legislation to create this commission.

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

The Constitution and equal opportunity statutes forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government respects these provisions. However, traditional attitudes limit opportunities for women and the disabled. Ethnic minorities, very small in number, face both legal and societal discrimination.

Women.—Violence against women remains a problem, and some women's rights groups maintain that such violence, including spousal abuse, has worsened with the recent decline of the economy. A 1997 survey found that 31.4 percent of households had experienced incidents of domestic violence. In July 1998, the Government enacted the Prevention of Domestic Violence and Victim Protection Act, which defines domestic violence as a serious crime. Authorities can order offenders to stay away

from victims for up to 6 months and to be put on probation or to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. Women's groups praised the law as a significant step in combating domestic violence.

Rape remained a serious problem with 8,317 cases reported in 1998 (the last year for which statistics are available). Many incidents of rape go unreported because of the stigma associated with being raped. The activities of a number of women's groups have increased awareness of the importance of reporting and prosecuting rapes, as well as offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape generally go unprosecuted, and perpetrators, if convicted, often receive very light sentences.

Enacted to combat sexual harassment in the workplace, a new sexual harassment law went into effect in July. Under the new law, companies can be fined up to $2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also requires companies to establish in-house sexual harassment complaint centers and forbids firms from punishing employees for taking their complaints to outside organizations. In addition the Ministry of Education announced that the new law's guidelines would apply at the nation's schools and that teachers who make gender-discriminatory remarks would be disciplined. As examples of gender-discriminatory remarks, the Ministry cited statements that emphasized women's traditional roles in families, stressed men's leadership in society, and encouraged female students to work for good marriages instead of embarking on a career after graduation.

The amended Family Law, which went into effect in 1991, permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her offspring after a divorce. Although the revisions helped abused women, the stigma of divorce remains strong, and there is little government or private assistance for divorced women. These factors, plus the fact that divorced women have limited employment opportunities and have difficulty remarrying, lead some women to stay in abusive situations. The Government has created some shelters for battered women and increased the number of child care facilities, giving women in abusive situations more options, but women's rights groups say that they fall far short of effectively dealing with the problem.

A conservative tradition has left women subordinate to men socially and economically. Despite the passage of equal employment opportunity legislation in 1987, few women work as company executives, and sexual discrimination in the workplace remains a problem. However, in January the National Assembly revised the 1987 Equal Employment Act to include tougher penalties to be imposed on companies that are found to discriminate against women in hiring and promotions. Under the revised law, the Presidential Commission on Women was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to $4,200 (5 million won) and have its name published in the newspaper. The revised law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) points to continued legal barriers against women. In December the Constitutional Court ruled that government agencies' preferential hiring practices for those who have performed military service discriminated against women and disabled persons and were unconstitutional. Women have full access to education, and social mores and attitudes are changing gradually. For example, the major political parties, are making more efforts to recruit women; the Ministry of Women's Affairs continued its efforts to expand employment opportunities; and the military and service academies continued to expand opportunities for women.

The Government provides an allowance of $442 (500,000 won) per month to 142 former "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army).

The country is considered a major transit point for traffickers of Asian women and children destined for the sex trade and domestic servitude (see Section 6.f.).

Children.—The Government provides high-quality elementary education to all children free of charge, and most obtain a good secondary education. High-quality health care facilities are widely available to children.

Child abuse does not appear to be a significant problem; however, it has not been studied extensively, and statistics are limited. As of the end of July, 411 cases of child abuse had been reported. The Seoul metropolitan government runs a children's counseling center, which investigates reports of abuse, counsels families, and cares for runaway children. Until 1998 there was no specific law against child abuse; however, the new Prevention of Domestic Violence and Victim Prevention Act, which defines domestic violence as a serious crime, allows a child to bring charges against

a parent in cases of abuse. In July the Government's Commission on Youth Protection, exercising its mandate to "regulate the circulation of harmful materials and substances and to protect youth from harmful entertainment establishments," revised the youth protection law. Under the revised law, owners of entertainment establishments who hire minors under the age of 19 face prison terms of up to 10 years and a fine of $8,300 (10 million won) per minor hired. (The law previously had provided for a prison term of 3 years and a fine of $23,240 (28 million won) no matter how many minors were hired.) The Commission also announced that it was expanding the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children sometimes were hired illegally as prostitutes. The National Assembly is proceeding with the development of additional legislation in this area.

The traditional preference for male children continues, although it is less evident among people in their twenties and thirties. Although the law bans fetal testing except for those cases when a woman's life is in danger, a hereditary disease would be transmitted, or in cases of rape or incest, such testing and the subsequent termination of pregnancies with female fetuses frequently occur. The Government has expressed concern about the widening disparity in male and female birth rates.

The country is considered a major transit point for traffickers of Asian women and children destined for the sex trade and domestic servitude (see Section 6.f.).

People with Disabilities.—Although measures aimed at creating opportunities for the disabled have been taken, public facilities for their everyday care and use remained inadequate. However, there is no legal discrimination against disabled persons in employment, education, or the provision of other state services.

In 1995 the Government expanded job training programs, medical benefits, and welfare facilities for disabled citizens. Since 1991 firms with over 300 employees have been required by law either to hire disabled workers or pay a fee. Surveys indicate that most companies either paid the fee or evaded the law. After human rights groups had publicized one such survey in 1996, the Labor Ministry increased the subsidies provided to companies that hire the disabled. Nonetheless, hiring of the disabled remains below target levels. The disabled make up less than 1 percent of the work force. New public buildings are required to include facilities for the disabled, such as ramp access to entrances, a wheelchair lift, and special parking spaces. The Health and Welfare Ministry has announced that existing government buildings must be retrofitted with these facilities over the next 6 years.

National/Racial/Ethnic Minorities.—The country is racially homogeneous with no ethnic minorities of significant size. Citizenship is based on blood, not place of birth, and persons must show their family genealogy as proof. Thus, ethnic Chinese born and resident in Korea cannot obtain citizenship or become public servants, and may have difficulty being hired by some major corporations. Due to legal as well as societal discrimination, many ethnic Chinese have emigrated to other countries since the 1970's. There are approximately 20,000 ethnic Chinese, who represent 0.05 percent of the population. In June 1998, the Government passed legislation to allow a female citizen to transmit citizenship to her child regardless of the citizenship of the child's father. Amerasians face no legal discrimination but informal discrimination is prevalent, making it more difficult for them to succeed in academia, business, or government.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution gives workers, with the exception of public sector employees, the right to free association. In 1998 the Government passed legislation that, beginning in January, allowed government white-collar workers to form workplace councils. Blue-collar workers in such government agencies as the postal service, railways, telecommunications, and the National Medical Center are allowed to organize unions. As few as two employees may form a union. Until 1997 the Trade Union Law specified that only one union was permitted at each workplace. However, labor law changes in 1997 authorized the formation of competing unions starting in the year 2002. All unions are required to notify the authorities when formed or dissolved. About 12.6 percent of workers belong to a union. There are approximately 5,560 trade unions.

In the past, the Government did not recognize formally labor federations that were not affiliated with the country's two legally recognized labor groupings—the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. However, in the past several years, the Labor Ministry officially recognized some independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. The courts ruled in 1992 that affiliation with the FKTU was not required to be registered as a legal labor federation. The legalization

of the teachers' union paved the way for government recognition of the dissident Korean Confederation of Trade Unions (KCTU) in November. In practice labor federations not formally recognized by the Labor Ministry have operated without government interference.

The Government arrested and tried unionists who allegedly instigated violent strikes or illegally disrupted normal business operations. Following a subway strike in Seoul in April, several union leaders were dismissed from their positions and some faced legal action from the Government. Also in April, 6,000 workers walked off the job at the Daewoo Shipyard in sympathy with the subway strikers and to protest company-restructuring plans. Although there were several large general strikes, the Government did not punish unionists for their participation in these strikes or other mass rallies.

The ban on teachers' unions was lifted on July 1. Accordingly, the KCTU-affiliated Korean Teachers' Union (Chonkyojo) and the FKTU-affiliated Korean Union of Teachers and Educational Workers became legal. Although the two teachers unions have the right to bargain collectively with the Ministry of Education on wages or working condition—but not school curriculums—it is illegal for the unions to enter into collective action.

Labor laws prohibiting political activities by unions were rescinded in 1997. Election laws that apply to other social organizations regulate unions. These regulations prohibit donations by unions (and other social organizations) to political parties. Some trade unionists have temporarily resigned from their union posts to run for office.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law unions in enterprises determined to be of "essential public interest," including public transportation, utilities, public health, banking, and telecommunications can be ordered to submit to government-ordered arbitration in lieu of striking. However, in practice the Government rarely imposes arbitration. The number of labor disputes has declined in recent years. According to Labor Ministry statistics, about 129 strikes occurred in 1998, the last year for which complete data are available. The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike; it mandates a 10-day "cooling-off period" before a work stoppage legally may begin and 15 days in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

The FKTU and KCTU are affiliated with the International Confederation of Free Trade Unions. Most of the FKTU's 20 constituent federations maintain affiliations with international trade secretariats, as does the KCTU Metalworkers Council.

In recent years, the Government has cultivated a more neutral stance in labor disputes. Striking workers shut down the Hyundai Motors' auto plant in Ulsan in August 1998, and although the Government threatened to use police to remove the workers, labor and management settled their dispute peacefully. There were no reports that employer-hired squads assaulted workers during the year.

In June 1998, the country was reinstated to the Overseas Private Investment Corporation's (OPIC) insurance programs, which had been suspended since 1991 on worker rights grounds.

b. *The Right to Organize and Bargain Collectively.*—The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or practice discrimination against union members. Employers found guilty of unfair practices can be required to reinstate workers who were fired for union activities.

Extensive collective bargaining is practiced, even with unions whose federations are not recognized legally by the Government. The labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, although the Government passed legislation to allow government workers to form workplace councils beginning in 1999, including workers at state- or publicly run enterprises.

There is no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Labor Ministry that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each labor commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." Local labor commissions are empowered to decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In February 1998, the Government established the Tripartite Commission, with representatives from labor, management, and the Government to deal with labor issues related to the economic downturn. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies. However, disputes among labor, management, and government representatives led to the pullout of labor and management from the Commission in April. In September management and FKTU representatives agreed to return to the Commission. As of year's end, the KCTU had not returned to the Commission.

In the past, regulations forbade intervention in disputes by so-called third parties, such as labor federations not recognized by the Government. Labor laws were revised in 1997 to lift the ban on third-party intervention and allow nonrecognized federations to assist member unions involved in a strike.

Enterprises in the two export processing zones (EPZ's) had been designated by the Government as public interest enterprises. Workers in these enterprises, whose rights to organize formerly were restricted, gradually have been given the rights enjoyed by workers in other sectors of the economy.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Forced or bonded labor, including forced labor by children, is not practiced.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Standards Law prohibits the employment of persons under the age of 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (about age 14), few special employment certificates are issued for full-time employment. Some children are allowed to hold part-time jobs such as selling newspapers. To obtain employment, children under age 18 must have written approval from their parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and usually enforced when violations are found, but the Government employs too few inspectors to carry out regular inspections. The Government prohibits forced and bonded child labor and enforces this prohibition (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The Government implemented a minimum wage in 1988, and the minimum wage level is reviewed annually. As of September 1998, the minimum wage was raised to approximately $1.17 (1,525 won) per hour. Companies with fewer than 10 employees are exempt from this law. The FKTU and other labor organizations assert that the current minimum wage does not meet the basic requirements of urban workers. In fact workers earning the minimum wage would have difficulty in providing a decent standard of living for themselves and their families, despite fringe benefits, such as transportation expenses, with which companies normally supplement salaries. (However, the money an average blue-collar worker takes home in overtime and bonuses significantly raises the total compensation package.) According to the Ministry of Health and Welfare, 4.2 percent of the population lived below the poverty level as of July.

Foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan, often face difficult working conditions. The Government sought to ameliorate the problems of illegal workers by creating a program that allowed about 60,000 foreign workers to enter the country legally to work at established wages with legal safeguards. Although the number of illegal foreign workers decreased greatly in 1998 due to the economic crisis, the country's economic recovery reversed this decline. The Ministry of Labor reported that there were 114,700 illegal workers as of May, down from 149,000 at the beginning of the economic crisis in December 1997 but above the figure of 93,000 recorded in December 1998. It is difficult for illegal workers to seek relief for loss of pay or unsatisfactory living and working conditions because they face deportation. However, the Government has established counseling centers that hear complaints from illegal foreign workers about such issues as overdue wages and industrial accidents. Foreigners working as language teachers have complained that the language institutes that hired them frequently violated employment contracts, for which the legal system provided insufficient redress.

Amendments to the Labor Standards Law passed in 1989 brought the maximum regular workweek to 44 hours, with provision for overtime to be compensated at a higher wage. The law also provides for a 24-hour rest period each week. Labor laws were revised in 1997 to establish a flexible hours system, according to which employers could require laborers to work up to 48 hours during certain weeks without paying overtime, as long as average weekly hours for 2-weeks did not exceed 44. If a union agreed to a further loosening of the rules, management could ask employ-

ees to work up to 56 hours in a given week. The legislation established a daily cap of 12 hours on the working day. Labor groups claim that the Government does not enforce adequately the maximum workweek provisions at small companies.

The Government sets health and safety standards, but the accident rate is unusually high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. The Labor Ministry still lacks enough inspectors to enforce the laws fully. The Industrial Safety and Health Law does not provide job security for workers who remove themselves from dangerous work environments.

f. *Trafficking in Persons.*—The Criminal Code states that "A person who kidnaps another by force or coercion for purposes of engaging in an indecent act or sexual intercourse, or for gain, shall be punished by imprisonment for not less than 1 year . . . this shall apply to a person who buys or sells a woman for purpose of prostitution."

Because of lax control of transit areas at international airports, the country is considered a major transit point for alien smugglers, including traffickers of Asian women and children destined for the sex trade and domestic servitude. Relatively small numbers of Korean economic migrants, seeking opportunities abroad, are believed to end up as victims of traffickers as well (see Section 5).

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA*

The Democratic People's Republic of Korea (DPRK) is a dictatorship under the absolute rule of the Korean Workers' Party (KWP). Kim Il Sung led the DPRK from its inception until his death in 1994. Since then his son Kim Jong Il appears to have had unchallenged authority. Kim Jong Il was named General Secretary of the KWP in October 1997. In September 1998, the Supreme People's Assembly reconfirmed Kim Jong Il as Chairman of the National Defense Commission and declared that position the "highest office of state." The presidency was abolished leaving the late Kim Il Sung as the DPRK's only president. Both Kim Il Sung and Kim Jong Il continue to be the objects of intense personality cults. The regime emphasizes "juche," a national ideology of self-reliance. The judiciary is not independent.

The Korean People's Army is the primary organization responsible for external security. It is assisted by a large military reserve force and several quasi-military organizations, including the Worker-Peasant Red Guards and the People's Security Force. These organizations assist the Ministry of Public Security and cadres of the KWP in maintaining internal security. Members of the security forces committed serious human rights abuses.

The State directs all significant economic activity, and only government-controlled labor unions are permitted. The economy continued to function at low capacity, although it showed signs of halting its contraction of recent years. This decline is due in part to the collapse of the Soviet bloc and the elimination of Soviet and Chinese concessional trade and aid. It also is due to distribution bottlenecks, an inefficient allocation of resources, a lack of access to international credit stemming from the DPRK's default on much of its foreign debt, and the diversion of an estimated quarter of the gross national product to military expenditures. Since 1995 agricultural production has fallen significantly short of minimum needs. Famine conditions have forced thousands of persons to flee their homes. The Government continued to seek international food aid as well as other forms of assistance. Food, clothing, and energy are rationed throughout the country.

The Government continues to deny its citizens human rights. Citizens do not have the right peacefully to change their government. There continued to be reports of extrajudicial killings and disappearances. Citizens are detained arbitrarily, and many are held as political prisoners; prison conditions are harsh. The constitutional provisions for an independent judiciary and fair trials are not implemented in practice. The regime subjects its citizens to rigid controls. The state leadership perceives most international norms of human rights, especially individual rights, as illegitimate, alien social concepts subversive to the goals of the State and party. The Penal Code is draconian, stipulating capital punishment and confiscation of all as-

---

*The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited visitors the freedom of movement that would enable them to assess fully human rights conditions there. This report is based on information obtained over more than a decade, updated where possible by information drawn from recent interviews, reports, and other documentation. While limited in detail, this information is nonetheless indicative of the human rights situation in North Korea today.

sets for a wide variety of "crimes against the revolution," including defection, attempted defection, slander of the policies of the party or State, listening to foreign broadcasts, writing "reactionary" letters, and possessing reactionary printed matter. The Government prohibits freedom of speech, the press, assembly, and association, and all forms of cultural and media activities are under the tight control of the party. Radios sold in North Korea receive North Korean radio broadcasts only; radios obtained from abroad must be altered to work in a similar manner. Under these circumstances, little outside information reaches the public except that approved and disseminated by the Government. The Government restricts freedom of religion, citizens' movements, and worker rights. There were reports of trafficking in women and young girls.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Defectors report that the regime executes political prisoners, opponents of the regime, repatriated defectors, and others (reportedly including military officers suspected of espionage or of plotting against Kim Jong Il). Criminal law makes the death penalty mandatory for activities "in collusion with imperialists" aimed at "suppressing the national liberation struggle." Some prisoners are sentenced to death for such ill-defined "crimes" as "ideological divergence," "opposing socialism," and other "counterrevolutionary crimes." In some cases, executions reportedly were carried out at public meetings attended by workers, students, and school children. Executions also have been carried out before assembled inmates at places of detention. Border guards reportedly have orders to shoot-to-kill potential defectors (see Section 2.d.).

In August 1998, an unsubstantiated Reuters report stated that following a March coup attempt against Kim Jong Il, authorities arrested several thousand members of the armed forces. Reports indicated that the Government executed numerous persons.

Many prisoners reportedly have died from disease, starvation, or exposure (see Section 1.c.).

According to unconfirmed Japanese and South Korean press reports in 1997, several senior party officials were publicly executed in September 1997. The Kyodo News Network reported that Seo Kwan Hui, Secretary of Agriculture for the KWP, and 17 other senior officials, including some from the army and from the Kim Il Sung Socialist Youth League, were executed for corruption and working for South Korea. In January 1998, Agence France-Presse (AFP) reported that among those executed were a four-star general who ran the Political Bureau of the Korean People's Army and Choe Hyon Tok, a member of the Foreign Affairs Committee of the Supreme People's Assembly. According to the AFP, seven persons in this group were executed by firing squad before thousands of spectators.

A South Korean newsmagazine reported that there were at least 20 public executions during 1997 for either economic offenses, including stealing cattle and electric wire, or for attempting to defect. Amnesty International (AI) reported in January 1997 that at least 23 people had been publicly executed between 1970 and 1992 for offenses that reportedly included "banditry" and "stealing rice from a train." Government officials reportedly told AI in 1995 that only one or two executions had taken place since 1985.

b. *Disappearance.*—The Government is reportedly responsible for cases of disappearance. According to defector reports, individuals suspected of political crimes often are taken from their homes by state security officials late at night and sent directly, without trial, to camps for political prisoners. There also have been reports of DPRK involvement in the kidnaping abroad of South Koreans, Japanese, and other foreign nationals. In 1995 the Japanese press estimated that, in the previous 3 decades, as many as 20 Japanese may have been kidnaped and detained in North Korea. According to Japanese government officials, these abductions took place between 1977 and 1983. In addition several cases of kidnaping, hostage-taking, and other acts of violence apparently intended to intimidate ethnic Koreans living in China and Russia have been reported. For example there is credible evidence that North Korea may have been involved in the July 1995 abduction of a South Korean citizen working in China as a missionary. This missionary subsequently appeared publicly in North Korea and was portrayed as a defector. The DPRK denies that it has been involved in kidnapings.

In November 1997, the South Korean Government arrested several alleged North Korean espionage agents. According to the South Korean Government's report on its investigation, those arrested claimed that three South Korean high school students, missing since 1978, had been kidnaped by the North Korean Government and

trained as espionage agents. The three were identified as Kim Young Nam, who disappeared from Son Yu beach, and Yi Myong U and Hong Kyun Pyo, both of whom disappeared from Hong To island beach. According to those arrested, there have been several other kidnapings.

AI reports detail a number of cases of disappearances including that of Japanese citizen Shibata Kozo and his wife Shin Sung Suk, who left Japan in 1960 and resettled in North Korea. The authorities reportedly arrested Shibata in 1962 after he encouraged a demonstration by former Japanese residents protesting the poor treatment given them. In 1993 AI claimed that he was still in custody and in poor health, and that there had been no word about his wife and three children since 1965. In 1995 North Korean officials informed AI that Shibata Kozo, his wife, and children died in a train accident in early 1990, a few weeks after he was released from nearly 30 years in prison. However, AI reports that Shibata Kozo was still in custody at the time of the alleged accident.

North Korean officials informed AI in 1995 that Japanese citizens Cho Ho Pyong, his ethnic Japanese wife Koike Hideko, and their three young children were killed in 1972 while attempting to leave the country. The authorities told AI that Cho escaped from a detention center where he was being held for spying, and killed a guard in the escape.

The cases of three ethnic Korean residents of Beijing, China (16, 18, and 20 years of age), reported by AI in 1995 to have been taken to North Korea against their will, remained unresolved. The three were taken in apparent retaliation for criticism of North Korean human rights violations made by their father, a former prisoner in North Korea, on Japanese television and in the Japanese press. The North Korean authorities deny this allegation, claiming that the three brothers were deported to North Korea for breaking Chinese law and that they are now living with relatives.

Numerous reports indicate that ordinary citizens are not allowed to mix with foreign nationals, and AI has reported that a number of North Koreans who maintained friendships with foreigners have disappeared. In at least one case, AI reported that a citizen who had disappeared was executed for maintaining a friendship with a Russian national.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While there is no information on recent practices, credible reports indicate that prisoners are mistreated and that many have died from disease, starvation, or exposure.

In February 1998, a Polish newspaper reported the experiences of a woman who spent 10 years in a North Korean concentration camp before fleeing first to China and then to South Korea. The approximately 1,800 inmates in this particular camp typically worked 16 to 17 hours a day. The woman reported severe beatings, torture involving water forced into a victim's stomach with a rubber hose and pumped out by guards jumping on a board placed across the victim's abdomen, and chemical and biological warfare experiments allegedly conducted on inmates by the army. South Korean media reported that the DPRK State Security Agency manages the camps through use of forced labor, beatings, torture, and public executions.

Prison conditions are harsh. According to international nongovernmental organizations (NGO's) and defector sources, whole families, including children, are imprisoned together. "Reeducation through labor" is common punishment, consisting of forced labor, such as logging and tending crops, under harsh conditions. A small number of persons who claimed to have escaped from detention camps reported that starvation and executions are common. In one prison, clothing was reportedly issued only once in 3 years. Former inmates have produced photographs of an inmate wearing specially designed leg irons that permit walking but make running impossible. AI reported the existence of "punishment cells," too low to allow standing upright and too small for lying down flat, where prisoners are kept for up to several weeks for breaking prison rules. Visitors to North Korea report observing prisoners being marched in leg irons, metal collars, or shackles.

In April credible witnesses reported on the treatment of persons held in prison camps through the early 1990's. Although their allegations could not be substantiated, the witnesses stated that prisoners held on the basis of their religious beliefs repeatedly were treated worse than other inmates were. One witness, a former prison guard, reported that those believing in God were regarded as insane, as the authorities taught that "all religions are opiates." He recounted an instance in which a woman was kicked hard and left lying for days because a guard overheard her praying for a child who was beaten.

The Government normally does not permit inspection of prisons by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—There are no restrictions on the ability of the Government to detain and imprison people at will and to hold them incommunicado.

Little information is available on criminal justice procedures and practices, and outside observation of the legal system has been limited to "show trials" for traffic violations and other minor offenses.

Family members and other concerned persons find it virtually impossible to obtain information on charges against detained persons. Judicial review of detentions does not exist in law or in practice.

Defectors claim that North Korea detains between 150,000 to 200,000 persons for political reasons, sometimes along with their family members, in maximum security camps in remote areas. An October 1992 report by two former inmates made reference to severe living conditions in what they called "concentration camps." North Korean officials deny the existence of such prison camps but admit that there are "education centers" for persons who "commit crimes by mistake."

One credible report lists 12 such prison camps in the DPRK. It is believed that some former high officials are imprisoned in the camps. Visitors formerly were allowed, but currently any form of communication with detainees, including visitors, is said to be prohibited.

In mid-1999, an ethnic Korean with foreign citizenship was arrested for unauthorized contact with North Koreans. This person was detained for a month before being released.

In May 1998, a foreigner of Korean descent was detained and held incommunicado for nearly 3 months before he was finally released. In September 1998, another foreigner of Korean descent was held incommunicado for more than a month for an unspecified "violation of law" before being released and expelled from the country.

South Korean newspapers reported in 1997 that family members of North Korean defector Hwang Chang Yop, former head of the Juche Research Institute, and a senior advisor to Kim Il Song and Kim Jong Il, who defected to South Korea in that year, were either under house arrest or incarcerated in political prisons. However, visiting foreigners, have seen some members of his family.

In 1991 a North Korean defector who had been a ranking official in the DPRK Ministry of Public Security said that there were two types of detention areas. One consists of closed camps where conditions are extremely harsh and from which prisoners never emerge. In the other, prisoners can be "rehabilitated."

In March North Korean officials in Thailand tried to detain a Bangkok-based North Korean diplomat, Hong Sun Gyong, and his family. Hong and his wife escaped from their abductors and then requested asylum. Their son was taken to Laos by North Korean officials but subsequently was allowed to rejoin his parents in Thailand. The North Korean Government requested Hong's extradition, claiming that he had conspired to embezzle state funds. As of October, Hong's asylum request and his extradition case both were pending.

The Government is not known to use forced exile. However, the Government routinely uses forced resettlement and has relocated many tens of thousands of persons from Pyongyang to the countryside. There are also reports that physically disabled persons and those judged to be politically unreliable have been sent to internal exile as well. Often those relocated are selected on the basis of family background. Nonetheless, there is some evidence that class background is less important than in the past because of the regime's emphasis on the solidarity of the "popular masses," and "united front" efforts with overseas Koreans. According to unconfirmed September 1997 foreign press reports, some 500 senior officials were sent into internal exile.

e. *Denial of Fair Public Trial.*—The Constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary and individual rights do not exist. The Public Security Ministry dispenses with trials in political cases and refers defendants to the Ministry of State Security for imposition of punishment.

The Constitution contains elaborate procedural protections, and it states that cases are heard in public, and that the accused has the right to a defense; hearings may be closed to the public as stipulated by law. When trials are held, lawyers are apparently assigned by the Government. Reports indicate that defense lawyers are not considered representatives of the accused; rather, they are expected to help the court by persuading the accused to confess guilt. Some reports note a distinction between those accused of political crimes and common criminals and state that the Government affords trials or lawyers only to the latter. The Government considers critics of the regime to be "political criminals."

Numerous reports suggest that political offenses have in the past included such behavior as sitting on newspapers bearing Kim Il Sung's picture, or (in the case of a professor reportedly sentenced to work as a laborer) noting in class that Kim Il

Sung had received little formal education. The KWP has a special regulation protecting the images of Kim Il Sung and Kim Jong Il. All citizens are required by this regulation to protect from damage any likeness of the two Kim's. Beginning in the 1970's, the "10 Great Principles of Unique Ideology" directed that anyone who tore or otherwise defaced a newspaper photo of either of the two Kim's was a political criminal and punished as such. Defectors have reported families being punished because children had accidentally defaced photographs of one of the two Kim's. Families must display pictures of the two Kim's in their homes, and if local party officials found the family had neglected its photos, the punishment was to write self-criticism throughout an entire year (see Section 1.f.).

A foreigner hired to work on foreign broadcasts for the regime was imprisoned for 1 year without trial for criticizing the quality of the regime's foreign propaganda. He was then imprisoned for 6 more years (with trial) shortly after his release for claiming in a private conversation that his original imprisonment was unjust. While AI has listed 58 political prisoners by name, the total number of political prisoners being held is much larger. Several defectors and former inmates reported that the total figure is approximately 150,000, while South Korean authorities said the total figure is about 200,000.

The South Korean Ministry of National Unification reported to its National Assembly in October 1997 that North Korea held more than 200,000 political prisoners in camps where many had frozen or starved to death, and that famine may have worsened conditions. The report went on to describe the camps as having no electricity or heating facilities. The report claimed that those who attempted to escape were executed immediately. Most camps are located in remote mountain or mining areas. Some reports indicated an increase in the number of political prisoners as North Koreans had begun to complain more openly about the failure of the Government's economic policies.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the Government does not respect these provisions in practice. The regime subjects its citizens to rigid controls. The state leadership perceives most international norms of human rights, and especially individual rights, as alien social concepts subversive to the goals of the State and party. The Government relies upon an extensive, multilevel system of informers to identify critics and potential troublemakers. Whole communities sometimes are subjected to massive security checks. According to Kim Jong Il, North Korean society represents "a new way of thinking" that cannot be evaluated on the basis of "old yardsticks" of human rights imported from abroad. In this context, the DPRK celebrates the closed nature of its society. The possession of "reactionary material" and listening to foreign broadcasts are both considered crimes that may subject the transgressor to harsh punishments. In some cases, entire families are punished for alleged political offenses committed by one member of the family. For example, defectors have reported families being punished because children had accidentally defaced photographs of one of the two Kim's. Families must display pictures of the two Kim's in their homes, and must keep them clean. Local party officials have conducted unannounced inspections once a month, and if the inspectors found the family had neglected its photos, the punishment was to write self-criticism throughout an entire year (see Section 1.e.).

The Constitution provides for the right to petition. However, when an anonymous petition or complaint about state administration is submitted, the Ministries of State Security and Public Safety seek to identify the author through handwriting analysis. The suspected individual may be subjected to a thorough investigation and punishment.

The regime justifies its dictatorship with arguments derived from concepts of collective consciousness and the superiority of the collective over the individual, appeals to nationalism, and citations of "the juche idea." The authorities emphasize that the core concept of juche is "the ability to act independently without regard to outside interference." Originally described as "a creative application of Marxism-Leninism" in the national context, juche is a malleable philosophy reinterpreted from time to time by the regime as its ideological needs change and used by the regime as a "spiritual" underpinning for its rule.

As defined by Kim Il Sung, juche is a quasi-mystical concept in which the collective will of the people is distilled into a supreme leader whose every act exemplifies the State and society's needs. Opposition to such a leader, or to the rules, regulations, and goals established by his regime is thus in itself opposition to the national interest. The regime therefore claims a social interest in identifying and isolating all opposition.

Since the late 1950's the regime has divided society into three main classes: "Core," "wavering," and "hostile." These three classes are further subdivided into subcategories based on perceived loyalty to the Party and the leadership. Security ratings are assigned to each individual; according to some estimates, nearly half of the population is designated as either "wavering" or "hostile." These loyalty ratings determine access to employment, higher education, place of residence, medical facilities, and certain stores. They also affect the severity of punishment in the case of legal infractions. While there are signs that this rigid system has been relaxed somewhat in recent years—for example, children of religious practitioners are no longer automatically barred from higher education—it remains a basic characteristic of KWP political control.

Citizens with relatives who fled to South Korea at the time of the Korean War still appear to be classified as part of the "hostile class" in the DPRK's elaborate loyalty system. This subcategory alone encompasses a significant percentage of the population. One defector estimated that the class of those considered potentially hostile may comprise 25 to 30 percent of the population; others place the figure at closer to 20 percent. Members of this class are still subject to discrimination, although a defector has claimed that their treatment has improved greatly in recent years.

The authorities subject citizens of all age groups and occupations to intensive political and ideological indoctrination. Even after Kim Il Sung's death, his cult of personality and the glorification of his family and the official juche ideology remained omnipresent. The cult approaches the level of a state religion.

The goal of indoctrination remains to ensure loyalty to the system and leadership, as well as conformity to the State's ideology and authority. The necessity for the intensification of such indoctrination is repeatedly stressed in the writings of Kim Jong Il, who attributes the collapse of the Soviet Union largely to insufficient ideological indoctrination, compounded by the entry of foreign influences.

Indoctrination is carried out systematically, not only through the mass media, but also in schools and through worker and neighborhood associations. Kim Jong Il has stated that ideological education must take precedence over academic education in the nation's schools, and he has also called for the intensification of mandatory ideological study and discussion sessions for adult workers.

In 1997 the Nodong Shinmun newspaper announced that the class indoctrination program would be intensified after Kim Jong Il assumed the office of General Secretary of the KWP. The program was being administered by the KWP's basic-level organizations in all areas of the country. The program stressed two points: That the Kim Jong Il leadership blesses the people, and that the people must do their best for the economy.

Another aspect of the State's indoctrination system is the use of mass marches, rallies, and staged performances, sometimes involving hundreds of thousands of people. In September 1998, celebrations of the 50th anniversary of the founding of the DPRK included hours of carefully choreographed demonstration of mass adulation of the leadership. In October 1997, similar celebrations of the 50th anniversary of the KWP reportedly involved virtually the entire population of Pyongyang and outlying communities. Foreign visitors have been told that nonparticipation by Pyongyang residents in this event was unthinkable.

The Government monitors correspondence and telephones. Telephones essentially are restricted to domestic operation although some international service is available on a very restricted basis.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Articles of the Constitution that require citizens to follow "Socialist norms of life" and to obey a "collective spirit" take precedence over individual political or civil liberties. Although the Constitution provides for freedom of speech and the press, the Government prohibits the exercise of these rights in practice. The regime permits only activities that support its objectives.

The Government strictly curtails freedom of expression. The authorities may punish persons for criticizing the regime or its policies by imprisonment or "corrective labor." One defector reported in 1986 that a scientist, whose home was under surveillance through his radio set, was arrested and executed for statements made at home critical of Kim Il Sung. In another case, AI reports that a family formerly resident in Japan was sent to a "reeducation-through-labor" center because one member of the family allegedly made remarks disparaging the Government.

The Government attempts to control all information. It carefully manages the visits of Western journalists. In 1996 the Cable News Network was allowed to broadcast live, unedited coverage of the 2nd year memorial service for the death of Kim Il Sung. The regime recently allowed foreign journalists to report on the food situa-

tion. Foreign journalists also were allowed to report on the Korean Peninsula Energy Development Organization (KEDO) light-water reactor groundbreaking at Kumho in 1997. Although more foreign journalists have been allowed into North Korea, the Government still maintains the strictest control over the movements of foreign visitors. Domestic media censorship is strictly enforced, and no deviation from the official government line is tolerated.

The regime prohibits listening to foreign media broadcasts except by the political elite, and violators are subject to severe punishment. Radios and television sets receive only domestic programming; radios obtained from abroad must be submitted for alteration to operate in a similar manner. Private telephone lines operate on an internal system that prevents making and receiving calls from outside the country. International phone lines are available under very restricted circumstances. The Government set up an Internet web site, based in Tokyo, Japan, for propaganda purposes. There may be very limited Internet access in North Korea for government officials, according to recent reports.

Late in 1997, the Government published threats against South Korean media for criticizing the North Korean leadership. The first instance was in response to a South Korean newspaper editorial; the second in reaction to a television drama about life in North Korea.

The Government severely restricts academic freedom and controls artistic and academic works. Visitors report that one of the primary functions of plays, movies, operas, children's performances, and books is to contribute to the cult of personality surrounding Kim Il Sung and Kim Jong Il.

b. *Freedom of Peaceful Assembly and Association.*—Although the Constitution provides for freedom of assembly, the Government does not respect this provision in practice. The Government prohibits any public meetings without authorization.

Although the Constitution provides for freedom of association, the Government does not respect this provision in practice. There are no known organizations other than those created by the Government. Professional associations exist primarily as a means of government monitoring and control over the members of these organizations.

c. *Freedom of Religion.*—The Constitution provides for the "freedom of religious belief," including "the right to build buildings for religious use." However, the same article adds that "no one can use religion as a means to drag in foreign powers" or to disrupt the social order. In practice the regime discourages all organized religious activity except that which serves the interests of the State.

In recent years, the regime has allowed the formation of several government-sponsored religious organizations. These serve as interlocutors with foreign church groups and international aid organizations. Some foreigners who have met with representatives of these organizations are convinced that they are sincere believers; others claim that they appeared to know little about religious dogma, liturgy, or teaching.

There are a few Buddhist temples where religious activity is permitted, and three Christian churches—two Protestant and one Catholic—have opened since 1988 in Pyongyang. Many visitors say that church activity appears staged. Foreign Christians who have attempted to attend services at these churches without making prior arrangements with the authorities report finding them locked and unattended, even on Easter Sunday. The authorities have told foreign visitors that one Protestant seminary exists, accepting six to nine pupils every 3 years.

The DPRK claims that there are 10,000 Christians who worship in 500 house churches, and the Chondogyo Young Friends Party, a government-sponsored group based on a native Korean religious movement, is still in existence.

Prison inmates who are imprisoned for their religious beliefs or who try to worship in prison reportedly are treated worse than other inmates (see Section 1.c.).

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—In the past, the regime has strictly controlled internal travel, requiring a travel pass for any movement outside one's home village. These passes were granted only for official travel or attendance at a relative's wedding or funeral. Long delays in obtaining the necessary permit often resulted in denial of the right to travel even for these limited purposes. In recent years, it appears that the internal controls on travel have eased or broken down somewhat. There are reports of significant movement of people traveling across the country in search of food. Only members of a very small elite have vehicles for personal use. The regime tightly controls access to civilian aircraft, trains, buses, food, and fuel.

Reports, primarily from defectors, indicate that the Government routinely uses forced resettlement, particularly for those deemed politically unreliable. The Government strictly controls permission to reside in, or even enter, Pyongyang. This is

a significant lever, since food, housing, health, and general living conditions are much better in Pyongyang than in the rest of the country.

AI has reported serious human rights abuses involving North Korean workers working in the Far Eastern portion of Russia and North Korean refugees living in Russia. There are about 6,000 DPRK workers in camps in the Russian Far East engaged in farming, mining, and construction. Conditions in these North Korean-run camps are harsh; food is scarce; and discipline is severe. In the past, there have been allegations that discipline includes physical torture such as placing wooden logs between the knees of offenders, after which they were forced to sit down, causing them excruciating pain. In recent years, offenders have been sent back to the DPRK for punishment due to the increased scrutiny that the labor camps have been under since Russian and foreign media began reporting on the conditions in these camps in the early 1990's.

North Korean refugees in Russia comprise two groups: Those who were selected to work in Russia but refused to return to the DPRK and those who have fled into Russia from the DPRK. Until 1993 under a "secret protocol," the DPRK Public Security Service reportedly was allowed to work inside Russia to track down workers who fled the camps. Since 1993 many North Korean refugees have been engaged in business in the Russian Far East.

Many North Korean refugees in Russia face severe hardships due to their lack of any identification. Workers arriving in Russia usually have their passport and other identification confiscated by North Korean border guards.

The DPRK Government reportedly tried to prevent defections in Russia by using diplomatic channels to influence Russian authorities and international organizations. In a number of cases, North Korean authorities reportedly told Russian authorities that a particular North Korean who had applied for asylum in Russia or elsewhere was a criminal offender in North Korea. An extradition treaty signed by both nations in 1957 requires that defectors with criminal records be returned to their country.

The regime limits foreign travel to officials and trusted artists, athletes, academics, and religious figures. It does not allow emigration. In recent years, there are persistent reports of a steady increase in North Korean defectors arriving in China, Hong Kong, Vietnam, and other Asian countries. The regime reportedly retaliates harshly against the relatives of those who manage to escape. According to the Penal Code, defection and attempted defection (including the attempt to gain entry to a foreign embassy for the purpose of seeking political asylum) are capital crimes. Defectors have stated that DPRK border guards have received shoot-to-kill orders against potential defectors attempting to cross the border into China. Other defectors have reported that some defectors who have been involuntarily returned have been executed (see Section 1.a.). Following the collapse of European communism, the regime recalled several thousand students from overseas. It no longer allows students to study abroad except in China and a few other places.

According to South Korean media accounts, the DPRK increased controls over the population when Hwang Chang Yop defected in 1997 (see Section 1.d.).

From 1959 to 1982, 93,000 Korean residents of Japan, including 6,637 Japanese wives, voluntarily repatriated to North Korea. Despite DPRK assurances that the wives, more than a third of whom still had Japanese citizenship, would be allowed to visit Japan every 2 or 3 years, none were permitted to do so until 1997. Many have not been heard from, and their relatives and friends in Japan have been unsuccessful in their efforts to gain information about their condition and whereabouts.

The DPRK and the Japanese Government held a series of bilateral meetings in Beijing in the second half of 1997, during which the DPRK agreed to allow some Japanese wives resident in North Korea to visit Japan. The first such visit occurred in November 1997 when 15 Japanese wives arrived for a 1-week visit. An additional 12 Japanese wives visited for a week in January and February. In June the DPRK authorities cancelled a visit by Japanese-born women to Japan. In announcing the cancellation, the state-controlled media cited "artificial hurdles and inhuman acts on the Japanese side."

Although the DPRK has permitted an increasing number of overseas Korean residents of North America, Japan, China, and other countries to visit their relatives in North Korea over the past decade, most requests for such visits are still denied. Many foreign visitors to the 1995 International Pyongyang Sports Festival reported that they were denied permission to visit or otherwise contact their relatives, even those who lived only a few miles from Pyongyang.

Although the DPRK is a member of the United Nations, it does not participate in international refugee forums, and it is not in contact with the U.N. High Commissioner for Refugees. There is no known policy or provision for first asylum.

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

Citizens have no right or mechanisms to change their leadership or government. The political system is completely dominated by the KWP, with Kim Il Sung's heir Kim Jong Il in full control. Very little reliable information is available on intraregime politics following Kim Il Sung's death. The legislature, the Supreme People's Assembly (SPA), which meets only a few days a year, serves only to rubberstamp resolutions presented to it by the party leadership. In October 1997, Kim Jong Il acceded to the position of General Secretary of the Korean Worker's Party. In September the SPA reconfirmed Kim as the Chairman of the National Defense Commission and declared that position the "highest office of State." The presidency was abolished, leaving the late Kim Il Sung as the DPRK's only President.

In an effort to give the appearance of democracy, the DPRK has created several "minority parties." Lacking grassroots organizations, they exist only as rosters of officials with token representation in the Supreme People's Assembly. Their primary purpose appears to be promoting government objectives abroad as touring parliamentarians. Free elections do not exist, and Kim Jong Il has criticized the concept of free elections and competition among political parties as an artifact of capitalist decay.

Elections to the Supreme People's Assembly and to provincial, city, and county assemblies are held irregularly. In July SPA elections were held for the first time since 1990. According to the government-controlled media, over 99 percent of the voters participated to elect 100 percent of the candidates approved by the KWP. Results of previous SPA elections have produced virtually identical outcomes. The vast majority of the KWP's estimated 3 million members (in a population of 23 million) work to implement decrees formulated by the Party's small elite.

Few women have reached high levels of the Party or the Government.

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

The Government does not permit any independent domestic organizations to monitor human rights conditions or to comment on violations of such rights. Although a North Korean Human Rights Committee was established in 1992, it denies the existence of any human rights violations in North Korea and is merely a propaganda arm of the regime. However, by offering international human rights organizations an identifiable official interlocutor, the Committee helped increase their ability to enter into two-way communication with the regime.

In April 1998, during the 54th meeting of the U.N. Commision on Human Rights, the North Korean delegation accused the international community of slandering the DPRK's human rights record, adding that the DPRK Government would not tolerate "any attempt to hurt the sovereignty and dignity of the country under the pretext of human rights."

In 1996 a delegation from AI visited the DPRK and discussed legal reforms and prisoner cases with senior government officials. The Government has ignored requests for visits by other international human rights organizations.

In August 1997, the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities adopted a resolution criticizing the DPRK for its human rights practices. The DPRK subsequently announced that it would withdraw from the International Covenant on Civil and Political Rights (ICCPR), calling the resolution an attack on its sovereignty. For more than a decade, the DPRK had failed to report on its implementation of the ICCPR to the U.N. Human Rights Committee. In October 1997, the U.N. Human Rights Committee issued a statement criticizing the attempt by North Korea to withdraw from the ICCPR, noting that countries that had ratified the ICCPR could not withdraw from the covenant. In August 1998, the Human Rights Committee readopted a resolution urging the DPRK to improve its human rights record.

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

The Constitution grants equal rights to all citizens. However, in practice the Government denies its citizens most fundamental human rights. There was pervasive discrimination on the basis of social status.

Women.—There is no information available on violence against women.

The Constitution states that "women hold equal social status and rights with men." However, although women are represented proportionally in the labor force, few women have reached high levels of the party or the Government. In many small factories, the work force is predominantly female. Like men, working-age women must work. They are thus required to leave their preschool children in the care of

elderly relatives or in state nurseries. However, according to the Constitution, women with large families are to work shorter hours. There were reports that women were trafficked to China (see Section 6.f.).

Children.—Social norms reflect traditional, family-centered values in which children are cherished. The State provides compulsory education for all children until the age of 15. Some children are denied educational opportunities and subjected to other punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of their parents (see Section 1.f.).

Like others in society, children are the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition, foreign visitors and academic sources report that children from an early age are subjected to several hours a week of mandatory military training and indoctrination at their schools. School children are sometimes sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

In practice children do not enjoy any more civil liberties than adults. In June the U.N. Committee on the Rights of the Child (UNCRC) released its concluding observations on a February 1996 report submitted by the DPRK, detailing its adherence to the International Convention on the Rights of the Child. The UNCRC found that the DPRK "strategy, policies, and programs for children do not fully reflect the rights-based approach enshrined in the convention." The UNCRC also expressed concern over "de facto discrimination against children with disabilities and at the insufficient measures taken by the state party to ensure that these children have effective access to health, education, and social services, and to facilitate their full integration into society."

According to the World Food Program, the international community is feeding nearly every child under the age of 7 years. In some remote provinces, many persons over the age of 6 years reportedly appear to be suffering from long-term malnutrition. In August 1997, a senior U.N. Children's Fund (UNICEF) official said that about 80,000 children in North Korea were in immediate danger of dying from hunger and disease; 800,000 more were suffering from malnutrition to a serious but lesser degree.

In the fall of 1998, the NGO's Doctors Without Borders (DWB) and Doctors of the World closed their offices in the DPRK because the Government denied them access to a large population of sick and malnourished children. DWB officials said that they had evidence that orphaned and homeless children had been gathered into so-called "9–27 camps." These camps reportedly were established under a September 27, 1995 order from Kim Jong Il to "normalize" the country. North Korean refugees who have escaped from the 9–27 camps into China have reported inhuman conditions.

Information about societal or familial abuse of children is unavailable. There were reports that young girls were trafficked to China (see Section 6.f.).

People with Disabilities.—Traditional social norms condone discrimination against the physically disabled. Disabled persons almost never are seen within the city limits of Pyongyang, and several defectors and other former residents report that disabled persons are assigned to the rural areas routinely. According to one report, authorities check every 2 to 3 years in the capital for persons with deformities and relocate them to special facilities in the countryside. There are no legally mandated provisions for accessibility to buildings or government services for the disabled. In a statement in April, the U.N. Committee on the Rights of the Child criticized "de facto discrimination" in the DPRK against children with disabilities.

Section 6. Worker Rights

a. *The Right of Association.*—Nongovernmental labor unions do not exist. The KWP purports to represent the interests of all labor. There is a single labor organization, the General Federation of Trade Unions of Korea, which is affiliated with the formerly Soviet-controlled World Federation of Trade Unions. Operating under this umbrella, unions function on the classic "Stalinist model," with responsibility for mobilizing workers behind production goals and for providing health, education, cultural, and welfare facilities. Unions do not have the right to strike.

North Korea is not a member of, but has observer status with, the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—Workers have no right to organize or to bargain collectively. Government ministries set wages. The State assigns all jobs. Ideological purity is as important as professional competence in deciding who receives a particular job, and foreign companies that have established joint ventures report that all their employees must be hired from lists submitted by the

KWP. Factory and farm workers are organized into councils, which do have an impact on management decisions.

c. *Prohibition of Forced or Compulsory Labor.*—There is no prohibition on the use of forced or compulsory labor, and the Government frequently mobilizes the population for construction projects. Military conscripts routinely are used for this purpose as well. "Reformatory labor" and "reeducation through labor" are common punishments for political offenses. AI reports that forced labor, such as logging and tending crops, is common among prisoners. School children are assigned to factories or farms for short periods to help meet production goals (see Section 5).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—According to the Constitution, the State prohibits work by children under the age of 16 years. As education is universal and mandatory until the age of 15, it is believed that this regulation is enforced. There is no prohibition on forced labor by children, and school children are assigned to factories or farms for short periods to help meet production goals (see Section 6.c.).

e. *Acceptable Conditions of Work.*—No data is available on the minimum wage in state-owned industries. Until the increasing food shortages of recent years, wages and rations appeared to be adequate to support workers and their families at a subsistence level. Wages are not the primary form of compensation since the State provides all educational and medical needs free of charge, while only token rent is charged. The minimum wage for workers in North Korea's free economic and trade zone (FETZ) is approximately $80 per month; in foreign-owned and joint venture enterprises outside the FETZ the minimum wage is reportedly close to $110 per month. It is not known what proportion of the foreign-paid wages go to the worker and what proportion remains with the State. The Korean Peninsula Energy Development Organization (KEDO, the international organization charged with implementation of a light-water reactor and other projects) has concluded a protocol and a related memorandum of understanding concerning wages and other working conditions for citizens who are to work on KEDO projects. Unskilled laborers receive about $110 per month while skilled laborers are paid slightly more depending on the nature of the work performed.

The Constitution states that all working-age citizens must work and "strictly observe labor discipline and working hours." The Penal Code states that anyone who hampers the nation's industry, commerce, or transportation by intentionally failing to carry out a specific assignment "while pretending to be functioning normally" is subject to the death penalty; it also states that anyone who "shoddily carries out" an assigned duty is subject to no less than 5 years" imprisonment.

Even persistent tardiness may be defined as "anti-Socialist wrecking" under these articles, although as a result of food shortages absenteeism reportedly has become widespread as more time must be spent finding food. A DPRK official described the labor force to an audience of foreign business executives by noting that "there are no riots, no strikes, and no differences of opinion" with management.

In 1994 the authorities reportedly adopted new labor regulations for enterprises involving foreign investments. The regulations on labor contracts set out provisions on the employment and dismissal of workers, technical training, workhours, rest periods, remuneration, labor protection, social security, fines for violations of regulations, and settlement of disputes.

The Constitution stipulates an 8-hour workday; however, several sources report that most laborers work from 12 to 16 hours daily. Some of this additional time may include mandatory study of the writings of Kim Il Sung and Kim Jong Il. The Constitution provides all citizens with a "right to rest," including paid leave, holidays, and access to sanitariums and rest homes funded at public expense. Many worksites are hazardous, and the rate of industrial accidents is high.

f. *Trafficking in Persons.*—There are no known laws specifically addressing the problem of trafficking in persons.

There were reports early in the year that women and young girls were sold by their families as wives to men in China. A network of smugglers reportedly facilitates this trafficking.

LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). Although the 1991 Constitution outlines a system composed of executive, legislative, and judicial branches, in practice the LPRP continued to influence governance and the choice of leaders through its constitutional "leading role" at all levels. The 99-member National As-

sembly, elected in 1997 under a system of universal suffrage, selected the President and Prime Minister in February 1998. The judiciary is subject to executive influence.

The Ministry of Interior (MOI) maintains internal security but shares the function of state control with party and mass front organizations. The Ministry of Foreign Affairs is responsible for the monitoring and oversight of foreigners working in Laos; these activities are augmented by other security organizations' surveillance systems. The MOI includes local police, security police (including border police), communication police, and other armed police units. The armed forces are responsible for external security but also have some domestic security responsibilities that include counter-terrorism and counter-insurgency activities. Civilian authorities generally maintain effective control over the security forces. There continue to be credible reports that some members of the security forces committed human rights abuses.

Laos is an extremely poor country. After the LPRP came to power in 1975, 10 percent of the population (at least 360,000 persons) fled the country to escape the Government's harsh political and economic policies. The economy is principally agricultural; 85 percent of the population is engaged in subsistence agriculture. Per capita gross domestic product is estimated to be $240 per year. Since 1986 the Government largely has abandoned its Socialist economic policies. Economic reforms have moved the country from a moribund, centrally planned system to a market-oriented economy open to foreign investment with a growing legal framework, including laws to protect property rights.

The Government's human rights record deteriorated in some aspects throughout the year, and serious problems remain. Citizens do not have the right to change their government. Members of the security forces at times abused detainees and acted brutally toward suspected insurgents. Prison conditions are extremely harsh, and police used arbitrary arrest, detention, and intrusive surveillance. Lengthy pretrial detention is a problem. The judiciary is subject to executive influence, suffers from corruption, and does not ensure citizens due process. The Government infringed on citizens' privacy rights. The Government restricts freedom of speech, assembly, and association. The Government restricts freedom of religion and arrested and detained more than 55 Christians. The Government imposes some restrictions on freedom of movement and the press. Some societal discrimination against women and minorities persists. The Government restricts some worker rights. However, it permitted increased access to the foreign press and the Internet and actively supported a policy of encouraging greater rights for women and minorities. The Government has begun to focus on the problem of trafficking in women and children.

An organized Hmong insurgent group was responsible for occasional clashes with government troops. These exchanges reportedly were brutal on both sides.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no confirmed reports of politically motivated or other extrajudicial killings by government officials during the year. There continued to be isolated, unsubstantiated reports of deaths at the hands of security forces in remote areas, usually in connection with personal disputes and the personal abuse of authority.

Attacks by armed bands on official and civilian travelers continued on a small scale in the central and north central regions. The attacks apparently involved a mixture of factors including insurgency, clan rivalry, robbery, and reaction to encroaching development. There were reports that a few civilians were killed. The Government remained concerned about the safety of foreigners in remote areas, although there were no confirmed attacks on foreigners during the year.

b. *Disappearance.*—There were no reports of politically motivated disappearances; however, there were contradictory reports concerning the disappearance of two U.S. citizens near the northwest border with Thailand. The two men, Michael Vang and Houa Ly, reportedly disappeared on April 19. The matter remained under investigation by authorities at year's end.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code prohibit torture, and the Government generally respected these provisions in practice; however, on occasion, members of the security forces subjected detainees to abusive treatment. For example, in March 1998, Lao authorities, some wearing police uniforms, detained a foreign citizen and three family members in an unofficial detention center for 4 days. The Government did not file charges against the four persons. The officials reportedly kept the four persons in locked, windowless rooms and subjected them to long and arduous interrogation before releasing them. The Government offered no explanation for this

treatment. There is no evidence that the Government is investigating the incident seriously.

The Government chose not to address numerous reports that were made by groups outside the country of massive human rights abuses by government authorities. Most of these reports could not be confirmed through independent sources. However, there continue to be credible reports that some members of the security forces committed human rights abuses, including arbitrary detention and intimidation. There were unconfirmed reports that some members of the security forces were responsible for beatings and that others acted brutally in the first half of the year in clashes with insurgents or armed individuals suspected to be insurgents.

Prison conditions generally are extremely harsh. Food rations are minimal, and most prisoners rely on their families for their subsistence. The Government discriminates in its treatment of prisoners, restricting the family visits of some and prohibiting visits to a few. Prison authorities use degrading treatment, solitary confinement, and incommunicado detention against perceived problem prisoners. There are confirmed reports that a few jails place prisoners in leg chains, wooden stocks, or fixed hand manacles for extended periods. Medical facilities range from poor to nonexistent. Prison conditions for women are similar to those for men. Several international human rights groups continued their longstanding requests to the Government to move two political prisoners to a prison with better conditions, including more modern medical facilities (see Section 1.e.). At year's end, the Government continued to ignore these humanitarian pleas.

The Government does not permit independent monitoring of prison conditions.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides for arrest warrants issued by the prosecutor, and the Constitution provides for due process procedures; however, in practice the Government does not respect these provisions fully, and arbitrary arrest and detention remain problems. Police sometimes use temporary arrest as a means of intimidation. Police exercise wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for those in the act of committing a crime or for "urgent" cases. Length of detention without pretrial hearing or charges is unpredictable, and access to family or a lawyer is not assured. There is a functioning bail system, but its implementation is arbitrary. A statute of limitations applies to most crimes. Alleged violations of security laws have led to lengthy pretrial detentions without charge and minimal due process protection of those detained. There were reports that some students, teachers, and their associates who staged protests were detained for expressions of hostility to the regime.

A number of Hmong returnees were detained in Thoulakhom district, some for 2 months, on an apparently fabricated charge that was later dropped (see Section 5).

During and after an abortive, peaceful protest in Vientiane on October 26, police arrested at least 30 participants and detained for questioning scores of suspected protest supporters. At least 10 suspected protesters remained in custody without charge at year's end. The Government refused to acknowledge the incident publicly. The Ministry of Interior did not indicate whether those arrested were in investigative detention, in accordance with the law.

During the year, government authorities arrested and detained more than 55 Protestant Christian believers and their spiritual leaders, at times holding them in custody for months. In Attapeu two prisoners had been in prison for 18 months and 16 months at year's end, respectively; their detentions exceed the 1-year limit on investigative detention. In Savannakhet 15 persons were held in detention for up to 10 months before the provincial government brought charges against them related to their religious activities. In Houaphanh 23 persons were arrested during October and November for their religious activities; their status was unclear at year's end. In Oudomxay four persons were arrested in October based on their beliefs; they had not been charged by year's end (see Section 2.c.).

Three former government officials detained in 1990 for advocating a multiparty system and criticizing restrictions on political liberties were not tried until 1992. One since has died in prison. That same year, the court finally tried and handed down life sentences to three men detained since 1975 for crimes allegedly committed during their tenure as officials under the previous regime. One of these persons reportedly has died in prison.

Based on known cases of detention for suspicion of violations of national security, an estimated 100 to 200 persons are in detention. Most of these detainees are held without trial; one person has been detained since 1992.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for the independence of the judiciary and the prosecutor's office; however, senior government and party officials wield influence over the courts, although likely to a lesser degree than in the past. Some corrupt members of the judiciary appear to act with impunity. The

National Assembly Standing Committee appoints judges; the executive appoints the Standing Committee.

The Lao People's Courts have three levels: District; municipal and provincial; and a Supreme Court. Decisions of both the lower courts and separate military courts are subject to review by the Supreme Court.

The Constitution provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The Constitution requires authorities to inform persons of their rights. The law states that defendants may have anyone represent them in preparing a written case and accompanying them at their trial, but only the defendant may present oral arguments at a criminal trial; however, due to lack of funds, most defendants do not have lawyers. Defendants enjoy a presumption of innocence; however, in practice lawyers face severe restrictions in criminal cases. Most trials are little more than direct examinations of the accused, although judges appear not to hold preconceived views of a trial's outcome. Trials for alleged violations of some security laws and trials that involve state secrets, children under the age of 16, or certain types of family law are closed.

There are four known political prisoners: Two prisoners from the pre-1975 regime, Colonel Sing Chanthakoumane and Major Pang Thong Chokbengvoun, who are serving life sentences after trials that did not appear to be conducted according to international standards; and two former government officials, Latsami Khamphoui and Feng Sakchittaphong, detained in 1990 for advocating a multiparty system and criticizing restrictions on political liberties were not tried until 1992; they are serving 14-year sentences based on their 1992 convictions.

Because some political prisoners may have been arrested, tried, and convicted under security laws that prevent public court trials, there is no reliable method to ascertain accurately their total number. There have been no reports of other political prisoners in the last few years.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Government imposes some limits on these rights. Security laws allow the Government to monitor individuals' private communications and movements. The evidence suggests that the Government strengthened these elements of state control during the year, especially in areas with safety and security problems. Some personal freedoms accorded to citizens have expanded over the past few years in tandem with liberalization of the economy.

The Constitution prohibits unlawful searches and seizures; however, police at times disregarded constitutional provisions to safeguard citizens' privacy, especially in rural areas. Security police may not authorize their own searches; they must have approval from a prosecutor or court. However, in practice they did not always obtain prior approval. The Penal Code generally protects privacy, including mail, telephone, and electronic correspondence.

Political groups other than mass front organizations approved by the LPRP are forbidden. Ministry of Interior forces occasionally monitor citizens' activities; in addition a loose militia in both urban and rural areas has responsibility for maintaining public order and reporting "bad elements" to the police. Militia usually concern themselves more with petty crime and instances of moral turpitude than with political activism, although some rural militia may be used for security against insurgents. A sporadically active system of neighborhood and workplace committees plays a similar monitoring role on an informal and irregular basis.

The Government does not permit the public sale of some leading foreign magazines and newspapers. However, minimal restrictions on publications mailed from overseas are loosely enforced (see Section 2.a.). The Government allows citizens to marry foreigners but only with its prior approval. Although the Government routinely grants permission, the process is burdensome. Marriages to foreigners without government approval may be annulled, with both parties subject to fines.

The Government displaced internally hundreds of persons during the year, mainly as a result of organized infrastructure development programs. The Government provides compensation to displaced persons in the form of land and household supplies. In September the Government began a review of its policy toward ethnic minorities, including a review of its policy of resettlement to solve the problem of highland "slash-and-burn" methods that destroyed forest areas and resulted in habitat damage. Credible sources report more flexibility by the Government toward the disposition of infrastructure-related and other government-planned resettlements. However, some local administrators forced highlander groups to resettle in lowland areas to control their use of farming methods that destroy forest areas in the pursuit of increased food security.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government severely restricts political speech and writing in practice. The Government also prohibits most criticism that it deems harmful to its reputation. The Penal Code forbids slandering the State, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the State. The Government has shown more tolerance of general criticisms aimed at good governance or improved public service, and citizens who lodge legitimate complaints with government departments generally do not suffer reprisals. In the second half of the year, apparent government concern about public discontent over failed economic policies led to tighter media control and fewer critical articles and broadcasts. No Lao newspapers reported the October 26 protest (see Section 1.d.).

All print and electronic media are state-owned and controlled. Local news in all media reflects government policy, and only rarely hints at differences of opinion. Television talk shows and opinion articles refer only to differences in administrative approach. Translations of foreign press reports generally are without bias, and access to Thai press, radio, and television is unhindered. Other Asian and many Western newspapers and magazines are available through private outlets that have government permission to sell them.

Authorities also prohibited the dissemination of materials deemed to be indecent, to undermine the national culture, or to be politically sensitive. Films and music recordings produced in government studios must be submitted for official censorship. However, in practice most foreign media are easily available. Government enforcement of restrictions on nightclub entertainment generally was lax during the year.

Citizens have 24-hour access to Cable News Network and the British Broadcasting Corporation, among other international stations accessible via satellite television. The Government requires registration of satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise makes no effort to restrict their use.

Foreign journalists must apply for special visas. Unfettered access to information sources and domestic travel unescorted by officials—hallmarks of a more liberal government attitude in previous years—declined during the year.

The Constitution provides for academic freedom; however, the Government restricts it, although it has relaxed its restrictions in certain areas. Lao and Western academic professionals conducting research in Laos may be subject to restrictions on travel and access to information and Penal Code restrictions on publication. As the sole employer of virtually all academic professionals, the Government exercises some control over their ability to travel on research or study grants. However, the Government, which once limited foreign travel by professors, actively seeks out these opportunities worldwide and approves virtually all such proposals.

Credible reports indicate that some academically qualified ethnic minorities, including Hmong, are denied opportunities for foreign fellowships and study abroad based on the actions of some state and party officials, whose discriminatory behavior goes unchecked. On rare occasions, the Government has denied government employees who were not party members permission to accept certain research or study grants, apparently because they had chosen not to join the LPRP.

While preparing to assemble and demonstrate in a peaceful protest march on Vientiane's main boulevard, at least 30 protesters were arrested on October 26. They reportedly intended to demand the resignation of the Government, more freedom, and multiparty democracy. Other suspected supporters were detained for questioning. The Government remained silent on the arrests and subsequent detentions (see Section 1.d.). Some government officials characterized the group's assembly and attempts to express their opinions as illegal antigovernment activities.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, but the Government continues to restrict this right in practice. The Penal Code prohibits participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause turmoil or social instability. Such acts are punishable by a prison term of from 1 to 5 years.

In May a group of 100 citizens of China assembled in Vientiane to protest the North Atlantic Treaty Organization's (NATO) bombing that damaged the Chinese embassy in Belgrade, Serbia. Plainclothes police quickly intercepted the group, but otherwise allowed them to conduct their peaceful protest. This demonstration, considered the second largest since 1975, was never reported in the local media.

In June the Government released the last 8 persons among 44 arrested in January 1998 for gathering at a Christian bible study session in a private home. The 8 were among 13 convicted for participating in a group assembly for the purpose

of creating social turmoil. The Vientiane municipal court record of the 1998 case indicates that the judge considered one statement made by a member of the group to be critical of the Government (also see Section 2.c.).

Although the Constitution provides citizens with the right to organize and join associations, the Government restricts this right in practice. The Government registers and controls all associations and prohibits associations that criticize it. Although the Government restricts many types of formal professional and social associations, in practice informal nonpolitical groups can meet without hindrance. Individuals who had formed the Foundation for Promoting Education, a private voluntary organization in Vientiane Municipality in 1997, were active during the year and awarded prizes for educational achievement and scholarships to needy students. The group is supported by private contributions and operates independently under its own charter, but reports to the Ministry of Education. The Buddhist Promotion Foundation is a semiprivate group founded in 1998 by the Lao Buddhist Fellowship Association, which reports to the National Front.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricts this right in practice. The Constitution prohibits "all acts of creating division of religion or creating division among the people." The Party and Government appear to interpret this section narrowly, thus inhibiting religious practice by all persons, including the Buddhist majority and a large population of animists. Although official pronouncements accepted the existence of religion, they emphasized its potential to divide, distract, or destabilize.

The Constitution notes that the State "mobilizes and encourages" monks, novices, and priests of other religions to participate in activities "beneficial to the nation and the people." The Department of Religious Affairs in the LPRP Lao National Front for Reconstruction, an LPRP mass organization, is responsible for overseeing all religions.

The Government's tolerance of religion varied by region. In general central government authorities appeared unable to control or mitigate harsh measures that were taken by local or provincial authorities against the practices of members of minority religious denominations. Although there was almost complete freedom to worship among unregistered groups in a few areas, particularly in the largest cities, government authorities in many regions allowed properly registered religious groups to practice their faith only under circumscribed conditions. In other areas, such as Savannakhet, Houaphanh, Oudomxay, and Attapeu, the authorities arrested and detained religious believers and their spiritual leaders without charges. In Luang Prabang, three evangelical Christians were sentenced on November 26 to 5 years' imprisonment under Article 66 of the Penal Code for gathering together to create social turmoil. Each of the three was a well-known Christian spiritual leader. It is not known whether their single meeting was anything other than a social get-together. In more isolated cases, provincial authorities instructed their officials to monitor and arrest persons who professed belief in Christianity, Islam, or the Baha'i faith. For example, there is clear evidence that in Luang Prabang and Savannakhet provinces the authorities continued to force some Christians to sign renunciations of their faith.

Early in the year, citizens in Luang Prabang reported that authorities ordered them to stop completely their Christian activities, under threat of arrest. The order appeared to apply only to new converts; believers of long standing were allowed to continue their beliefs and practices.

In Savannakhet 15 persons were held in detention for up to 10 months before the provincial government brought charges against them related to their religious activities. In Houaphanh 23 persons were arrested during October and November for their religious activities; their status was unclear at year's end. In Oudomxay four persons were arrested in October for their beliefs; they had not been charged by year's end (see Section 1.d.).

In a southern province, police refused to release a Lao Christian who was arrested for proselytizing until the detainee had pledged not to proselytize again. Although authorities tolerate diverse religious practices in mid-1998, in the southern Laos panhandle, a pattern of petty local harassment persists. Many converts must pass a gauntlet of harsh government interviews but after overcoming that initial barrier are permitted to practice their new faith unhindered. During the early part of the year, members of long-established congregations had few problems in practicing their faith; however, in the second half of the year, some churches established a century ago were subjected to harassment by local government officials in Savannakhet. Many groups of coreligionists seeking to assemble in a new location are thwarted in attempts to meet, practice, or celebrate major religious festivals.

Some minority religious groups report that they were unable during the year to register new congregations or receive permission to establish new places of worship,

including in Vientiane. Authorities sometimes advised new branches to join other religious groups with similar historical antecedents, despite clear differences between the groups' beliefs. Some groups did not submit applications for places of worship because they did not believe that their applications would be approved.

The Government in June released the last 8 of 13 Christians convicted in March 1998 for exercising their rights to peaceful assembly and free speech in a Bible study session (see Section 2.b.). The eight remain on probation. Authorities continue to make arrests related to religious activities. An estimated 55 to 60 members of religious minorities remain in detention. A few of the religious detainees are singled out for special treatment: They must wear chains on their legs or fixed manacles on their wrists. One detainee was in solitary confinement for a period of 3 to 4 weeks. In addition authorities in some provinces frequently arrested and detained persons temporarily because of their religious beliefs.

The Roman Catholic Church is unable to operate effectively in the highlands and much of the north. However, it has an established presence in five of the most populous central and southern provinces, where Catholics are able to worship openly. There are three bishops: In Vientiane, Thakhek, and Pakse. The status of the Catholic Church in Luang Prabang center remains in doubt; there appears to be a congregation there but, due to local obstructionism, worship services may not always be conducted readily.

Over 250 Protestant congregations conduct services throughout the country. The Lao National Front has recognized two Protestant groups, the Lao Evangelical Church, the umbrella Protestant church, and the Seventh Day Adventist Church. The Front strongly encourages all other Protestant groups to become a part of the Lao Evangelical Church. The Government has granted permission to these approved denominations to have a total of four church buildings in the Vientiane area. In addition the Lao Evangelical Church has maintained church buildings in Savannakhet and Pakse.

The Party controls the Buddhist clergy (Sangha) in an attempt to direct national culture. After 1975 the Government attempted to "reform" Buddhism and ceased to consider it the state religion, causing thousands of monks to flee abroad, where most still remain. The Government has only one semireligious holiday-Boun That Luang-also a major political and cultural celebration. However, the Government recognizes the popularity and cultural significance of Buddhist festivals, and many senior officials openly attend them. Buddhist clergy are featured prominently at important state and party functions. The Lao National Front directs the Lao Buddhist Fellowship Association, which adopted a new charter in April 1998. The Front continues to require monks to study Marxism-Leninism, to attend certain party meetings, and to combine with their teachings of Buddhism the party-state policies. In recent years, some individual temples have been able to receive support from Theraveda Buddhist temples abroad, to expand the training of monks, and to focus more on traditional teachings.

The authorities continue to be suspicious of parts of the religious community other than Buddhism, including some Christian groups, in part because these faiths do not share a similar high degree of direction and incorporation into the government structure as is the case with Theravada Buddhism. Authorities especially appear to suspect those religious groups that gain support from foreign sources, aggressively proselytize among the poor or uneducated, or give targeted assistance to converts. The Government prohibits foreigners from proselytizing, although it permits foreign nongovernmental organizations with religious affiliations to work in the country. Although there is no prohibition against proselytizing by citizens, there has been increased local government investigation and harassment of citizens who do so under the constitutional provision against creating division of religion.

The Government permits major religious festivals of all established congregations without hindrance. Two mosques and two Baha'i centers operate openly in Vientiane municipality; two other Baha'i centers are located in Vientiane province and Pakse. Five Mahayana Buddhist pagodas are located in Vientiane, and others are found in larger cities and towns.

The Government does not permit the printing of religious texts or their distribution outside a congregation and restricts the import of foreign religious texts and artifacts. The Government requires and grants routinely its permission for formal links with coreligionists in other countries; however, in practice the line between formal and informal links is blurred, and relations generally are established without much difficulty.

d. *Freedom of Movement Within the Country, Foreign Travel, Migration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted some of these rights in practice. Citizens who travel across provincial borders are required to report to authorities upon their departure and arrival. In des-

ignated security zones, roadblocks and identity card checks are routine. Citizens who seek to travel abroad are required to apply for an exit visa; however, the Government grants these routinely. Foreigners are restricted from traveling to certain areas such as the Saysomboun Special Zone, an administrative area operated by the military forces, for safety and security reasons.

Fear of insurgent attacks on civilians in vehicles traveling in the north-central areas impedes travel, especially along parts of Route 13, Route 7, and Route 1. Bandits operate in the same area (see Section 1.a.). The Government attempts to ensure safety on these roads.

Citizens are free to emigrate; exit visas are required, and the Government grants these routinely.

Since 1980 more than 29,060 citizens who sought refugee status in Thailand, China, and other countries have returned to Laos for permanent resettlement under monitoring by the U.N. High Commissioner for Refugees (UNHCR). There were 1,162 new returnees during the year. The Government cooperates with the UNHCR in assisting the groups' reintegration into society. These returnees generally have been treated the same as other citizens.

The Constitution provides for asylum and the protection of stateless persons under the law, which has included first asylum. There were no known cases during the year of asylum seekers being returned to a country where they feared persecution.

The Government has a longstanding policy of welcoming back virtually all those among the 10 percent of the population who fled after the change in government in 1975. Many have visited relatives, some have stayed and gained foreign resident status, and some have reclaimed Lao citizenship successfully. A small group tried in absentia in 1975 for antigovernment activities does not have the right of return. The Government announced in August that it would accept under UNHCR monitoring the return of citizens from the Na Pho camp in Thailand; all 1,162 returned during the year. The Government has insisted on reviewing the backgrounds of any person being repatriated formally.

Some refugee returnees carry identification cards with distinctive markings, ostensibly for use by authorities. These distinctive identification cards tend to reinforce a pattern of societal discrimination against them.

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

Citizens do not have the right to change their government. The Constitution legitimizes only a single party, the Lao People's Revolutionary Party, which must approve all candidates for local and national elections. Candidates need not be LPRP members.

The Constitution provides for a 99-member National Assembly elected every 5 years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. The National Assembly chooses a standing committee apparently based on the previous standing committee's decision. Upon the committee's recommendation, the National Assembly elects or removes the President and Vice President. The standing committee also has powers over elections (including approval of candidates), supervision of administrative and judicial organizations, and the sole power to recommend presidential decrees. Activities of the standing committee are not fully transparent.

The National Assembly, upon the President's recommendation, elects the Prime Minister and Ministers of the Government.

The National Assembly may consider and amend draft legislation but may not propose new laws. The Constitution gives the right to submit draft legislation to the National Assembly standing committee and the ruling executive structure.

Women are underrepresented in government and politics; however, women increased their representation in the National Assembly in 1997 elections from 9 percent to 20 percent, as 20 of the 27 female candidates won seats. Four members of the 49-member LPRP Central Committee are women, 2 of whom are also members of the 7-member Standing Committee in the National Assembly. There are no women in the Politburo or the Council of Ministers.

The number of ethnic minority members in the National Assembly—9 Lao Soung (highland tribes) and 26 Lao Theung (mid-slope dwelling tribes)—matches their proportions in the general population. Men of lowland Lao origin dominate the upper echelons of the Party and the Government. Nonetheless, the President, two Deputy Prime Ministers, three Ministers, and 35 members of the National Assembly are believed to be members of ethnic minority groups.

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

There are no domestic nongovernmental human rights organizations, and the Government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the Government's human rights policies would face serious obstacles if it were permitted to operate at all. The Government cooperates on an uneven basis with international human rights organizations.

A human rights unit in the Ministry of Foreign Affairs' Department of International Treaties and Legal Affairs has responsibility for inquiry into allegations of human rights violations. This government unit rarely responds to inquiries regarding individual cases.

In September 1998, at the invitation of the Government, a special U.N. Rapporteur on Trafficking in Children visited various locations and made inquiries into possible incidents of child prostitution and child pornography.

The Government maintains contacts with the International Committee of the Red Cross (ICRC); government officials received ICRC training on human rights law in 1998, and the Government is translating some international conventions with ICRC support. The Government has permitted U.N. human rights observers to monitor the treatment of returning refugees in all parts of the country with minimal interference but occasionally places obstacle in the way of international standards of monitoring.

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

The Constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. Children are similarly protected. Although the Government has been known to take action when well-documented and obvious cases of discrimination came to the attention of high-level officials, the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization is neither widely developed nor widely understood among the general population.

Women.—There are reports that domestic violence against women occurs, although it is not widespread. Sexual harassment and rape reportedly are rare. In cases of rape that are tried in court, defendants generally are convicted.

The Constitution provides for equal rights for women, and the Lao Women's Union operates nationally to promote the position of women in society. Discrimination against women is not generalized; however, varying degrees of traditional culturally based discrimination persist, with greater discrimination practiced by some hill tribes. Many women occupy responsible positions in the civil service and private business, and in urban areas their incomes are often higher than those of men. The Family Code prohibits legal discrimination in marriage and inheritance.

In the period from 1997–99, the Government increased support for the position of women in society in development programs, some of which are designed to increase the participation of women in the political system.

Children.—Government funding to provide fully for children's basic health and educational needs is inadequate. Education is compulsory through the fifth grade, but children from rural areas and poor urban families rarely comply with this requirement. Violence against children is prohibited by law, and violators are subject to stiff punishments. Reports of the physical abuse of children are rare.

People With Disabilities.—With donor assistance, the Government is implementing limited programs for the disabled, especially amputees. The law does not mandate accessibility to buildings or government services for disabled persons. However, a government committee is formulating policies regarding the disabled, and a national association worked to provide greater opportunities.

Religious Minorities.—The enhanced status given to Buddhism in Luang Prabang—famed for its centuries-old Buddhist tradition and numerous temples—apparently led some local officials there to act more harshly toward minority religious sects, particularly toward Christian and Baha'i, than in other areas of the country (see Section 2.c.).

National/Racial/Ethnic Minorities.—The Constitution provides for equal rights for citizens of all minorities, and there is no legal discrimination against them. However, societal discrimination persists.

Approximately half the population is ethnic Lao, also called "lowland Lao." Most of the remainder is a mosaic of diverse upland hill tribes whose members, if born in Laos, are Lao citizens. There are also ethnic Vietnamese and Chinese minorities, particularly in the towns. There is a small community of South Asian origin. The implementation in 1994 of the 1990 Law on Nationality provided a means for Vietnamese and Chinese minorities to regularize their Lao citizenship, and, in sharp

contrast with past practice, hundreds did so during the year. The Government encourages the preservation of minority cultures and traditions; however, due to their remote location and difficult access, minority tribes have little voice in government decisions affecting their lands and the allocation of natural resources.

The Hmong are one of the largest and most prominent highland minority groups. Societal discrimination against the Hmong continues, although there are a number of Hmong officials in the senior ranks of the Government. In recent years, the Government focused assistance projects in Hmong areas in order to overcome disparities in income along regional and ethnic lines. Some international observers claim that governmental policies aimed at assimilating the Hmong into larger society—such as regional boarding schools—are not respectful of Hmong native culture; others see this approach as an avenue out of centuries of poverty.

During the year, the Government continued to assist citizens, largely members of ethnic minorities, who returned to Laos after having fled in 1975. Central and local government officials worked with organizations such as the UNHCR to provide land and a sustainable level of economic security. Repatriated Hmong generally face no greater discrimination than those Hmong who remained. Two U.N. observers who monitored repatriation efforts reported no serious incidents of abuse or discrimination during the year. However, a number of Hmong returnees were detained in Thoulakhom district, some for 2 months, before an apparently fabricated charge was dropped.

Under the Constitution, aliens and stateless foreign citizens are protected by "provisions of the laws," but do not in fact enjoy rights provided for by the Constitution. During the year, there were isolated cases of persons of Lao ethnic background who, as citizens of other nations, suffered discrimination when arrested or detained and were denied due process, apparently on the basis of their Lao ethnic background.

Section 6. Worker Rights

a. *The Right of Association.*—Under the 1990 Labor Code and a 1995 prime ministerial decree, labor unions can be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. Most of the FLTU's 78,000 members work in the public sector, overwhelmingly as public servants.

The State employs the majority of salaried workers, although this situation is changing as the Government reduces the number of its employees and privatizes state enterprises, and as foreign investors open new factories and businesses. Subsistence farmers comprise an estimated 85 percent of the work force.

Strikes are not prohibited by law, but the Government's ban on subversive activities or destabilizing demonstrations (see Section 2.b.) makes a strike unlikely, and none were reported during the year. However, the Labor Code does not prohibit temporary work stoppages.

With advice from the International Labor Organization (ILO), including a foreign expert provided by the ILO to work with the Ministry of Labor and Social Welfare, the Government revised the Labor Code in an effort to clarify the rights and obligations of workers and employers.

The FLTU is free to engage in contacts with foreign labor organizations, which during the year included the Association of Southeast Asian Nations (ASEAN) Trade Union and the Asia-Pacific American Labor Alliance. The FLTU is a member of the World Federation of Trade Unions (WFTU).

b. *The Right to Organize and Bargain Collectively.*—There is no right to organize and bargain collectively. The Labor Code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the Ministry of Labor and Social Welfare. Labor disputes are infrequent. The Government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

The Labor Code stipulates that employers may not fire employees for conducting trade union activities, for lodging complaints against employers about labor law implementation, or for cooperating with officials on labor law implementation and labor disputes. Workplace committees are one mechanism used for resolving complaints.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Code prohibits forced labor except in time of war or national disaster, when the State may conscript laborers. The code also applies to children under the age of 15, and generally is enforced effectively. However, reports that children are being lured into other countries for sexual exploitation and slave labor continued, although there were fewer such reports than before 1997 (see Sections 5 and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Under the Labor Code, children under the age of 15 may not be recruited for employment. However, many children help their families on farms or in shops. The Labor Code accordingly provides that children may work for their families, provided that such children are not engaged in dangerous or difficult work. Such employment of children is common in urban shops, but rare in industrial enterprises. The Ministries of Interior and Justice are responsible for enforcing these provisions, but enforcement is ineffective due to a lack of inspectors and other resources. Education is compulsory through the fifth grade, but this requirement rarely is observed in the rural areas or among the urban poor. The Labor Code prohibits forced and bonded labor performed by children under age 15, and the law generally is enforced effectively; however, there were reports that children were lured into sexual exploitation and slavery abroad (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work.*—The Labor Code provides for a broad range of worker entitlements, including a workweek limited to 48 hours (36 hours for employment in dangerous activities), safe working conditions, and higher compensation for dangerous work. The Code also provides for at least 1 day of rest per week. Employers are responsible for all expenses for a worker injured or killed on the job, a requirement generally fulfilled by employers in the formal economic sector. The daily minimum wage is $0.25 (1,820 kip), which is insufficient to provide a decent standard of living for a worker and family. Most civil servants receive inadequate pay. However, few families in the wage economy depend on only one breadwinner. Some piecework employees, especially on construction sites, earn less than the minimum wage. Many persons are illegal immigrants, particularly from Vietnam and are more vulnerable to exploitation by employers. Although workplace inspections reportedly have increased, the Ministry of Labor and Social Welfare lacks the personnel and budgetary resources to enforce the Labor Code effectively. The Labor Code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

f. *Trafficking in Persons.*—The penal code prohibits abduction and trade in persons as well as the constraint, procuring, and prostitution of persons. However, the Government only recently has focused on the trafficking of persons across its borders. Although there are no reliable data available on the scope and severity of the problem, there are indications that the numbers are considerable. The Government has increased monitoring and educational programs provided by the Lao Women's Union and the Youth Union, both party-sanctioned organizations, designed to educate girls and young women about the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere. In the past, the Government has prosecuted some persons for involvement in such recruiting activities. During the year, law enforcement agencies conducted a minimal number of raids on entertainment establishments accused of fostering prostitution.

The Government is increasingly concerned about Lao children being lured for sexual exploitation and slave labor in other countries. The National Commission for Mothers and Children, established in 1992 and chaired by the Foreign Minister, continues an active program with support from the U.N. Children's Fund (see Section 6.c.). The Commission, working with the Lao Women's Union, Youth Union, Justice Ministry, and Labor Ministry, has conducted workshops around the country designed to make parents and teenagers aware of the dangers of HIV. At the Government's invitation, a special U.N. Rapporteur on Trafficking in Children visited in September 1998 (see Section 4).

MALAYSIA

Malaysia is a federation of 13 states and two federal territories with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power for more than 40 years. Opposition parties actively contest elections, but face serious obstacles in competing with the long-entrenched ruling coalition. However, in November elections opposition parties won roughly 25 percent of the seats in the Federal Parliament, and an opposition party also won control of two state governments. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermine judicial independence and strengthen executive influence over the judiciary. The impartiality of the judiciary continued to deteriorate during the year.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Home Minister. Some members of the police committed human rights abuses.

Malaysia is an advanced developing country with an estimated per capita gross domestic product (GDP) of $3,745 and an unemployment rate of 3.0 percent. Following nearly a decade of strong economic growth averaging over 8 percent annually, it was hit hard by the 1997 regional financial and economic crisis. After contracting by 7.5 percent in 1998, the economy began to recover during the year, posting an estimated 4.8 percent growth rate. During 1998 the Government adopted stimulative fiscal and monetary policies to promote economic recovery and established institutions to recapitalize distressed financial institutions and to remove nonperforming loans from the banking system. It also enacted selected capital controls to eliminate offshore trading in the local currency (ringgit) and to insulate the domestic economy from the effects of short-term, speculative capital flows. The Government takes an active role in the development of the export-oriented economy. Manufacturing accounts for 27.9 percent, services for 52.2 percent, agriculture for 9 percent, and construction and mining for 10.9 percent of GDP. Principal manufactured products include semiconductors, consumer electronics, electrical products, textiles, and apparel. Palm oil exports and production of natural rubber, cocoa, and tropical timber also are significant.

There continued to be serious problems in the Government's human rights record in certain areas. Police committed a number of extrajudicial killings, although fewer than in previous years. Police on occasion tortured, beat, or otherwise abused prisoners, detainees, and demonstrators. The former chief of police admitted to having beaten the handcuffed and blindfolded former Deputy Prime Minister Anwar Ibrahim in 1998. For political reasons, Anwar was charged with obstruction of justice in 1998 and convicted in April. Improper conduct by the police and prosecutors, along with many questionable rulings by the judge, denied Anwar a fair opportunity to defend himself. At year's end, Anwar was being tried on a charge of sodomy and being held without bail. Police continued to arrest and detain many persons without trial or charge. Prolonged pretrial detention is a serious problem. Detained criminal suspects are denied access routinely to legal counsel prior to being charged formally. An Inter-Parliamentary Union (IPU) delegation found that prison conditions were not in accord with international norms. Conditions of detention of illegal alien detainees continued to pose a threat to life and health; the trial of a prominent human rights activist on charges arising from her criticisms of such conditions continued. A Western journalist was jailed after losing an appeal of a 1997 conviction for contempt of court stemming from an article that raised questions of judicial favoritism. The Attorney General practiced politically motivated, selective prosecution. Many observers expressed serious doubts about the independence and impartiality of the judiciary. The courts defied an International Court of Justice (ICJ) ruling that a United Nations Special Rapporteur was immune from several libel suits. Government restrictions, pressure, and intimidation led to a high degree of press self-censorship. The Government cracked down on newsstand sales of an opposition party newspaper. A U.N. Special Rapporteur reported that the Government systematically curtailed freedom of expression. Proliferating slander and libel suits threatened to stifle freedom of speech. Authorities infringed on citizens' privacy rights. The Government placed some restrictions on freedom of assembly and some peaceful gatherings. The Government continues to restrict significantly freedom of association. The Government continued to prohibit students from participating in some political activities. Religious freedom is subject to some restrictions, in particular the right of Muslims to practice teachings other than Sunni Islam. In addition the right of Muslims to change their religion was hindered by many practical obstacles. The Government continued to impose some restrictions on freedom of movement. Government restrictions and policies prevent opposition parties from competing effectively with the ruling coalition. The Election Commission's lack of independence prevents it from properly implementing and monitoring elections. The Government passed legislation to form a National Human Rights Commission; however, opposition and nongovernmental organization (NGO) leaders were skeptical of its potential independence and effectiveness. The Government continued to criticize harshly human rights NGO's. Despite government efforts, societal violence and discrimination against women remain problems. Malaysia is a source, transit, and destination country for trafficking in women and girls for the purpose of forced prostitution. Sexual abuse of children occurs, although it is punished severely. Indigenous people face discrimination and often are exploited, especially in regard to land issues. Longstanding policies give preferences to ethnic Malays in many areas, and ethnic minorities face discrimination. Some restrictions on worker rights persist. Child labor persists, although the Government has taken vigorous action against it.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, police committed a number of extrajudicial killings.

The press reported 11 incidents of police killings in the course of apprehension with a total of 18 persons killed. Reports of police killings decreased significantly shortly after a change in senior police personnel in January (see Section 1.c.). However, some cases still raised concerns. In January a bank teller was killed in a police shoot-out. Police personnel announced later that they were investigating the case; however, the results of the investigation were not disclosed. Also in January, an opposition figure in Sabah alleged that police brutality led to the death from renal failure of a murder suspect. Police denied the allegation, and there was no report of any investigation. In January the Bar Council called on the police to implement a standard procedure to investigate every lethal shooting by police; however, the police did not implement such a procedure. In March a suspected kidnaper fell to his death from a 4th floor window at Selangor state police headquarters. Police said that the suspect threw himself from the window while being questioned. No investigation into this death was reported.

In February a customs officer was detained after a man was shot and killed during a high-speed chase in Sarawak. In July the customs officer was convicted of manslaughter and fined roughly $1,580 (6,000 ringgit). In August two police officers were detained in connection with the death of a suspected drug trafficker in Sabah. Police claimed that the trafficker died after falling and hitting his head on a stone. At year's end there were no reports of further developments. In September a police agent was charged with culpable homicide not amounting to murder after he shot a man seated in his car. In February the acting inspector general of police said that police investigations into two previous shooting incidents had shown that police conduct in each incident was justified. The families of the victims in the two shooting incidents said that they plan to sue the police. In October a man asked police authorities to investigate the death of his son in prison. The man said that his son previously had been beaten in prison and that he did not believe that his son really had died of natural causes, as claimed by police officials. Police responded that the prisoner had died of heart disease in a hospital emergency room after prison guards had found him unconscious in his cell. There were no reports of investigations into any other police killings.

There were numerous allegations that inhuman conditions of detention caused the deaths of illegal aliens (see Section 1.c.).

A spate of questionable police killings of suspects in the course of apprehension in 1998 led the president of a leading human rights NGO to question publicly whether police sometimes were acting as "judge, jury, and executioner." In February a group of 119 domestic NGO's called for an independent commission to look into these and other police killings. The Government did not form such a commission. In October the Deputy Home Minister informed Parliament that police had shot and killed 387 persons over the past 5 years.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No constitutional provision or law specifically prohibits torture, although laws that prohibit "committing grievous hurt" encompass torture; however, at times some police tortured, beat, and otherwise abused prisoners, detainees, and ordinary citizens. The authorities investigated some police and other officials for such abuses; however, the Government does not routinely release information on the results of investigations, and whether those responsible are punished is not always known.

Police continued to abuse detainees. Police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. During the 1998 trial of former Deputy Prime Minister Anwar Ibrahim, senior police officers testified that the police had institutionalized techniques to subject some "national security" detainees to coercive and abusive treatment. A senior police officer said that police did not consider the legality of such tactics. During the year, police instituted mandatory community relations and ethics courses to address public concerns over police misconduct.

In February former Inspector General of Police Tan Sri Rahim Noor admitted before a Royal Commission of Inquiry that in September 1998 he personally had beaten the handcuffed and blindfolded former Deputy Prime Minister Anwar Ibrahim while the latter was detained by police (see Section 1.d.). The beating badly bruised Anwar's face, neck, and arms, and reportedly temporarily left him with impaired balance and unclear vision. Rahim said that Anwar had provoked him. The Royal Commission found Rahim culpable in the beating of Anwar. Police subsequently

charged Rahim with attempted assault and his trial is scheduled for March 2000. If convicted, he faces a maximum sentence of 3½ years in prison.

Prime Minister Mahathir formed the Royal Commission after a long police internal investigation, the results of which were announced by Attorney General Tan Sri Mohtar Abdullah in January, established that police had been responsible for the beating of Anwar (however, the police investigation failed to identify a culprit). The Commission found no other members of the police culpable or complicit in the beating of Anwar or in the subsequent cover-up. In April the Malaysian Bar Council expressed shock that the Royal Commission had recommended that no action be taken against senior police officers who failed to report or arrest Rahim after the beating. Anwar's supporters called on the Prime Minister, who (at the time) oversaw the police as Home Minister, to take responsibility for Anwar's beating.

In February a fashion designer, Mior Abdul Razak bin Yahya, swore in an affidavit that police had threatened and abused him after he was detained in September 1998. Mior said that because of police threats and coercion he had confessed falsely to having had sexual relations with the former Deputy Prime Minister. In 1998 two other alleged homosexual partners gave consistent descriptions of how police used psychological and physical abuse to force similar false confessions from them. Police have not been investigated or punished for misconduct in any of these cases. In 1998 lawyers for former Deputy Prime Minister Anwar Ibrahim made public allegations of another lawyer, who represented a business associate of Anwar. The associate's lawyer had alleged that prosecutors threatened his client with a firearms charge that carried a mandatory death sentence unless the client agreed to fabricate evidence against Anwar. In February the businessman was sentenced to 42 months imprisonment under an amended charge. In August the sentence was reduced on appeal to time served.

In March opposition activist Abdul Malek bin Hussin filed a police report accusing police of torturing him in 1998 while he was under detention without charge under the Internal Security Act (see Section 1.d.). Malek alleged that police had, among other abuses, beaten him unconscious and forced him to drink their urine. The police have not responded publicly to Malek's allegations.

There were several press reports of others who alleged police torture or cruel, inhumane, or degrading treatment while in custody. For example, in December ten murder suspects alleged in court that police had humiliated and beaten them after they refused to confess. There were no reports of investigations into these or any other similar allegations.

During the year, riot police several times forcibly dispersed peaceful demonstrators, using truncheons, water cannons, and tear gas (see Section 2.b.).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes such as narcotics possession, criminal breach of trust, and alien smuggling. Judges routinely include caning in sentences of those convicted of such crimes as kidnaping, rape, and robbery. Some state Islamic laws, which bind only Muslims (see Section 1.e.), also prescribe caning. The caning, which is carried out with a ½-inch-thick wooden cane, commonly causes welts, and sometimes causes scarring. Male criminals age 50 and above and women are exempted from caning. According to the provisions of the Child Act passed in October, male children may be given up to ten strokes of a "light cane."

An Inter-Parliamentary Union (IPU) report issued in February, stemming from a late 1998 investigation of the case of imprisoned opposition Parliamentarian Lim Guan Eng (see Section 1.e.) stated that the conditions of Lim's imprisonment did not comply with the U.N. Standard Minimum Rules (Treatment of Prisoners) and the U.N. Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment. The report cited portions of the Minimum Rules that concern light, ventilation, and proper bedding, and Principle 6 of the Body of Principles, which prohibits torture, or cruel, inhuman, or degrading treatment. However, the delegation that drafted this report did not visit Lim in prison, and therefore could not make direct observations. The Government said that Lim was detained under the same conditions as other prisoners and in accord with the colonial-era Prison Rules (1952) and the Prisons Act (1995), which, the Government contended, met the standards of the U.N. Minimum Rules. In April Deputy Home Minister Ong Ka Ting told Parliament that the Government had completed a review of prison rules and made amendments that would improve the management of prisoners. Ong said that the amendments would be promulgated after the approval of the Attorney General. In November Deputy Home Minister Datuk Onk Ka Ting said that a mattress would soon be issued to every prisoner. There were no other developments reported by year's end.

Credible reports by former prisoners indicate that guards at some prisons regularly beat prisoners convicted of criminal offenses.

Prison overcrowding is a serious problem. In August the prisons director general said that the Government plans to build a new prison and expand others. He said that the country's 35 prisons hold 27,400 prisoners; total designed capacity is 20,000. "Security" prisoners (see Section 1.d.) are detained in a separate detention center.

The Government holds many illegal aliens under inhuman conditions. NGO's, former detainees, and others make credible allegations of inadequate food, poor medical care, poor sanitation, and abuse by guards. Detention conditions are so bad that they pose a serious threat to life and health. There were many allegations that such inhuman conditions caused the deaths of an unknown number of illegal aliens. In July, after 3 days without adequate supplies of water, 192 illegal aliens escaped from the Lenggeng detention center. Testimony during the trial of NGO activist Irene Fernandez (see Section 2.a.) described past inhuman conditions at illegal alien detention camps.

The Government has an agreement with the International Committee of the Red Cross (ICRC) providing for visits to certain categories of prisoners and has not posed any objection to such visits. However, the ICRC has not visited for several years. Other NGO's and the media generally are not allowed to monitor prison conditions. Access to illegal alien detention camps is restricted and the Government in some cases even prevents representatives of foreign embassies from visiting their nationals in the camps.

d. *Arbitrary Arrest, Detention, or Exile.*—Suspects in some crimes (called "seizable offenses") may be arrested without warrants; suspects in other crimes ("nonseizable offenses") may be arrested only based on a warrant from a magistrate. Suspects in some crimes ("bailable offenses") may present bail at the police station according to a schedule. Bail is not available for other crimes ("nonbailable offenses") and sometimes also is denied in other circumstances (e.g., great risk of flight). Police may hold suspects for 24 hours without charge. Police may request a magistrate to extend the period of remand without charge for up to 2 weeks. After this extension, the police, if they wish to hold the suspect must charge him and seek an order of detention from a magistrate. In some cases, police have released suspects under remand and quickly rearrested them on new but similar charges. In general, police practice is in accord with these legal provisions.

Police may deny remand prisoners access to legal counsel and routinely do so. During this period of remand, police also may question suspects without giving them access to counsel. Police justify this practice as necessary to prevent interference in ongoing investigations. Judicial decisions have upheld this practice. Defendants' advocates say the lack of access to counsel seriously weakens defendants' legal rights.

Crowded, understaffed courts and the legal safeguards and appeals available to the accused often result in lengthy pretrial detention, sometimes lasting several years. In 1998 the prisons director general said that roughly half of the prison population consisted of prisoners who had not yet been sentenced. Most of these prisoners either have been convicted and are awaiting sentence or are in the midst of their trials. Detainees awaiting trial constitute much less than half of all detainees.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: The 1960 Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance of 1969, and the Dangerous Drugs Act (Special Preventive Measures) of 1985. The press reported one ISA detention during the year: In February police detained a computer technician for alleged involvement in the falsification of official documents. Some opposition and NGO leaders contended that the computer technician might have been involved in the political reform movement.

According to the Home Ministry, in late 1998 223 persons were being detained under the ISA. No later figures are available. During the year, police detained 1375 persons under the Dangerous Drugs Act (Special Preventive Measures). It is not known how many were detained at year's end. The Government has not disclosed how many persons are detained under the Emergency Ordinance.

Enacted more than 30 years ago when there was an active Communist insurgency, the ISA empowers the police to hold for up to 60 days any person who may act "in a manner prejudicial to the security of Malaysia." The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to "imposed restricted conditions" for the balance of their detention periods. These conditions limit their rights to freedom of speech, association, and travel outside the country.

According to the Government, the goal of the ISA is to control internal subversion. In November 1998, the Deputy Home Minister said that in the previous 10 years no person had been detained under the ISA beyond the initial 60-day period for po-

litical reasons other than Communist activity. He said that of the 867 persons detained for more than 60 days, 359 were involved in Communist activities, 447 falsified documents or otherwise abetted illegal alien smuggling, 21 were "religious extremists," 9 "leaked intelligence secrets," and 1 was associated with the Free Aceh Movement. He further said that of the 223 persons detained at the time, 131 were for document forgery, 89 for illegal alien smuggling, 2 for deviant Islamic teaching, and 1 for activities associated with the Free Aceh Movement. Some of these detainees (exactly how many has not been disclosed), including the Islamic teachers and the alleged Free Aceh Movement leader, have since been released.

As these figures indicate, the ISA often is used against nonpolitical crimes, including against what the Government considers "deviant" Muslim groups. The Government states that deviant groups pose a danger to national security because of their radical beliefs. The ISA, and the threat of the ISA, also are used to intimidate and restrict political dissent. For example, in 1998 the police detained Anwar Ibrahim and 27 of his followers under the ISA, after a series of largely peaceful antigovernment demonstrations. The Government claimed that the demonstrations threatened national security. By the end of 1998, Anwar and the others either had been released or detained under criminal charges.

Security authorities sometimes wait several days after detention before informing an ISA detainee's family. Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. In the past, some ISA detainees have refused to participate in the review process under these circumstances.

Amendments to the ISA in 1997 sharply circumscribed judicial review of ISA detentions. Although the Bar Council has in the past asserted that detentions under the ISA should be subject to judicial review on both procedural and substantive grounds, the courts have not concurred with this interpretation and review ISA detentions only on technical grounds. Detainees freed on technical grounds nearly always are detained again immediately.

In May the Government announced new procedures for ISA detention. According to press reports, the new amendments stipulated that senior police officials must concur with ISA detentions. Details were not reported. Deputy Minister in the Prime Minister's Department Datuk Ibrahim Ali claimed that the amended procedures would help prevent misuse of the ISA.

Opposition leaders and human rights organizations continue to call on the Government to repeal the ISA and other legislation that deprive persons of the right to defend themselves in court, as they have for years. During the year, several ruling coalition party politicians and organizations also called for the repeal of the ISA. Other ruling coalition parliamentarians called for the ISA to be strengthened. The Government stated that the ISA still was necessary and would not be repealed.

Under the 1969 Emergency Ordinance, which was instituted after intercommunal riots in that year, the Home Minister can issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence." In fact, the Government has used the Emergency Ordinance for other reasons. No emergency ordinance detentions were reported during the year, and the Government has not disclosed the total number of persons now detained under this law.

Provisions of the 1985 Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain without trial suspected drug traffickers. The suspects may be held for up to 39 days before the Home Minister must issue a detention order. Once the Ministry has issued an order, the detainee is entitled to a hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the due process rights that a defendant would have in a court proceeding. The police frequently detain suspected narcotics traffickers under the special preventive measures after the traffickers are acquitted of formal charges—often as they leave the courtroom. During the year, the Government detained over 1,300 persons under this law. It is not known how many were detained at year's end.

Immigration laws are used to detain possible illegal aliens without trial or hearing. The detainees are not accorded any administrative or legal hearings and are released only after their employers prove their legal status. Those who can produce legal documents normally are released immediately; those who cannot prove their legal status often are held for extended periods before deportation. Illegal aliens are kept in detention centers that are separate from prisons (see Section 1.c.).

Law enforcement authorities also used the Restricted Residence Act to restrict movements of criminal suspects for an extended period. The act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from home for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists have questioned the need for this law, which was passed more than 60 years ago under very different circumstances, and have called for its repeal. The Government has continued to justify the act as a necessary tool and has used it in the recent past primarily against vice and gambling offenses. In July the Terengganu state chief of police warned publicly that operators of illegal gambling machines would be banished under the act if they did not cease their activities. In August Director-General of the Anticorruption Agency (ACA) Datuk Ahmad Zaki Husin proposed using the act to banish officials suspected of corruption. After the Bar Council expressed concerns over the proposal, Zaki clarified that the Restricted Residence Act might be used only for "syndicated graft." In August the Deputy Prime Minister warned "get-rich-quick" scheme operators that they might face banishment under the act. The Government has not disclosed how many persons are subject to the Restricted Residence Act and no accurate estimate is available.

In 1997 the Malaysian Bar Council expressed its concern about 44 prisoners held "at the pleasure of the Sovereign" for inordinate periods, often well exceeding the maximum sentences for their original crimes. In one case, a prisoner had been held for 37 years. Most of these "forgotten prisoners" committed their crimes as minors or while of unsound mind. In 1998 the Attorney General stated that the Government had expedited hearings on the cases. No results of these hearings have been reported.

Section 396 of the Criminal Procedure Code allows the detention as a material witness of a person whose testimony is necessary in a criminal case if that person is likely to abscond. In August an Indonesian woman was released after being detained for over a year as a material witness, though she herself was accused of no crime.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, since 1988, government action, constitutional amendments, legislation restricting judicial review, and other factors have eroded steadily judicial independence and strengthened executive influence over the judiciary. A number of high-profile cases continued to cast doubts on judicial impartiality and independence, and to raise questions of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Members of the bar, NGO's, and other observers (including those who attended the September Commonwealth Law Conference held in the country) continued to express serious concern about the deterioration of the independence and overall fairness of the judiciary.

In April the ICJ ruled that U.N. Special Rapporteur on the Independence of Judges and Lawyers Datuk Param Cumaraswamy, because of his status as a U.N. Special Rapporteur, was immune from several Malaysian libel suits. Several large companies, prominent businessmen, and one prominent lawyer had brought suits for libel and slander against Param and former Malaysian Bar Council secretary general Tommy Thomas. The suits stemmed from an article in an international legal journal that alleged that certain plaintiffs and their lawyers, enjoyed improper preferential treatment in the courts. In judgments that were widely thought to be politically motivated and improperly influenced by favoritism, the courts had rejected Param's claim of immunity. In May the Prime Minister said that the Government would abide by the ICJ's decision; however, in October a court defied the ICJ and ruled that Param would have to defend himself. Similar decisions were handed down in the other three suits. The U.N. expressed its regret over the court's decisions, and in December asked the Government to reimburse it for legal expenses. Param currently is appealing the rulings. The case against Tommy Thomas, who had no claim to immunity, was settled out of court in 1998. After Thomas told reporters that insurers had forced the settlement (which included a large cash payment and a humiliating apology) on him, he was charged with contempt of court and convicted in December 1998. In November an appeals court reserved judgement on the appeal.

In 1996 the Bar Council filed a complaint with the legal profession disciplinary board against one of the plaintiffs in the Param case. The Bar Council charged the lawyer Datuk V. Kanagalingam, with improper manipulation of the court system on behalf of a corporate client. Kanagalingam sued the Bar Council over the complaint and won an award of $160,000 (600,000 ringgit). In July the Bar Council lost its final appeal of Kanagalingam's lawsuit. Widely circulated photos have shown Kanagalingam on overseas vacations with the Chief Justice and, separately, with

the Attorney General. Human rights activists called on the Chief Justice and the Attorney General to explain these apparent conflicts of interest. The Attorney General said that he had nothing to hide and had a right to take vacations with friends. The Chief Justice made no public response. In September an Asian Wall Street Journal reporter being sued for libel alluded to the photos in a proposed amendment to his defense statement. He said that Kanagalingam had "cultivated inappropriately close relations" with the Chief Justice. The reporter also claimed to have evidence that Kanagalingam had partially drafted a high court judge's decision in a case Kanagalingam had argued before the judge (the judge, who since has been made an appeals court judge, has not responded publicly). The judge in the libel case rejected the reporter's proposed amendment to his statement of defense. After the substance of the amendment was reported in a newspaper, Kanagalingam threatened to lodge contempt charges against the reporter.

In November a judge granted an injunction preventing the Bar Council from calling an extraordinary meeting to discuss declining confidence in the judiciary. The judge said that the plaintiff, a private lawyer, made a convincing prima facie case that the holding of such a meeting would constitute contempt of court and sedition.

The cases against former Deputy Prime Minister Anwar Ibrahim and some of his associates, Lim Guan Eng, Irene Fernandez (see Section 2.a.), and Murray Hiebert (see Section 2.a.) also have raised questions about judicial independence and impartiality. Nonetheless, the Courts do not rule exclusively in favor of the Government. The courts dismissed several cases against opposition figures during the year.

High courts have original jurisdiction over all criminal cases involving serious crimes and most civil cases. Civil suits involving automobile accidents and landlord-tenant disputes are heard by sessions courts. Magistrate's courts hear criminal cases in which the maximum term of sentence does not exceed 12 months. Juvenile courts try offenders under age 18. The Special Court tries cases against the King and sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court hears appeals of court of appeal decisions.

Islamic religious laws administered by state authorities through Islamic courts bind ethnic Malays and other Muslims in some matters. In 1997 the Government announced that it would harmonize Islamic law at the federal level and appoint an Islamic law federal attorney general. However, the Government has not been able to obtain the necessary agreement of all the states and the proposal has not been implemented, though it is still under discussion.

Indigenous people in Sarawak and Sabah also have a system of customary law to resolve matters such as land disputes between tribes.

Penghulu (village head) courts may adjudicate minor civil matters, but these are rarely used.

The military has a separate system of courts.

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. For example, in the corruption trial of former Deputy Prime Minister Anwar, the judge often restricted press coverage of defense testimony and remarks that might embarrass senior government leaders. However, the judge generally did not restrict press coverage of testimony and remarks that might embarrass Anwar.

Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Witnesses are subject to cross-examination. The defense in both ordinary criminal cases and special security cases is not entitled to a statement of evidence before the trial. In general, limited pretrial discovery in criminal cases hobbles defendants' ability to defend themselves.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts. In criminal cases, defendants also may appeal for clemency to the King or local state rulers as appropriate. A single judge hears each criminal trial. There are no jury trials.

Some lawyers expressed concern that a 1997 amendment to the Criminal Procedure Code could erode defendants' presumption of innocence. Before the 1997 amendment, the prosecution was required to prove its case beyond a reasonable doubt or the defendant would receive a summary dismissal without having to present the defense case. Now, after the amendment, the prosecution only needs to prove a prima facie case and the defense must be called. In August a man was convicted of murder after electing to enter no defense. The judge ruled that the prosecution had proven a prima facie case and, when the man chose to offer no defense, the judge convicted him and sentenced him to death.

In 1998 Parliament passed amendments to the Courts of Judicature Act (1964) that limited the rights of defendants to appeal in some circumstances. The Government stated that these amendments would expedite the hearing of cases in the

upper courts. The president of the Bar Association said in 1998 that the amendments imposed too many restrictions on appeals.

The Attorney General may restrict the right to a fair trial in criminal cases by invoking the Essential (Security Cases) Regulations of 1975. These regulations governing trial procedure normally apply only in firearm cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also, the authorities may hold the accused for an unspecified time before making formal charges. The Attorney General has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare. There were no reported cases involving this restriction during the year.

Even when the Essential Regulations are not invoked, defendants and defense lawyers lack legal protections against interference. For example, police can during a trial call in and interrogate witnesses who have given testimony not helpful to the prosecution. Human rights advocates accuse police of using this tactic to intimidate witnesses. One instance of this practice led the Bar Council in July to issue a statement of concern. Police also have used raids and document seizures to harass defendants. Selective prosecution, i.e., prosecution based on political rather than legal considerations, is a serious problem in the legal system. According to the law, the decision to prosecute a case rests solely with the Attorney General. In August the Chief Justice publicly reminded magistrates and judges not to question the Attorney General's sole discretion to prosecute. Opposition leaders and some NGO's credibly accuse the current Attorney General of sometimes acting at the direction of Prime Minister Mahathir. In April the Prime Minister publicly denied that he interferes in the decisions of the Attorney General and in September reiterated that the Government does not practice selective prosecution.

However, in practice, the Attorney General uses his power to prosecute selectively. In May the Attorney General warned that those accusing the Government of selective prosecution could be charged with sedition or criminal defamation. The Bar Council criticized the Attorney General's statement and stated that it showed "a lack of respect or understanding of the concept of democracy and the rule of law." At year's end no one had been charged with sedition or criminal defamation on these grounds.

Contempt of court charges also have restricted the ability of defendants and their attorneys to defend themselves. Attorney Zainur Zakaria, after raising a legal issue on behalf of his client Anwar Ibrahim, was charged with contempt in 1998. Zainur's appeal still is pending. The Bar Council expressed concern over Zainur's case and other contempt of court cases several times during the year. In March the Bar Council prepared a draft contempt of courts act to spell out what would constitute contempt. In April the Chief Justice said that there was no need for a contempt of courts act because judges do not abuse their power. In August Deputy Minister in the Prime Minister's Department Datuk Ibrahim Ali said that the Government would study the Bar Council's proposal. At year's end the Government had not passed or considered such a bill.

Following a number of high-profile corruption cases, the Government amended the Anticorruption Act in 1997. The new law, which came into effect in January 1998, gives the Attorney General new powers that impinge on the presumption of innocence and requires accused persons to prove that they acquired their wealth legally.

Under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others have recommended that the Evidence Act be amended to accept the evidence of children and that courts implement special procedures to hear the testimony of children.

Islamic courts do not give equal weight to the testimony of women. Many NGO's have complained that women do not receive fair treatment from Islamic courts, especially in matters of divorce.

Former Deputy Prime Minister Anwar Ibrahim is a political prisoner. In 1998, after a political conflict, Prime Minister Mahathir Mohammad removed Anwar as Deputy Prime Minister. Later the same year, after a large, peaceful demonstration in which he called for Mahathir's resignation, Anwar was detained for alleged sodomy. While in detention, Anwar was beaten by then-Inspector General of Police Rahim Noor (see Section 1.c.). For several days, Anwar was denied medical treatment for the injuries he received at the hands of Rahim. Presumably to avoid bringing a visibly injured Anwar to court, police changed Anwar's status to detention without charge under the Internal Security Act. Anwar's status subsequently was changed again to criminal detention. Anwar later was tried and convicted on four counts of corruption. He now is being tried on a single count of sodomy.

During Anwar's corruption trial, the judge made several questionable rulings that greatly limited Anwar's ability to defend himself against what clearly were politically-motivated charges. For example, the judge sentenced one of Anwar's attorneys to 3 months' imprisonment for contempt after the attorney raised in court charges of prosecutorial misconduct. The judge greatly restricted the scope of Anwar's defense (on occasions during the trial the judge explicitly said that he did not care if there was a conspiracy to bring down Anwar) and tolerated improper activities by the police and prosecutors. The judge allowed prosecutors to amend the charges in the middle of the trial, which is permitted under national law but in this case clearly was unfair to Anwar. Anwar was denied the ability to rebut evidence of sexual misconduct presented by prosecution witnesses when the judge, at the end of the prosecution's case, allowed prosecutors to amend the charges, and then expunged the record of all evidence of sexual misconduct. Since his arrest, Anwar has been denied bail on questionable legal grounds.

Anwar now is being tried on a separate charge of sodomy. At the beginning of the trial, prosecutors changed the dates of the alleged acts of sodomy, allegedly because the defense had discovered that the apartment building where the sodomy allegedly took place had not been completed by the original dates. Despite testimony detailing how police had coerced a confession from an alleged homosexual partner, on July 26 the judge ruled that the prosecution had proven beyond a reasonable doubt that this confession had been voluntary. On August 4, another witness admitted that police had couched part of his testimony. On August 18, the lead police investigator materially contradicted his testimony (in order to make it consistent with the amended dates of the alleged offense); the next day the judge ruled that the policeman had not lied. At year's end, the sodomy trial still continued.

In August political prisoner Lim Guan Eng was released after completing his sentence. Lim had been convicted on charges under the Sedition and Printing Presses and Publications Acts. The charges stemmed from Lim's questioning, in a speech and in a pamphlet, the justice of detaining for 3 years a 15-year-old victim of statutory rape while allowing her rapists, including, allegedly, the former chief minister of Malacca, Rahim Thamby Chik, to go free. In November shortly before elections were held, the alleged rape victim retracted her charges against Rahim Thamby Chik, stating that she was coerced into fabricating them. The woman's grandmother, who had accompanied the woman when she made the charges, questioned the woman's motives for recanting and continued to assert that Rahim had been guilty of statutory rape.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for these rights; however, authorities infringed on citizens' privacy rights. Provisions in the security legislation (see Section 1.d.) allow the police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from home for a 2-year period (see Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (see Section 2.b.).

A clause in the 1997 Anticorruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Such information would be admissible as evidence in a corruption trial.

Certain religious issues pose significant obstacles to marriage between Muslims and adherents of other religions (see Section 2.c.).

Muslim couples must take premarital courses. Women's activists have complained that the courses, as implemented, perpetuate gender discrimination by misinforming women of their rights in marriage (see Section 5).

Singaporean newspapers and magazines may not circulate in Malaysia (see Section 2.a.); however, these publications are easily available on the Internet.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, some important legal limitations exist, and the Government restricts freedom of expression and intimidates most of the print and electronic media into practicing self-censorship.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice, the Sedition Act, the Official Secrets Act, criminal defamation laws, and some other laws have been used to restrict or intimidate dissenting political speech.

In February the U.N. Special Rapporteur on Freedom of Opinion and Expression issued a report stating that freedom of opinion is curtailed systematically in Malaysia. The Special Rapporteur said that the Internal Security Act, the Sedition Act, and the Printing Presses and Publications Act were used to suppress or repress expression and curb peaceful assembly. He further stated that defamation laws "appear to be having a very chilling effect." The Government stated that the Special Rapporteur's report was "baseless and distorted."

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies. Although many persons still criticized the Government publicly, the Government's statements made many persons more cautious in exercising their rights of free speech.

In August Deputy Prime Minister Datuk Seri Abdullah Badawi warned that political parties that raise sensitive issues and cause an "undesirable situation" would be charged under the Sedition Act. However, government and ruling party officials sometimes make statements on sensitive racial and religious issues with no fear of being charged with sedition. For example, on the same day that the Deputy Prime Minister threatened to invoke the Sedition Act, he stated that voting for the opposition would be "disastrous" for ethnic Malays.

In September a United Malays National Organization (UMNO—the dominant component of the ruling National Front coalition) official lodged a police report charging the chief minister of the opposition-controlled state of Kelantan with sedition. The chief minister allegedly had said that the state's populace no longer held the royal family in high regard. In September police announced that they had questioned 10 members of the opposition Islamic party about this case. At year's end, there were no reports of further developments.

In March the Prime Minister said that slanderous statements had become a "security problem" and claimed that some statements advocated violence and assassination. Police later said that they were monitoring all slanderous statements, including news reports that amounted to incitement. It was unclear from the Prime Minister's and police officials' statements whether security concerns were confined to the advocating of violence or whether these concerns also encompassed legitimate criticism of the Government.

In March UMNO formed a legal panel to identify slanderous and libelous statements and to take legal action against them. The panel subsequently sued several government critics for public statements and statements reported in the press. Deputy Minister in the Prime Minister's Department Datuk Ibrahim Ali, the chairman of the panel, warned that those who made allegations against the Government or the ruling party also might face prosecution for criminal defamation. In a separate statement in May, Datuk Ibrahim Ali said that the ruling party had identified 40 to 50 individuals from the opposition and academia who often make defamatory statements. He reportedly said that UMNO wanted to ensure that the critics did not get away "scot free." Government opponents accused the Government of using the panel to stifle legitimate dissent. In June UMNO secretary general Tan Sri Khalil Yaakob said that the panel had countered opposition slander successfully.

During the question and answer period after a February speech in London to Malaysian students studying in the United Kingdom, Prime Minister Mahathir told a student that the student could be sued for defamation because he suggested that Mahathir apologize to Anwar Ibrahim and resign. Mahathir later denied that he intended to intimidate the student. The student was never sued.

Aside from the UMNO legal panel, many other government officials, opposition figures, and private citizens filed multimillion-dollar lawsuits for libel and slander. In May the Bar Council stated that the proliferation of multimillion-dollar libel and slander lawsuits "would end up stifling freedom of speech."

Police detained four persons under the ISA in 1998 for "cyber rumor-mongering." Police accused the four of spreading false reports of rioting and potential violence against Chinese Malaysians via the Internet. The four later were charged under a section of the Penal Code that prohibits statements that cause fear or alarm. At year's end, the four still were being tried. Several times during the year, government leaders blamed critics on the Internet for "spreading lies" and "sowing hatred." However, Energy, Communications, and Multimedia Minister Datuk Leo Moggie said on several occasions that the Government had no plans to censor the Internet.

The Official Secrets Act (OSA) also restricts freedom of expression. The Bar Council and other NGO's in the past have called for a review of certain provisions of the OSA that grant considerable discretion to the authorities. In August opposition National Justice Party leader and former Anwar aide Ezam Nor said publicly that Anwar had stored abroad documents that corroborated charges of corruption against senior government leaders. After the remarks, police investigated a possible violation of the OSA. Anwar and the NJP official later said that none of the documents

involved national security. Opposition leaders accused the Government of using the OSA to cover up corruption. No charges were filed by year's end.

The Printing Presses and Publications Act of 1984 limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended in 1987 to make the publication of "malicious news" a punishable offense, expand the Government's power to ban or restrict publications, and prohibit court challenges to suspension or revocation of publication permits. Government power over license renewal and other policies create an atmosphere that inhibits independent or investigative journalism and results in extensive self-censorship.

The English and Malay mainstream press provide generally laudatory, uncritical coverage of government officials and policies, and usually give only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflects government positions on domestic and international issues. Chinese-language newspapers are much freer in reporting and commenting on sensitive political and social issues, but are not immune to government pressure. However, self-censorship and biased reporting in the print media was not uniform and the English-, Malay-, and Chinese-language press all, at times, provided balanced reporting on sensitive issues.

The Government often conveys its displeasure with press reporting directly to a newspaper's board of directors or chief editors. In addition leading political figures in the ruling coalition, or companies controlled by them, own most major newspapers, thus limiting the range of views. At times, the susceptibility of the press to government pressure has a direct and public impact on operations. For example, in 1998 the editors of two of the country's largest daily newspapers and a television operations director were removed, apparently because of government displeasure. The removals apparently stemmed from political rivalries within the ruling party.

A petition signed by 581 journalists from 11 newspapers and released on May 3, World Press Freedom Day, urged the Government to repeal the Printing Presses and Publications Act. The petition stated that government controls on the press had resulted in self-censorship and diminished the credibility of the mainstream press. The Bar Council issued a statement in support of the journalists' petition. The leader of the youth wing of UMNO said that he hoped that the Government would review existing laws regulating the press. The journalists' petition also called for the formation of an independent media council to regulate the press. Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said in May that the Government would study the proposal for a media council, but the Government gave no sign that it plans to amend or scrap the act.

The Government continued to prosecute human rights activist Irene Fernandez under the Printing Presses and Publications Act for charges that she made in 1995 of mistreatment of detainees at illegal alien detention centers. Fernandez's supporters accuse the Government of purposely prolonging the trial, one of the longest in the country's history, to harass Fernandez. As of year's end, the trial still continued (see Section 5).

The Government also sometimes directly restricts the dissemination of information that it deems embarrassing or prejudicial to national interests. In June the Government stated that it no longer would disclose publicly the readings of an air pollution index. In August Minister of Science, Technology, and Environment Datuk Law Hieng Ding said that the decision was made so as not to "drive away tourists." In February the Government forbade all state health departments from commenting on the outbreak of a deadly virus. The Government later restricted reporters' access to sites of the outbreak. However, the issue was widely reported.

Publications of opposition parties, social action groups, unions, and other private groups actively cover opposition parties and frequently print views critical of government policies. The circulation of the Islamic opposition party's twice-weekly newspaper, Harakah, now rivals that of mainstream newspapers. However, the Government retains significant influence over these publications by requiring annual renewal of publishing permits and limiting circulation only to members of the relevant organization. Senior government leaders publicly warned Harakah several times during the year not to print "slanderous" remarks and to limit distribution to party members. Harakah was also the target of several ruling party-sponsored libel suits. In December the Home Ministry issued a show cause letter to Harakah's publisher asking him to explain why Harakah should not be banned for violating the terms of his permit. Acting on a Home Ministry directive, police officers cracked down on newsstands that distributed Harakah to the public and confiscated many copies. Harakah stated that it would abide by the Home Ministry directive and at year's end the newspaper was no longer openly sold. There were no cases of denial of renewal requests during the year.

Some legal magazines and illegal (i.e., lacking publishing permits) publications also frequently print criticism of the Government. In May police seized over a thousand copies of illegal antigovernment magazines at a printing company and charged the company owner for violating the Printing Presses and Publications Act.

The Communications and Multimedia Act (CMA), which came into force on April 1, requires certain Internet and other network service providers to obtain a license from CMA. Details of the implementation of this act were unclear at year's end.

There were instances of violence against journalists. In May demonstrators protesting the conviction of former Deputy Prime Minister Anwar Ibrahim attacked a car carrying television reporters from a television station that is widely perceived as progovernment. Those responsible for the attack later were arrested and charged. In July a group of supporters of the Islamic opposition reportedly verbally abused a television cameraman and demanded that he turn over his videocassettes. There were no reports of arrests in the case.

The foreign press continues to be a target of government criticism for allegedly biased reporting. Senior government officials often accused the foreign press of bias and malicious motives. In February several government ministries announced plans to boycott three foreign publications that were said to criticize Malaysia overzealously.

In September Far Eastern Economic Review correspondent Murray Hiebert lost his appeal of a 1997 conviction for contempt of court. Hiebert, who had not been free to leave Malaysia for over 2 years pending his appeal, chose to forgo another appeal to the country's highest court and served his 6-week sentence (reduced to roughly 1 month after time off for good behavior). The contempt charges stemmed from a 1997 article, in which Hiebert described a civil suit brought by the wife of a prominent judge, Gopal Sri Ram, against the International School of Kuala Lumpur. (The judge's wife had alleged in the suit that the school had discriminated unlawfully against her son by dropping him from a school debating team after charges that the son had acted improperly.) Hiebert's article noted, among other things, the unusual speed with which the courts had disposed of the lawsuit. The Court of Appeals upheld the contention that Hiebert had "scandalized the court." Hiebert's case, the first in which a journalist has been sentenced to jail for contempt in the ordinary course of his duties, raised serious questions of freedom of the press and of judicial impartiality.

The electronic media is restricted more tightly than the print media. Radio and television are almost uniformly laudatory of the Government. News on the opposition is restricted tightly and reported in a slanted fashion. In July the Deputy Information Minister said candidly that government television and radio channels would not broadcast the views of opposition parties. He said that opposition parties were welcome to use private news stations or apply for broadcasting licenses of their own. In fact the two private television stations have close ties to the ruling coalition and are unlikely to provide a forum for the opposition parties, and it is unlikely that the Government would grant the opposition a broadcasting license. In January the chief minister of the opposition-controlled state of Kelantan, complained that after several years the Government still had not approved a license application for a state radio station. Every other state has such a station.

In March a private television station announced that it would revamp its news programming. The government-influenced print media shortly before had published a letter criticizing the station's reporting of the trial of Anwar Ibrahim.

A government censorship board censors films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censor programming in line with government guidelines. The Government bans certain books for political and religious reasons or because of sexual or profane content. Some foreign newspapers and magazines are banned (see Section 1.f.) and, infrequently, foreign magazines or newspapers are censored, most often for sexual content. However, the increased prevalence of the Internet is undermining such restrictions. The Government maintains a "blacklist" of local and foreign performers, politicians, and religious leaders who may not appear on television or radio broadcasts.

The Government generally restricts remarks or publications that might incite racial or religious disharmony; it also attempts to restrict the content of sermons at government-affiliated mosques. Occasionally state governments ban certain Muslim clergymen from delivering sermons (see Section 2.c.).

In December Prime Minister Mahathir said that the Government should find ways to prevent the opposition from "spreading lies" at mosques. In December Deputy Prime Minister Abdullah also instructed the Religious Affairs Department to conduct background checks on religious speakers.

In two additional incidents that occurred in December, Selangor state government officials announced that they were investigating mosque committee members with

links to the opposition, and Johor state government officials said that they had identified several "political" religious leaders who had criticized the Government. In Selangor, officials threatened to expel opposition sympathizers from mosque committees, and in Johor state officials threatened "stern action." At year's end, no action had been taken in either case.

In the past, the Government generally had respected academic freedom in the areas of teaching and publication. Academics are sometimes publicly critical of the Government. However, there is self-censorship among public university academics whose career advancement and funding depend on the Government. Private institution academics also practice self-censorship due to fear that the Government may revoke licenses for their institutions. Legislation also imposes limitations on student associations and student and faculty political activity (see Section 2.b.). A university vice chancellor must approve campus demonstrations.

The Government was increasingly intolerant of teachers and students who expressed dissenting views. Several senior government leaders warned that some teachers were "poisoning the minds" of their students and that students should not be involved in partisan politics. Then-Education Minister Datuk Seri Najib Tun Abdul Razak and other senior government officials said on several occasions that teachers who opposed the Government and students who took part in antigovernment activities faced disciplinary actions, including dismissal and expulsion. In August an education ministry official said a disciplinary panel had received reports from several states concerning teachers who had "incited" their students against the Government. In September an education ministry official said that the Ministry had "acted against" several teachers involved in antigovernment activities.

The Government has long said that students should be apolitical and used that position as a pretext for denying opposition parties access to student forums. According to student leaders, students who sign antigovernment petitions sometimes are expelled or fined. In fact the Government enforces this policy selectively and does not refrain from acquainting students and teachers with government views on political issues. In May the Government announced that 33,870 students had attended a 1-day seminar "to improve understanding of national policies."

In February the University of Malaya declined to renew the contract of Professor Chandra Muzaffar. Chandra, a well-known supporter of political reform and longtime government critic, charged that the University had fired him for political reasons. The University stated that it had declined to renew Chandra's contract for economic and personnel reasons. In June the High Court agreed to hear Chandra's application to quash the University's decision.

In 1997 the Government prohibited academics from making any public statements or publishing any writings on Malaysia's air pollution crisis. The Government appears to have feared that unauthorized remarks on the air pollution crisis might harm the country's image and hurt tourism. Academics and others openly protested this order. The gag order remains in effect.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, the Government places significant restrictions on this right. These rights may be limited in the interest of security and public order, and the 1967 Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice senior police officials and political leaders influence the grant or denial of some permits. Police grant permits easily to government and ruling coalition supporters; however, they use a more restrictive policy with government critics, although the police do grant permits for many opposition meetings.

Opposition leaders frequently alleged that police issue permits for public assemblies in an unfair manner that discriminates against the opposition. Various state and local police departments rebutted these allegations by providing statistics that indicated that most requests for permits are granted; however, in certain sensitive cases political considerations clearly led to the denial of permits. For example, in February the police denied a permit for a large opposition rally to protest the raising of road tolls on the basis that it would interfere with repairs and renovations at the planned venue. However, a ruling coalition component party, the Malaysian Chinese Association, held a large dinner at the same venue just 1 day before the planned antitoll rally. In March police forcibly prevented opposition leader Lim Kit Siang from addressing a group of farmers living in an area afflicted by a deadly virus.

Police, especially early in the year, had a clear policy barring large "reformasi" gatherings and street demonstrations. However, later in the year, especially in the period prior to the election, police allowed many opposition political gatherings.

In April thousands of persons assembled in downtown Kuala Lumpur and in front of the courtroom to protest the conviction of Anwar Ibrahim on charges of corruption (see Section 1.e.). Riot police beat and arrested some of these demonstrators. In some instances, police dispersed demonstrators with no prior warning. In other cases, they waited for up to 45 minutes before moving in with tear gas, water cannons, and truncheons. In the ensuing fracas sometimes violence broke out.

Police arrested hundreds of demonstrators, including peaceful demonstrators, for illegal assembly. Police also dispersed other peaceful "reformasi" demonstrations earlier in the year and made many arrests. On September 18 and 19, supporters of Anwar held demonstrations in several cities throughout the peninsula. The largest one took place on September 19 in Kuala Lumpur, where up to 10,000 demonstrators gathered at the national mosque. After demonstrators ignored orders to disperse, police fired tear gas canisters and chemical-laced water from a water cannon. Some demonstrators then responded by throwing rocks, iron bars, and other objects at police. Police arrested an unknown number of protesters and beat others with batons. Some domestic press reports stated that the demonstrators initiated the violence. Government-controlled media on September 20 reported that three policemen were injured. In contrast, foreign journalists gave consistent accounts of the way that police started the fracas that led to violence.

At the April, September, and other, smaller opposition pro-Anwar demonstrations throughout the year, police arrested hundreds of demonstrators, including many peaceful demonstrators. Many of these demonstrators later were acquitted, a handful were convicted, and some cases still were pending at year's end. Among those arrested were many opposition party leaders. Police detained them under the Police Act for allegedly participating in an illegal assembly and under the Penal Code for allegedly causing a riot. All were released on bail and still were awaiting trial at year's end.

In February the U.N. Special Rapporteur on Freedom of Opinion criticized the Government's use of various laws to curb peaceful assembly (see Section 2.a.).

In July five social activists were arrested for illegal assembly when they tried to prevent police from demolishing a squatter settlement. The case still is pending.

In August the secretary general of UMNO accused supporters of the Islamic opposition party of disrupting several ruling coalition meetings.

In January three members of the opposition Malaysian People's Party said that police had detained them illegally in December 1998. The police stated that the three were only brought in for questioning.

In 1997 police detained 55 Islamic opposition party members who demonstrated in protest of an Israeli team's participation at an international cricket championship. The case against the demonstrators still is pending.

Government and opposition candidates campaign actively. Previous restrictions on freedom of assembly during campaign periods (including bans on rallies and required lists of times and places for proposed discussion sessions) were not implemented strictly during the year. Opposition parties reported some harassment but generally were able to campaign vigorously in the Sabah state elections held in March, and in national elections held in November.

The Constitution provides for the right of association; however, the Government places significant restrictions on this right. For example, certain statutes limit this right. Under the Societies Act of 1966, only registered, approved organizations of seven or more persons may function. The Government sometimes refuses to register organizations, or may impose conditions when allowing a society to register. For example, the Government has not allowed Amnesty International to set up a branch in the country, and it also prohibits the Communist Party and affiliated organizations (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power it has enforced selectively against political opposition groups. This threat of possible deregistration inhibits political activism.

To avoid the burdensome requirements of the Societies Act, many NGO's register as companies under the Companies Act or as businesses under the Registration of Businesses Act. Amendments to the Companies Act passed in 1998 empowered the Registrar of Companies to refuse registration of a proposed company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. The Registrar also can cancel the registration of an existing company and disband it on the same grounds. Opposition parties and NGO activists charged that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied such charges and stated that financial irregularities were the amendments' main target. Government claims were undercut somewhat by later police statements that alluded threateningly to the status of certain NGO's under the Companies or Societies Acts.

In May the Government announced that it was planning amendments to the Registration of Businesses Act to enable the Government to track the activities and movements of organizations registered under the act. Minister of Domestic Trade and Consumer Affairs Datuk Megat Junid said that the amendments were necessary because some NGO's registered under the act were operating as "semi-political" organizations. Megat said that the Government feared that "after registering under the Registration of Businesses Act, NGO's would not do business but instead raise issues threatening national security with the sponsorship, perhaps, of outsiders." At year's end, the Government still had not tabled these amendments in Parliament.

NGO activists believe that recent changes in law and government investigations are a prelude to an attempt to deregister several NGO's. In May Deputy Home Minister Datuk Abdul Kadir told Parliament that the Government had deregistered 981 societies under the Societies Act since 1966. Details were not reported. No human rights NGO has been deregistered in recent years.

In February the Registrar of Societies rejected an application to form a new political party, the Socialist Party of Malaysia. The Registrar said that information on the application form was incomplete. Supporters of the new party said that the denial was politically motivated and filed an appeal.

The Bar Council often was the target of government criticism. In March Deputy Minister Datuk Ibrahim Ali said that the Bar Council should not question the appointment of judges. In May Ali said the Bar Council should stop meddling in government affairs. In June government leaders threatened to pass legislation making the Attorney General the head of the Bar Council. In the past, the Government has threatened to legislate an expansion of the membership of the Bar Council to include government lawyers and legal professors. Some members of the bar fear that such a measure would dilute the Council's independence. So far, no such measures have been implemented.

The Universities and University Colleges Act also affects freedom of association. This act mandates university approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. In 1998 six students were suspended for their role in the opposition victory in a by-election. Restrictions are not enforced as vigorously on students who participate in proruling coalition political activities. A university vice chancellor must approve campus demonstrations. Many students, NGO's, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government stated the act is still necessary.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government places some restrictions on this right. Islam is the official religion; however, the practice of Islamic beliefs other than Sunni Islam is restricted severely. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worship freely, although with some restrictions. Government funds support an Islamic religious establishment, and it is official policy to "infuse Islamic values" into the administration of the country. The Government imposes Islamic religious law on Muslims only in some matters and does not impose Islamic law beyond the Muslim community. Adherence to Islam is considered intrinsic to Malay ethnic identity and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. The Government also grants funds to non-Islamic religions, but to a more limited degree.

According to government census figures, in 1991 59 percent of the population was Muslim; 18 percent practiced Buddhism; 8 percent Christianity; 6 percent Hinduism; 5 percent Confucianism, Taoism, or other religions that originated in China; 1 percent animism; and 0.5 percent other faiths, including Sikhism and the Baha'i faith. The religious practices of the remainder were not stated.

For Muslims, particularly ethnic Malays, the right to leave the Islamic faith and adhere to another religion is a controversial question. The legal process of conversion is unclear; in practice, it is very difficult for Muslims to change religions. Persons who wish to do so face severe obstacles. In March the country's highest court ruled that secular courts have no jurisdiction to hear applications by Muslims to change religions. According to the ruling, the religious conversion of Muslims is solely the jurisdiction of Islamic courts. The ruling makes conversion of Muslims nearly impossible in practice.

In 1998 the Government stated that "apostates" (i.e., those who wish to leave or have left Islam for another religion) would not face government punishment as long as they did not defame Islam after their conversion.

The Government generally respects non-Muslims' right of worship; however, state governments carefully control the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for such permits sometimes are granted very slowly. In September after objections by representatives of non-Muslim religions, the Government agreed to revise proposed guidelines governing the establishment of non-Muslim places of worship. In July the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS), an NGO representing minority religions, protested the planned implementation of the Ministry of Housing and Local Government guidelines. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 to 5,000 adherents of a particular non-Muslim faith for a non-Muslim place of worship to be approved. No such requirement exists for Muslim places of worship. The group also complained that, under the guidelines, the state Islamic council must approve the setting up of all non-Muslim places of worship. There were no further reports of the status of the revision of the proposed guidelines.

During the controversy over the proposed new guidelines on non-Muslim places of worship, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national non-Muslim religious council.

In December the press reported that the new opposition Islamic party administration of the state of Terengganu planned to introduce a special tax on non-Muslims. Non-Muslims expressed strong opposition to this proposal. State government leaders said that the press had distorted their plans. No special tax was imposed by year's end.

After a violent conflict in Penang between Hindus and Muslims in 1998, the Government announced a nationwide review of unlicensed Hindu temples and shrines. Implementation is not vigorous and in June the leader of the ruling coalition's ethnic Indian-based political party complained that Hindu temples and shrines had returned only 800 of 30,000 registration forms.

Proselytizing of Muslims by members of other religions is prohibited strictly; proselytizing of non-Muslims faces no obstacles. The Government discourages, and in practical terms forbids, the circulation in peninsular Malaysia of Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials can be found. Some states have laws that prohibit the use of Malay-language religious terms by Christians, but the authorities do not always enforce them actively. The distribution of Malay-language Christian materials faces few restrictions in east Malaysia. Visas for foreign Christian clergy are restricted severely.

The Government opposes what it considers deviant interpretations of Islam, maintaining that the "deviant" groups" extreme views endanger national security. In the past, the Government has imposed restrictions on certain Islamic sects, primarily the small number of Shi'a. The Government continues to monitor the activities of the Shi'a minority. In 1998 the Government stated that it was monitoring the activities of 55 religious groups believed to be involved in deviant Islamic teachings. In May authorities said that the banned Al-Arqam sect was attempting to reconstitute itself.

The Government periodically has detained members of what it considers Islamic deviant sects without trial or charge under the ISA. After release, such detainees are subject to restrictions on their movement and residence. In 1997 10 persons, 2 of whom were over 75 years old, were detained under the ISA for spreading Shi'a teachings. All of those detained have now been released and at year's end there were no religious detainees or prisoners.

The Government generally restricts remarks or publications that might incite racial or religious disharmony. This includes some statements and publications critical of particular religions, especially Islam. The Government also restricts the content of sermons at mosques. The Government periodically warns against those who deliver sermons in mosques for "political ends" and, occasionally, state governments ban certain Muslim clergymen from delivering sermons at mosques. In July the Negeri Sembilan state government banned a state religious department officer from preaching sermons because the officer allegedly had given a political speech during a sermon. In February the state of Selangor lifted a ban on a former mufti (the highest state Muslim leader) of Selangor. He allegedly had called the Prime Minister an apostate (see Section 2.a.).

In December Prime Minister Mahathir said that ways should be found to prevent the opposition from "spreading lies" at mosques. Also in December, Deputy Prime Minister Datuk Seri Abdullah Badawi directed the religious affairs department to conduct background checks on religious speakers. Abdullah said "we need to find out whether the speakers disseminated wrongful information which may have influ-

enced civil servants to stop supporting the Government." Also in December, Selangor state government officials announced that they were investigating mosque committee members with links to the opposition. Officials threatened to expel opposition sympathizers from mosque committees. At year's end, no action had been taken. Also in December, Johor state officials said that they had identified several "political" religious leaders who had criticized the Government. The state government threatened "stern action," but at year's end no action had been taken.

For Muslim children religious education according to a government-approved curriculum is compulsory. There are no restrictions on home instruction.

In August a court reinstated three primary school students who had been expelled for wearing turbans in 1997. In September Hindus protested a school's prohibition on students' applying sacred ash to their foreheads.

In July the Government announced a plan to take control of state religious schools (under the Constitution religion is a state matter). The chief minister of the opposition-controlled state of Kelantan rejected the plan. In response, federal Education Minister Datuk Seri Najib said that the Government would find a way to take over Kelantan's religious schools. In October the Government announced that religious schools could choose to be absorbed wholly or partially into the federal school system beginning in 2000. At year's end, the plan had not yet been implemented and its implications were unclear.

As part of its campaign to infuse Muslim values, in 1998 the military services forbade the sale of alcoholic beverages on all military installations, including sale to non-Muslims. The ban on alcohol reportedly is not always enforced.

In January the Selangor state government announced the formation of a government interreligious consultative council that included representatives of all major religions. The council's stated objectives were to prevent interreligious conflict, to promote interreligious understanding, and to address moral and social problems jointly.

The Government has a comprehensive system of preferences for ethnic Malays and members of a few other groups known collectively as "bumiputras," most of whom are Muslim.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens generally have the right to travel, live, and work where they please; however, the Government restricts these rights in some circumstances. The East Malaysian states of Sabah and Sarawak have the right to control immigration into them and to require citizens from peninsular West Malaysia and foreigners to present passports or national identity cards for entry. In 1998 the Court of Appeal ruled that Sabah and Sarawak, despite their autonomy, still are bound by the federal Constitution in all matters. Thus, the court voided Sabah's expulsion of a West Malaysian attorney who had been involved in several lawsuits against the state government. In May the Sabah state government filed an appeal of the ruling. The Federal Government regulates the internal movement of provisionally released ISA detainees (see Section 1.d.). The Government also uses the Restricted Residence Act to limit movements of those suspected of some criminal activities (see Section 1.d.).

The Government generally does not restrict emigration.

Citizens must apply for the Government's permission to travel to Israel. Travel to Jerusalem for a religious purpose is allowed explicitly.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees and rejects customary international law. The Government does not recognize the principle of first asylum; however, it sometimes grants temporary refuge to asylum seekers. In September Foreign Minister Datuk Seri Syed Hamid Albar said, "we allow people for temporary stay and when that stay is over they have to go back. We have never granted anybody refugee status." In 1998 the Government forcibly returned several hundred Acehnese, despite representations from the U.N. High Commissioner for Refugees (UNHCR) and the international community, and evidence that the Acehnese might face persecution upon return to Indonesia. The Government continues to refuse to acknowledge that any Indonesian illegal aliens, including Acehnese, have a claim to refugee status. However, there were no incidents of deportation, harassment, and detention of Acehnese persons during the year.

The Government did not restrict the access of undetained asylum seekers to the UNHCR office and cooperated in the resettlement of some refugees. However, the Government only infrequently granted the UNHCR and other humanitarian organizations access to detained aliens. There were some forced expulsions of asylum seekers and refugees.

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

By law citizens have the right to change their government through periodic elections; however, while votes generally are recorded accurately, there are some irregularities that affect the fairness of elections, and in practice opposition parties cannot compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of severe restrictions on campaigning, freedom of association, freedom of assembly. Nevertheless, opposition candidates campaign actively. In the November elections, the opposition roughly doubled its strength to 25 percent of federal parliamentary seats and an opposition party won control of two state governments (the opposition won control of one state government in the 1995 elections). Prime Minister Mahathir has held power since 1981.

Malaysia has a parliamentary system of government. National elections are required at least every 5 years and have been held regularly since independence in 1957. The Malay-based United Malay National Organization (UMNO) party dominates the ruling National Front coalition, which has ruled Malaysia continuously since independence. Since 1969 the National Front coalition always has maintained a two-thirds majority in Parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the executive branch, i.e., the Prime Minister.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November elections (see Section 2.a.). Government officials frankly stated that government television and radio would not carry reporting on the opposition. The country's two private television stations also had virtually no impartial reporting on the opposition. The mainstream English-language and Malay-language newspapers also carried slanted coverage of domestic politics. In addition opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese- language newspapers.

Opposition leaders credibly stated that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but widely perceived by the opposition to be under the control of the Government. In June Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said that there was no need to consult the opposition on the appointment of a new election commission chairman. Opposition leaders said that Prime Minister Mahathir's remark in June that the Government would "not entertain" an opposition demand for a long campaign period in upcoming elections demonstrated the lack of independence of the Election Commission (supposedly the Commission has the sole power to set the length of the campaign period). After the election, several government officials publicly disputed opposition claims that the Election Commission was biased.

Opposition leaders also complained that local government officials who serve as election officers are not always neutral. For example in July the opposition National Justice Party filed a complaint with the Election Commission accusing a district officer in the state of Perak of participating in an UMNO party event. The Election Commission later announced that it completed its investigation but did not reveal its findings. After the election, there were some complaints about irregularities during the counting of ballots. At year's end, these complaints were not substantiated, and there is no evidence that the conduct of election officers significantly affected the results of the election; however, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties and some NGO's also alleged that defective voting rolls led to some fraudulent votes. In the Sabah state elections in March, opposition leaders accused the ruling coalition of employing "phantom" voters (illegal aliens and other fraudulently documented voters). NGO's analysis of the voting roll used in the November national elections also revealed irregularities, such as dead persons on the rolls, multiple voters registered under single identity card numbers, and other anomalies; however, there is no evidence that these irregularities significantly affected the results in more than a handful of races. After the election, an election monitoring NGO renewed its calls for a national reregistration exercise to produce a clean electoral roll.

"Postal votes," or absentee ballots by police and military personnel and their spouses, also are a concern. The Government, citing security concerns, does not allow party agents to monitor absentee ballot boxes placed on military and police installations. Opposition parties question the rationale for such security restrictions. Opposition parties and NGO's have raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under they eye of commanding officers. In the

November elections, the Election Commission changed some procedures to allow better monitoring by Election Commission officers. Opposition parties continue to call for monitoring of postal votes by party agents. Election Commission officials estimated before the November election that roughly 235,000 postal votes would be cast. No count of the actual number of postal votes was published by year's end.

The anonymity of balloting also is a potential concern. Ballots are marked with a serial number that could be matched against a voter's name. While there is no evidence that the Government has ever traced individual votes, some opposition leaders allege that the potential to do so has a chilling effect on some voters, particularly civil servants.

Gerrymandering dilutes the votes of some citizens. The Constitution states that parliamentary constituencies should have roughly equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In practice these guidelines often are ignored. For example in Sabah constituencies are weighted strongly against the state's large Christian population. Nationwide the constitutional provision giving greater weight to rural constituencies greatly dilutes the voting power of urban residents. Finally, the single member, winner-take-all system diminishes the political power of the minority ethnic Indians. Because of the changing dynamics of ethnic politics, ethnic gerrymandering of parliamentary constituencies, used against the opposition in the past, is believed to no longer be as great an advantage to the ruling coalition.

Other government measures hamper the opposition's ability to compete with the incumbent ruling coalition. For example the Government on several occasions issued oblique public warnings to civil servants, including teachers (see Section 2.a.) not to support the opposition. An application to form a new political party was rejected (see Section 2.b.). Students face certain restrictions on political activity (see Section 2.b.). Government leaders routinely and openly threaten to cut off federal funds beyond the constitutionally mandated minimum to constituencies that elect opposition representatives. Ruling coalition Members of Parliament receive a government allocation totaling in aggregate roughly $25 million (95 million ringgit). Opposition Members of Parliament receive no such funds. In July a government minister told Parliament that the money only was given to ruling coalition Members of Parliament because it came from the Government.

The opposition has complained in the past about restrictions on public assemblies during the campaign period (see Section 2.b.). In the period prior to the November elections, police did not implement vigorously restrictions and the opposition held many large rallies. The opposition also has stated that the short official campaign period gives an advantage to the incumbent ruling coalition. However, de facto campaigning began long before the November elections and there is little evidence that the short official campaign period had much practical effect.

In August Prime Minister Mahathir stated that the ruling coalition's failure to win a two-thirds majority in Parliament in 1969 had resulted in widespread rioting and said that if a "weak government" were elected, "the peace of the country could not be guaranteed." Opposition leaders complained that these statements were a threat to instigate violence if the ruling coalition should lose the two-thirds majority in the upcoming elections (which did not happen). Opposition leader Lim Kit Siang called on the Government to pledge to accept the results of the upcoming election. The Government made no response.

Prime Minister Mahathir said in June that he expected upcoming elections to be "the dirtiest ever." For different reasons, the opposition expressed similar fears. The Government did not respond to the opposition's call for an election code to ensure that the upcoming elections would be free, fair, and clean. A group of NGO's formed an independent elections watch organization. The Election Commission stated that the NGO's were free to do so, but the election watch organization was accorded no special privileges. (The law does not provide for monitoring of polling stations except by political party agents.) In June the Government publicly rejected the idea of foreign observers. The Government also rejected opposition calls for foreign observers in Sabah state elections in March. (The last time that foreign observers monitored elections was in 1990.) After the election, the Prime Minister continued to allege that the opposition engaged in dirty tactics, including slander. At year's end, the election results still were not gazetted officially and it was unclear if the ruling coalition or the opposition parties would, as allowed by law, appeal the results of any parliamentary races.

Opposition parties filed objections to the results of 17 of 48 seats contested in the Sabah state elections in March. In July and August, courts rejected the first of two of these petitions. In October a third petition was dropped. The other petitions still were pending at year's end.

In the past, within the ruling UMNO party there had been active political debate. "No-contest" rules for leadership positions and generally increased intolerance of dissent limited but did not eliminate UMNO's role as a vehicle for public debate. After the removal of Deputy Prime Minister Anwar in 1998, intolerance of dissent within UMNO increased. In 1998 an extraordinary UMNO Assembly approved a series of measures designed to limit independent grassroots initiatives. During the year, there were no contests for leadership positions in UMNO.

Over the years, Parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely is amended or rejected. Legislation proposed by the opposition is never given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. The Parliament in 1995 amended its rules to strengthen the power of the Speaker and curb parliamentary procedures heavily used by the opposition. The amendments empowered the Speaker to ban unruly members for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit nongermane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited even more severely members' opportunities to question and debate government policies. Nonetheless, government officials often face sharp questioning in Parliament, although this is not always reported in detail in the mainstream press.

State assemblies also limit debate. For example in December the speaker of the Penang state assembly refused to allow an independent assemblyman to ask which constituencies had received the largest budget allocations for road repairs. The speaker said that the question was "prejudicial to the public interest." After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists have advocated reintroduction of local government. Even some ruling party municipal officials have noted that local bodies are simply "rubber stamps" for the Government. Because of racial and political factors (non-Malays are more concentrated in urban areas), the Government is not expected to reintroduce elected local government soon.

Women face no legal limits on participation in government and politics; however, they remain underrepresented due to social and other factors. At year's end, 2 of 28 cabinet ministers were women. Women hold 20 of 193 seats in the elected lower house of Parliament and 18 of 69 seats in the appointed upper house. Women also hold some high-level judgeships. In 1998 the Minister of National Unity and Social Development stated that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister stated that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was 6 to 7 percent. The Islamic opposition party does not allow female candidates. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in government, as well as in senior civil service positions. Nevertheless, the political dominance of the Malay majority means in practice that ethnic Malays hold the most powerful senior leadership positions. Non-Malays fill 9 of the 28 cabinet posts. An ethnic Chinese leader of a component party of the ruling coalition holds executive power in the state of Penang.

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

A number of NGO's, including the Bar Council and other public interest groups, devote considerable attention to human rights. The Government generally tolerates their activities but often does not respond to their inquiries or press statements. Government officials harshly criticize domestic NGO's for collaborating with foreigners, including international human rights organizations. However, at year's end, no group had been banned or decertified. Public apathy and racial divisions (non-Malays had dominated most human rights NGO's) have limited the effectiveness of NGO's in past years. However, public discontent over the 1998 removal of Deputy Prime Minister Anwar has given some impetus to NGO agendas among the Malay community.

In 1998 the Government amended the Companies Act to grant the Registrar of Companies wide powers to block or disband organizations deemed prejudicial to national security or the national interest. In May the Government announced that it was planning to table amendments to the Registration of Businesses Act to enable the Government to track the activities and movements of organizations registered under the act (see Section 2.b.).

The Government generally does not allow international human rights organizations to form branches; however, it generally does not restrict access by representatives of international human right organizations. A February report issued by the IPU on prison conditions (see Section 1.c.) notes that, while the Government welcomed the December 1998 investigative mission, the IPU delegation was not able to make important appointments and was not allowed to meet privately with Lim Guan Eng. Several foreign human rights observers have attended sessions of Anwar's two trials.

In July Parliament passed legislation to form a National Human Rights Commission. The Commission's functions and powers would include promoting awareness of human rights, helping the Government to draft laws and regulations concerning human rights, advising the Government on acceding to human rights treaties, inquiring into human rights complaints, inspecting places of detention, and hearing witnesses and receiving evidence on human rights questions. At year's end, the 20 members of the Commission had not yet been appointed. The Government pledged that the Commission would be independent, but opposition leaders were skeptical. The legislation creating the Commission defines human rights as "the fundamental liberties provided for" in the federal Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. Opposition leaders and NGO's, including the Bar Council, criticized the definition as too narrow. At year's end, it was unclear how these provisions would be implemented.

In February the U.N. Special Rapporteur on Freedom of Opinion and Expression issued a report stating that freedom of opinion is curtailed systematically in Malaysia (see Section 2.a.).

A February IPU report stated that the conditions of imprisonment of opposition Member of Parliament Lim Guan Eng did not comply with international standards (see Section 1.c.).

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

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. Although neither the Constitution nor laws explicitly prohibit discrimination based on sex or disabilities, the Government has tried to eliminate discrimination against women and promote greater public acceptance of the disabled. Government policies give preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas.

Women.—Reports of rape are common in the press and among women's rights groups and NGO's, although the Government has not released comprehensive statistics. In December a women's NGO issued a report that stated that the incidence of rape had increased since 1993 and that more than 50 percent of rape victims are age 16 or younger. Many hospitals have set up crisis centers where victims of rape and domestic abuse can make reports without going to a police station. NGO's and political parties also cooperated in providing counseling for rape victims. Nonetheless, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. Some rapists receive heavy punishments, including caning, but women's groups complain that some rapists receive inadequate punishments.

Spousal abuse is a serious problem that has drawn considerable government, NGO, and press attention. Awareness of the severity and prevalence of this problem is growing. In 1997 (the last year for which comprehensive statistics have been published), police investigated 5,730 cases of spousal abuse, made 800 arrests, and charged 693 suspects, of whom 495 were tried and 198 were sentenced. The Malaysian Chinese Association Public Services and Complaints Department reported that the number of domestic violence complaints that it had received in the first 3 months of the year was roughly double that of the same period of the previous year. Whether this signifies a rise in the overall rate of domestic violence is unclear.

The 1996 Domestic Violence Act addresses spousal abuse. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. Obtaining a restraining order against an abusive spouse is a lengthy and cumbersome procedure. Moreover, enforcement of the order is split between the police and the Welfare Department so that violations often go unpunished.

Although the Government, NGO's, and political parties have formed shelters and offer other assistance to battered spouses, activists assert that support mechanisms remain inadequate. Police responses to complaints of domestic violence are more professional and sensitive than in previous years, but problems remain and cultural attitudes are still an impediment.

Domestic violence complaints are rare in Islamic (Shari'a) courts (six cases in 1997). Some Islamic law experts have urged Muslim women to become more aware of the provisions of Islamic law that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Islamic law generally (each state has a separate code) prohibits wives from disobeying lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, against their husbands.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault, but women's rights activists cannot remember any man being convicted in such circumstances.

A 1998 International Labor Organization (ILO) study estimated that there were roughly 40,000 to 140,000 prostitutes in 1998. The Government heatedly disputed this estimate and the police stated that they would investigate NGO's that might have provided information that formed the basis of the study. Sex tourism is not legal and the level of such activity is not high.

A women's rights NGO stated in 1998 that the economic downturn was forcing more women into prostitution. The NGO cited government statistics showing an upturn in the number of arrests for prostitution. A government source disputed this claim, saying that the increase in arrests was due to more vigorous enforcement. In February the press reported a 1998 study by the national population and family development board that showed that the economic downturn had dampened the demand for prostitution.

Malaysia is a source, transit, and destination country for trafficking in women for sexual purposes (see Section 6.f.).

In August the Ministry of Human Resources issued a Code of Practice designed to prevent and eradicate sexual harassment in the workplace. Women's groups welcomed the code but noted that further public education on sexual harassment was still necessary. The Code of Practice has no legal effect and earlier plans for a sexual harassment law apparently have been abandoned. Women's rights activists said that a law on sexual harassment would be more effective than a code of practice. Deputy Human Resources Minister Datuk Dr. Affifuddin Omar responded that the Government preferred social engineering rather than a "big brother approach" to the problems of sexual harassment. In addition there are still many cultural obstacles to women who try to pursue sexual harassment charges. The Ministry of Human Resources stated in 1998 that it had received reports of only six sexual harassment cases in the first 6 months of that year (the most recent statistics available) and only a total of about 30 since 1996.

Women are still victims of legal discrimination. The cultural and religious traditions of the major ethnic groups also heavily influence the condition of women in society. In family and religious matters, Muslim women are subject to Islamic law. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Islamic law that allow for divorce without the husband's consent, while small, is increasing steadily.

There were increasing complaints about the treatment of women by Islamic courts. An April press report described complaints by NGO's and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. In May the women's wing of UMNO stated that it would act to help accelerate and improve the handling of women's problems by Islamic courts.

Muslim couples must take premarital courses. Women's activists have complained that the courses, as implemented, perpetuate gender discrimination by misinforming women of their rights in marriage (see Section 1.f.).

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act in the early 1980's increased protection of married women's rights, especially those married under customary rites. Nonetheless, many statutes, such as the Women and Girls Protection Act still provide for paternalistic or discriminatory treatment of women. The Guardianship of Women's and Infants Act was amended in July to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In June the Land and Cooperative Development Ministry announced that it was considering amending the Group Settlement Act to give wives of settlers a stake in the land awarded to their husbands.

Government policy supports women's rights and the Government has undertaken a number of initiatives to promote equality for women. Specifically the Government promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in the professions, but women's groups argue that the level of participation is still disproportionately low. In the scientific

and medical fields, women make up more than half of all university graduates and the total intake of women into universities increased from 29 percent in 1970 to one-half of the student population in recent years. In August National Unity and Social Development Minister Datin Paduka Zaleha Ismail said that the rate of participation of women in the labor force (30 percent in 1970) would be 52 percent by the end of 2000. The proportion of women in the civil service has risen from roughly 33 percent in 1990 to roughly 41 percent and women occupy some high-ranking civil service positions. In April Malaysian Trade Union Congress President Zainal Rampak urged trade unions to fulfill the ILO policy of filling 30 percent of leadership positions with women (current statistics were not disclosed).

Children.—The Government has demonstrated a commitment to children's rights and welfare; it spends roughly 20 percent of the national budget on education. The Government provides free compulsory education for children through the age of 15. Actual attendance at primary school is nearly universal (99 percent). Secondary school attendance also is high (82 percent). A variety of programs provide low cost health care for most children. An office in the Ministry of National Unity and Social Development oversees children's issues.

In October the Parliament passed a new Child Act. The Act stipulates heavier punishments for child abuse, molestation, neglect, and abandonment. The act also mandated the formation of a children's court, which, the Government stated, would better protect the interests of children.

The Government recognizes that sexual exploitation of children and incest are problems. In 1997 police announced a special effort to prosecute the crime of incest, which is in particular a problem in rural areas. Child abuse receives wide coverage in the press. The Government sternly prosecutes cases of child abuse and child molesters receive heavy jail sentences and caning. The Ministry of National Unity and Social Development reported that in 1997 there were 1,117 reported cases of child abuse, while from January through August 1998 there were 600 cases. In August a Malaysian physician who studies child abuse said publicly that the sexual abuse of children was common in Malaysia. Child labor also is a problem (see Section 6.d.).

Female genital mutilation (FGM) is widely condemned by international health experts as damaging to physical and psychological health; however, extreme forms of FGM are not practiced in the country. Many Malay girls receive a tiny ritual cut to the clitoris. Almost all Malay women, including Muslim women's activists, do not believe that this constitutes mutilation or reduces a woman's future capacity for sexual pleasure.

Statutory rape occurs and is prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicate prosecution of statutory rape. Such a girl can be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations) even if she is under the age of 18 and her partner is an adult. Moreover Shari'a courts sometimes are more lenient with males who are charged with "close proximity." Thus, Shari'a sometimes punishes the victims of statutory rape. However, in many cases Muslim men are charged and punished for statutory rape under secular law.

Child prostitution exists. However, child prostitutes often are treated as delinquents rather than victims. In 1998 the Minister of National Unity and Social Development stated that 150 to 160 underage girls are detained "each year" for involvement in immoral activities and sent to rehabilitation centers. Authorities prosecute traffickers in child prostitution vigorously. Statistics for apprehension of traffickers are not available (see Section 6.f.).

People with Disabilities.—The Government does not discriminate against physically disabled persons in employment, education, and provision of other state services. However, few public facilities are adapted to the needs of the disabled, and the Government has not mandated accessibility to transportation or public buildings for the disabled. In August Minister of National Unity and Social Development Zaleha said that only 10 percent of residential and commercial buildings were "disabled-friendly". In September Minister Zaleha announced a cabinet decision to require that 10 percent of houses in all new housing projects be disabled-friendly. In December Zaleha reportedly said that "all buildings" would be made accessible to the disabled within 2 years.

Special education schools exist, but they are not sufficient to meet the needs of the disabled population. The Government and the general public are becoming more sensitive to the needs of the physically disabled. The Government has taken many initiatives to promote public acceptance of the disabled, to make public facilities more accessible to disabled persons, and to increase budgetary allotments for programs aimed at aiding them.

In August an NGO representing the disabled said that the disabled make up 7 percent of the population. The NGO urged the Government to increase its support for the disabled. Disabled persons do not enjoy explicit legal protection against discrimination. In August the parents of a disabled child sued a private international school for discrimination after the school refused to enroll their child. A court ruled that the school must accept the disabled child.

Indigenous People.—Indigenous groups and persons (i.e., the descendants of the original inhabitants of peninsular Malaysia and the Borneo states) generally enjoy the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people vest almost total power in the minister responsible for indigenous people (currently the Minister of National Unity and Social Development) to protect, control, and otherwise decide issues concerning them. As a result, indigenous people, particularly in peninsular Malaysia, have very little ability to participate in decisions.

Under the 1954 Aboriginal People's Act (amended in 1974), indigenous people in peninsular Malaysia (known as Orang Asli) who had been granted land on a group basis had no right to own land on an individual basis or to receive titles to land. The Social Development Ministry announced in 1996 that state governments, which make decisions affecting land rights, had agreed to issue titles to Orang Asli. Amendments were drafted to enable Orang Asli to hold titles on an individual basis. Surveying and transfer of title apparently has proceeded very slowly. In July Minister Zaleha said that no Orang Asli had yet been given individual land titles on this basis.

The uncertainty surrounding Orang Asli land ownership makes them vulnerable to exploitation. There were many reports of Orang Asli who had been cheated, misled, or otherwise exploited by land developers. In some cases, the Orang Asli have sued. Finance Minister Tun Daim Zainuddin announced in May that a total of 314,715 acres of land would be gazetted and reserved for Orang Asli. The Federal Government urged the states to follow up on Daim's announcement. The leader of a leading Orang Asli NGO welcomed the announcement, but urged the Government to proceed quickly. This NGO pointed out that the total area of land actually gazetted and reserved for Orang Asli had declined, not increased, since 1990.

The indigenous people in peninsular Malaysia, who number roughly 100,000, are the poorest group in the country; however, according to government officials, Orang Asli gradually are catching up to other citizens in their standard of living, and the percentage of Orang Asli who lead a nomadic lifestyle has dropped to less than 40 percent. Government development projects for the Orang Asli are announced from time to time.

In east Malaysia, although state law recognizes the right of indigenous people to land under "native customary rights," the definition and extent of these lands are in dispute. Indigenous people in the state of Sarawak continued to protest the alleged encroachment by state and private logging and plantation companies onto land that they consider theirs because of customary rights. Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The net result is that many indigenous people are deprived of their traditional lands with little or no legal recourse. In July the Government announced that it was scaling back the large Bakun Dam project in Sarawak, which would have resettled many residents.

In September after a long-simmering feud with neighboring villagers, four plantation company workers were killed in the state of Sabah. Allegedly, indigenous residents, angered over the plantation company's repeated encroachments on what the residents regarded as their native land, killed the workers.

National/Racial/Ethnic Minorities.—The Government implements extensive preferential programs designed to boost the economic position of the Malay majority, which remains poorer on average than the Chinese minority. Such preferential programs and policies limit opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs have been instrumental in ensuring ethnic harmony and political stability. Ethnic Indian Malaysians continue to lag behind in the country's economic development. A small component party of the ruling coalition proposed in August to abolish ethnic quotas. The Government rejected the proposal.

Section 6. Worker Rights

a. *The Right of Association*.—By law most workers have the right to engage in trade union activity and approximately 11 percent of the work force belong to 544 trade unions. Exceptions include certain limited categories of workers labeled "confidential" and "managerial and executive," as well as defense and police officials. Within certain limitations, unions may organize workplaces, bargain collectively

with employers, and associate with national federations. In April the Government reiterated that it discourages foreign workers from joining unions and that labor laws adequately protect the rights of foreigners. In practical terms, foreigners are not allowed to join trade unions (see Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to ILO guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration has been refused, withdrawn, or canceled, a trade union is considered an unlawful association. The Government justifies its overall labor policies by positing that a "social compact" exists wherein the Government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (see Section 2.b.).

In January the Trade Unions Department reported that in 1998 it had issued notices to 206 trade unions threatening them with deregistration for failing to submit reports of their accounts. A leading trade union leader said that he was "puzzled" by the Trade Union's Department statement and would seek further clarification. Also in February, the Human Resources Minister said publicly that union members' complaints against union leaders were increasing. In February the Human Resources Minister said that the Government would amend the Trade Unions Act to make all principal officers of a union liable if the union commits any wrongdoing (now only the secretary general is liable). There were no reports that these amendments were adopted. Some trade unionists claim that unions that defy government policies face more intense scrutiny, potentially leading to deregistration. However, there were no reports that unions were deregistered.

In September Malaysian Trade Union Congress (MTUC) leader Zainal Rampak said that the MTUC was fed up with delays in registering new unions, and that new unions often faced delays of several years in registering. Zainal called on the Government to amend the Industrial Relations Act to allow automatic union recognition.

In April the MTUC called on the Government to ratify ILO Convention 87, which provides for the freedom to join a union. At year's end, the Government had not ratified the Convention.

Government policy discourages the formation of national unions in the electronics sector; the Government believes that enterprise-level unions are more appropriate for this sector. In 1997 the MTUC dropped its longstanding objection to this practice, stating that it would be better for the workers to have the in-house unions "than none at all." However, in February MTUC secretary general G. Rajasekaran said that a national union for electronics workers was still on the MTUC agenda.

Even in-house unions sometimes face difficulties. For example, an electronics company was picketed by workers several times during the year. Workers called on the company to end litigation and conclude a collective bargaining agreement that has been pending for 10 years. Workers claimed that the company had refused to meet union officials, even though the Department of Trade Unions recognized the union.

Unions maintain independence both from the Government and from political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions are free to associate with national labor congresses, which exercise many of the responsibilities of national labor unions, although they cannot bargain for local unions. In l997 longtime labor leader Zainal Rampak joined the ruling party, and in 1998 was appointed to the Senate. Some union leaders are concerned that the MTUC, under Zainal's leadership, is losing its independence.

Although strikes are legal, the right to strike is restricted severely. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions.

The Industrial Relations Act of 1967 requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court.

Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The Industrial Relations Act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. Where a strike is legal, these provisions would prohibit employer retribution against strikers and leaders. Although some trade unions question their effectiveness, it is not possible to assess fully whether these provisions are being enforced effectively, given the limited number of cases of alleged retribution.

Strikes are extremely rare. In January the Deputy Human Resources Minister said that the (1997 and 1998) economic downturn was "not affecting industrial harmony" and noted that the country still seldom had strikes.

In April 500 taxi drivers in the state of Penang held an informal strike to protest stricter government enforcement of a rule requiring meters. In May a group of truck drivers blocked the country's main north-south highway to protest road rules.

There are two national labor organizations. The MTUC is a federation of mainly private sector unions. CUEPACS is a federation of civil servant and teacher unions. Public servants have the right to organize at the level of ministries and departments. There are three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers. In May various trade unions representing port workers announced plans to form a federation potentially including 12,000 workers. There were no reports of further developments.

In 1998 the Government announced plans to include foreign workers in the national workers compensation scheme. Exclusion of foreign workers from this scheme had been a longstanding concern of the ILO. In August Human Resources Minister Lim Ah Lek said that the Cabinet would soon receive the final report on extending the compensation scheme to foreign workers. There were no reports of further developments.

Enterprise unions can associate with international labor bodies and do so.

b. *The Right to Organize and Bargain Collectively*.—Workers have the legal right to organize and bargain collectively, and collective bargaining is widespread in those sectors where labor is organized. The law prohibits antiunion discrimination by employers against union members and organizers. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics say that the Industrial Court is slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources fail. However, other critics point out that the Industrial Court almost always sides with the workers in disputes. In August the press reported an MTUC survey that indicated that employers often ignore with impunity Industrial Court judgments.

Companies in free trade zones (FTZ's) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies are organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in "pioneer industries."

c. *Prohibition of Forced or Compulsory Labor*.—The Constitution prohibits forced or compulsory labor, and the Government generally enforces this prohibition; however, trafficking in women for the purpose of forced prostitution is a problem (see Section 6.f.). In theory certain laws allow the use of imprisonment with compulsory labor as a punishment for persons who express views opposed to the established order or who participate in strikes. The Constitutional prohibition renders these laws without effect.

The Constitutional prohibition also applies to forced and bonded labor by children; however, trafficking in girls for the purpose of forced prostitution is a problem. Bonded labor is rare, and there were no cases reported during the year.

d. *Status of Child Labor Practices and Minimum Age for Employment*.—The Children and Young Persons (Employment) Act of 1966 prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurs in certain sectors of the country. A 1993 joint report by the International Confederation of Free Trade Unions and the Asian and Pacific Regional Organization put the child work force at 75,000. However, government officials maintain that this figure is outdated, since it was based on a nationwide survey of child labor undertaken in 1980, which estimated that more than 73,400 children between the ages of 10 and 14 were employed full time. There is no reliable recent estimate of the number of child workers. Most child laborers work in the urban informal sector in food businesses, night markets, and small-scale industries, as well as on rubber and palm oil plantations. Government officials do not deny the existence of child labor but maintain that foreign workers largely have replaced

child labor and that the Government vigorously enforces child labor provisions. Forced and bonded labor by children is prohibited and generally is rare; however, occasional trafficking in girls for the purpose of forced prostitution is a problem (see Section 6.c. and 6.f.).

e. *Acceptable conditions of work*.—There is no national minimum wage, but the Wage Councils Act provides for a minimum wage in those sectors or regions of the country where a need exists. Under the law, workers in an industry who believe that they need the protection of a minimum wage may request that a wage council be established. Few workers are now covered by minimum wages set by wage councils and the Government prefers to let market forces determine wage rates. Minimum wages set by wage councils generally do not provide for a decent standard of living for a worker and family. However, prevailing wages, even in the sectors covered by wage councils, are higher than the minimum wages set by the wage councils and often do provide a decent living. In May Human Resources Minister Datuk LIM Ah Lek said that the Government was not against a minimum wage, but that it was not ready to set the amount at $316 (1,200 ringgit) per month (as proposed by some unions). MTUC President Zainal Rampak subsequently again called on the Government to introduce a minimum wage.

Under the Employment Act of 1955, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include one 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precludes strict enforcement.

Plantation workers generally receive either piecework or daily wages. Many NGO's and union officials proposed a monthly wage for plantation workers. The Government stated that it would study the idea, but at year's end, had taken no action.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, and other countries constitute about 20 percent of the workforce. These workers, who occupy a wide range of menial jobs in the agricultural, industrial, and service sectors, are not allowed to join trade unions. The MTUC stated in December that foreign workers should be unionized. In February the Government reiterated that it did not "encourage" foreign workers to join unions and that labor laws were adequate to protect foreign workers' interests.

Significant numbers of contract workers, including numerous illegal immigrants, work on plantations and in other sectors. Working conditions on plantations for these laborers compare poorly with those of direct-hire plantation workers, many of whom belong to the national union of plantation workers. Moreover, immigrant workers in the construction and other sectors, particularly if they are illegal aliens, generally do not have access to the system of labor adjudication. Government investigations into this problem have resulted in a number of steps to eliminate the abuse of contract labor. For example, besides expanding programs to regularize the status of immigrant workers, the Government investigates complaints of abuses, endeavors to inform workers of their rights, encourages workers to come forward with their complaints, and warns employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

In 1993 Parliament adopted an Occupational Safety and Health Act (OSHA), which covers all sectors of the economy, except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Trade unions maintain that relatively few committees have been established and, even in cases where they exist, that they meet infrequently and generally are ineffective.

Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

f. *Trafficking in Persons*.—The Constitution prohibits slavery; however, this provision has not been invoked in cases of human trafficking. The Protection of Women and Girls Act explicitly prohibits trafficking and other forms of exploitation of women and girls and forms the legal basis for prosecuting trafficking cases.

Malaysia is a source, transit, and destination country for trafficking in women and girls for sexual exploitation. In 1998 the Deputy Home Minister stated that

2,250 foreign prostitutes had been arrested in Malaysia. Police believe that the overwhelming number of prostitutes in the country are foreigners from Indonesia, the Philippines, Burma, Thailand, and China. These women often work as karaoke hostesses, "guest relations officers," and masseuses. Russian women work in smaller numbers as prostitutes. Malaysian women are trafficked for sexual purposes mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who are victims of traffickers are almost exclusively ethnic Chinese, though ethnic Malay and ethnic Indian women work as prostitutes domestically. Police and NGO's believe that Chinese criminal syndicates are behind most of the trafficking (both incoming an outgoing) of women of all nationalities. The Deputy Home Minister stated in 1997 that 4,200 Malaysian girls and young women were reported missing in 1997. Political parties and NGO's estimate that a portion of these women and girls were victims of traffickers.

A few government officials may provide bogus documents illicitly to traffickers (although no specific cases were reported), but the Government investigates and punishes those involved in such cases. The Government assists underage girls and has rescued some kidnaped women. Police often raid venues of prostitution. For example, Selangor state police said that they had raided 1,230 suspected "vice dens" during the year. However, NGO's and women's rights activists complain that police have no coherent policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrest or deport individual women for prostitution. In 1998 the press quoted an anonymous police official as saying that Malaysia had become a "safe haven" for traffickers. A police spokesman asked for official comment responded by questioning whether press reporting on trafficking in women was in the national interest.

Authorities prosecute traffickers in child prostitution vigorously. Statistics for apprehension of traffickers are not available.

MARSHALL ISLANDS

The Republic of the Marshall Islands, a self-governing nation under the Compact of Free Association with the United States, is composed of 34 atolls in the central Pacific, with a total land area of about 70 square miles. The approximately 56,000 inhabitants are of Micronesian origin and concentrated primarily on Majuro and Kwajalein atolls. The Constitution provides for free and fair elections, and executive and legislative branches. The legislature consists of a 33-member Parliament (Nitijela), and a Council of Chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. The President is elected by majority Nitijela vote and he appoints his Cabinet from its membership. The Constitution provides for an independent judiciary; however, the Government attempted to influence the judiciary.

Under the Compact of Free Association, the United States is responsible for defense and national security, and the Marshall Islands has no external security force of its own. The national and local police forces have responsibility for internal security. These agencies honor constitutional and legal civil rights protections in executing their responsibilities.

The economy depends mainly on transfer payments from the United States. Coconut oil and copra exports, a small amount of tourism, import and income taxes, and fishing licensing fees generate limited revenues.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. However, government influence leads to occasional media self-censorship, and also affects the judiciary. There were occasional instances of denial of due process for detainees. Violence against women and child abuse are problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly forbids such practices, and there were no reports that officials employed them. Security forces generally respect this prohibition. There was one case in which a police officer was charged with bodily assault of a detainee.

Prison conditions, while Spartan, meet minimum international standards.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, or exile, and the Government generally observes this prohibition. Nonetheless, there were several reported cases of arbitrary detention lasting over 24 hours in which persons were denied their rights to be charged or released within the specified time, or to be informed of the charges against them.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Government attempts to influence judicial matters through legislative or administrative means. A High Court seat vacated in July 1998 remains unfilled. The Constitution provides for the removal of a judge only by a resolution adopted by at least two-thirds of the Nitijela members and only on certain specific grounds (e.g., clear failure to discharge duties; treason; or bribery). In late 1998, the President and his cabinet ministers had criticized publicly the Chief Justice's decision concerning a constitutional interpretation with which the Government disagreed. On April 19, during a preliminary hearing on a criminal case involving the Government's passport sales program, the Chief Justice remarked that it seemed unfair for the Government to single out one defendant when there appeared to be evidence of illegal activity by several other members of the Government involved in the passport program. In June the Cabinet prematurely terminated the contract of the foreign national High Court Chief Justice and appointed the President's and Cabinet's attorney to replace him as chairman of the independent Judicial Services Commission. During the past 4 years, three chief justices have resigned or been terminated by the Government.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving matters of customary law and traditional practice.

The Constitution provides for the right to a fair trial, and the Government generally respects this right.

There were no reports of political prisoners.

f. *Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution provides for freedom from such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally honors these rights in practice. However, government influence leads to occasional self-censorship by the media in areas of political or cultural sensitivity.

There is a privately owned weekly newspaper with articles and opinions in both English and the Marshallese language.

There is one radio station, which is government owned. The President and cabinet members control the programming of the station and generally allow nonadministration viewpoints to be broadcast. Live broadcasts of the legislative session have been cut when remarks are critical of the Government. The Government also has used the radio station to attack verbally the judiciary and opposition members. There is a cable television company that broadcasts a variety of foreign news and entertainment programs and occasional videotaped local events.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly and association, and these provisions are observed in practice.

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

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

There are no recent reports of refugees. The Government has not formulated a policy regarding refugees, asylees, or first asylum.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic elections. The Nitijela (Parliament) and mayors are elected by secret ballot every 4 years with universal suffrage for citizens 18 years of age and older. The Nitijela election was held on No-

vember 15, and, in a record turnout, voters signaled dissatisfaction with the incumbent government by defeating five of the eight incumbent ministers seeking reelection. In January 2000, the President is to be selected by the Nitijela from among its 33 members. The President then selects approximately nine cabinet ministers from among the Nitijela members. Executive power is centralized in the President and his Cabinet. This group dominates the legislature as well. There are no restrictions on the formation of political parties. Political activity by foreigners is prohibited.

On September 7, 1998, the President and his Cabinet walked out of the legislative session when the Speaker of the Nitijela ruled that there would be a secret ballot on a motion of no confidence. On September 29, 1998, the High Court ruled the walkout illegal. The Cabinet appealed the High Court decision to the Supreme Court, and the President and Cabinet continued to use walkouts to avoid critical votes during the legislative session, at times precipitating a virtual shutdown of the legislature. On September 8, the Supreme Court upheld the High Court ruling.

There are no legal impediments to women's participation in government and politics. One woman was elected to the Nitijela in the November elections. Society is matrilineal, and those men and women who exercise traditional leadership and land ownership powers derive their rights either from their own positions in the family, or from relationships deriving from their mother's and sister's lineage. However, urbanization and the movement of the population away from the lands that they control, is leading to a decline in the traditional authority exercised by women. Women's cultural responsibilities and traditionally passive roles are not seen to be managerial or executive in nature, and women remain underrepresented in Parliament and in senior government positions.

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

While there are no official restrictions, no local nongovernmental human rights organizations have been formed. No international human rights organization has expressed interest or concern or visited the country.

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

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, and the Government generally respects these provisions.

Women.—The Government identifies spousal abuse as common. Wife beating is not condoned in society, and most assaults occur while the assailant is under the influence of alcohol. The Government's health office provides counseling for reported spouse and child abuse cases, but advises that many cases go unreported. Assault is a criminal offense, but women involved in domestic violence are reluctant to prosecute spouses in the court system. Women's groups publicize women's issues and attempt to create a greater awareness of the rights of women. Violence against women outside the family occurs, and women in the urban centers would assume a risk by going out alone after dark.

Inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. No instances of unequal pay for equal work or of sex-related job discrimination were reported. However, while women workers are very prevalent in the private sector, many of them are in low paying jobs with little hope of advancement.

Children.—The Government is committed to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

It is estimated that up to 20 percent of elementary school age children do not attend school on a regular basis. The Government's enrollment report indicates that only two-thirds of those completing eighth grade attend high school. Of that number, 50 percent eventually graduate.

Child abuse and neglect are criminal offenses. Although the Government has ratified the Convention on the Rights of the Child, awareness of the Convention and its provisions remain low among the general population. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. However, there are few reports and few prosecutions. Child abuse and neglect are considered to be on the increase. Apparently contributing to the problem are the influences on family life and traditional values arising from increased urbanization, unemployment, population pressures, two-earner households, and the availability of alcohol and illegal gambling.

People With Disabilities.—There is no apparent discrimination against disabled persons in employment, education, or in the provision of other state services. There are no building codes, and there is no legislation mandating access for the disabled.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of free association in general, and the Government interprets this right as allowing the existence of labor unions, although none has been formed to date. The Constitution does not provide for the right to strike, and the Government has not addressed this issue.

b. *The Right to Organize and Bargain Collectively.*—There is no legislation concerning collective bargaining or trade union organization. However, there are no impediments to the organization of trade unions or to collective bargaining. Wages in the cash economy are determined by market factors in accordance with the minimum wage and other laws.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits involuntary servitude, and there is no evidence of its practice. The law does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law does not prohibit the employment of children. Children typically are not employed in the wage economy, but some assist their families in fishing, agriculture, and other small-scale domestic enterprises. The law requires compulsory education for children from 6 to 14 years of age, but the Government does not enforce this law due to a lack of classrooms and teachers. There is no law or regulation setting a minimum age for employment of children.

The law does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—There is a government-specified minimum wage established by law, and it is adequate to maintain a decent standard of living in this subsistence economy where extended families are expected to help less fortunate members. The minimum wage for all government and private sector employees is $2.00 per hour. (The U.S. dollar is the national currency.) The Ministry of Resources and Development oversees minimum wage regulations, and its oversight has been deemed adequate. Foreign employees and Marshallese trainees of private employers who have invested in or established a business in the country are exempt from minimum wage requirements. This exemption does not affect a significant segment of the work force.

There is no legislation concerning maximum hours of work or occupational safety and health. Most businesses are closed and people generally refrain from work on Sunday.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. There is no legislation specifically giving workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and there is no legislation protecting workers who file complaints about such conditions.

f. *Trafficking in Persons.*—There are no specific laws concerning trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

FEDERATED STATES OF MICRONESIA

The Federated States of Micronesia (FSM) is composed of 607 small islands extending over a large area of the central Pacific. Four states—Chuuk (formerly Truk), Kosrae, Pohnpei, and Yap—make up the federation. The population is estimated at 130,000, mostly of Micronesian origin. The four states were part of the Trust Territory of the Pacific Islands and were administered by the United States from 1947 to 1986 pursuant to an agreement with the United Nations. Political legitimacy rests on the popular will expressed by a majority vote through elections in accordance with the Constitution. There are three branches of government: An executive branch led by a president who also serves as head of state; a unicameral legislature elected from the four constituent states; and an independent judicial system that applies criminal and civil laws and procedures closely paralleling those of the United States.

Under the Compact of Free Association, the United States is responsible for the islands defense. The FSM has no security forces aside from national police operating under the office of the Secretary of Justice and public safety officers operating under the authority of the attorney generals of the individual state governments.

The economy depends heavily on transfer payments from the United States, fishing, tourism, and subsistence agriculture.

The Government generally respects the human rights of its citizens. Traditional customs distinguish between persons on the basis of social status and sex. There is evidence of an increase in both spousal abuse and child neglect, and government agencies often ignore such problems due to the constraints imposed by traditional society. Neither the Government nor other organizations successfully have filled the role of the traditional extended family in protecting and supporting its members.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There was no pattern of torture or other cruel, inhuman, or degrading treatment or punishment.

Prison conditions meet minimum international standards.

No local organizations concern themselves solely with human rights, and the question of prison visits by human rights monitors has not arisen.

d. *Arbitrary Arrest, Detention, or Exile.*—Legal procedures, for the most part patterned after U.S. law, provide for due process, which is carefully observed.

Exile is not used.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

The Chief Justice of the Supreme Court is appointed by the President, with the advice and consent of the Congress.

Public trial is provided for in the Bill of Rights, and trials are conducted fairly. Juveniles may have closed hearings. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order has allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely are released indefinitely.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such arbitrary interference, and in practice there is none.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for these rights, and the Government generally respects these rights in practice. No newspapers now are published in the country. The biweekly Island Tribune closed in April because the owners could not find a local or foreign journalist to manage the newspaper. The newspaper is expected to reopen if a qualified journalist is found. Until the Island Tribune closed, it reported on domestic events and addressed controversial issues.

The national Government and the four states publish newsletters. Each of the four state governments controls a radio station that broadcasts primarily in the local language. One religious group operates a private radio station. The population of Pohnpei has increasing access to live satellite-televised information from around the world and tape-delayed broadcasts of programming by the major U.S. networks. However, none of the other three states has a television receiver station, and few residents have individual satellite dishes.

There is an increasing level of open public discussion of social and governmental issues on various Internet sites. The Internet plays an important role in allowing citizens in the four states, as well as those residing outside the country, an opportunity to share views and opinions.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Bill of Rights provides for freedom of peaceful assembly, and the Government respects this right in practice. During political campaigns, citizens often question candidates at public meetings and social gatherings.

The Bill of Rights provides for freedom of association, and the Government respects this right in practice. Formal associations are uncommon, but organizations for students and women exist.

c. *Freedom of Religion.*—The Bill of Rights forbids the establishment of a state religion and governmental restrictions on freedom of religion, and the Government respects this freedom in practice. Missionaries of many faiths work in the country without hindrance.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country. It is silent on foreign travel, emigration, and repatriation, but in practice none of these is restricted.

The three Vietnamese who fled a U.N. High Commissioner for Refugees camp in Indonesia and sailed to Yap state in November 1998 are still there. The Government has not found another country willing to accept them.

The Government has not formulated a policy regarding refugees, asylees, or first asylum.

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

Citizens have the right to change their government. The Congress is elected by popular vote from each state; the Congress then chooses the President and Vice President from among its four at large senators by majority vote. State governors, state legislators, and municipal governments are elected by direct popular vote. Political campaigning is unrestricted, and, since there are no established political parties, political support generally is sought from family and allied clan groupings, as well as religious groups.

There are no restrictions on the formation of political groups, but there have been no significant efforts to form political parties.

Cultural factors in the male-dominated society have limited women's representation in government and politics. Although women hold midlevel positions at both the federal and state level, women are severely underrepresented in leadership roles at the highest government levels. The first woman to hold a national government cabinet position was appointed in June as Public Defender.

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

There were no known requests for investigations of alleged human rights violations. While there are no official restrictions, no local groups exclusively concern themselves with human rights. However, there are women's groups that address rights for women and children.

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

Although the Constitution provides explicit protection against discrimination based on race, sex, language, or religion, there is extensive societal discrimination, notably discrimination and violence against women. Government enforcement of these constitutional protections is weak.

Women.—Most violence against women occurs in the family context. In the traditional Micronesian extended family unit, spouses and children were accorded strong protections from violence, abuse, and neglect. These actions were deemed offenses against the family, not just the individuals and were dealt with by a complex system of familial sanctions. However, with increasing urbanization and monetarization of the economy, greater emphasis has been placed on the nuclear family, and the traditional methods of coping with family discord are breaking down. No government agency, including the police, has succeeded in replacing that extended family system or in addressing the issue of family violence directly.

Incidents of spousal abuse, often of increasing severity, continue to rise. Effective prosecution of such offenses is rare. In many cases, the victim is pressured by family, is fearful of further assault, or is convinced that the police will not involve themselves actively in what is seen as a private family problem and decides against initiating legal charges. There are no laws against domestic abuse, and there are no governmental or private facilities to shelter and support women in abusive situations. The number of cases of physical and sexual assaults against women outside the family context also are growing. These assaults are perpetrated against both citizens and foreigners. Unmarried women sometimes are considered to have invited such violence by living or traveling alone.

Women have equal rights under the law, and there are no cultural or institutional barriers to education and employment. Women receive equal pay for equal work and are well represented in the lower and middle ranks of government. Women are active and increasingly successful in private business and enterprises. A National Women's Advisory Council has been in existence since 1992, and several small non-

governmental groups are interested in women's issues, particularly those associated with spousal and family violence and abuse.

Children.—The Government is committed to children's welfare through its programs of health care and education, but these activities have not been adequate to meet the needs of the country's sharply growing population in an environment in which the extended family is breaking down.

A compulsory education law that requires all children begin school at the age of 6. Children may leave school when they reach the age of 14 or after completing the eighth grade, whichever comes first.

People With Disabilities.—Neither laws nor regulations mandate accessibility to public buildings and services for the disabled. Schools established special education classes to address problems encountered by those who exhibit learning disabilities, although such classes are completely dependent on outside funding sources.

National/Racial/Ethnic Minorities.—The law prohibits noncitizens from purchasing land, and the national Congress grants citizenship to non-Micronesians only by individual acts (an authority exercised during 1998, following a lapse of almost 20 years). However, for the most part, noncitizens share fully in the social and cultural life of the country.

Section 6. Worker Rights

a. *The Right of Association.*—Under the Bill of Rights, citizens have the right to form or join associations, and national government employees by law may form associations to "present their views" to the Government. However, neither associations nor trade unions have been formed in this largely nonindustrial society. The country is not a member of the International Labor Organization.

b. *The Right to Organize and Bargain Collectively.*—No law deals specifically with trade unions or with the right to collective bargaining. Individual employers, the largest of which are the national and state governments, set wages.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution specifically prohibits involuntary servitude, and there is no evidence of its practice. Children are not cited specifically in this prohibition, but forced and bonded labor by children is not known to occur.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—There is no law establishing a minimum age for employment of children. While in practice there is no employment of children for wages, they often assist their families in subsistence farming activities. A compulsory education law requires all children to begin school at the age of 6. Children may leave school when they reach the age of 14 or after completing the eighth grade, whichever comes first. Neither the Constitution nor the law specifically prohibits forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The four state governments have established minimum wage rates for government workers. Pohnpei has a minimum hourly wage rate of $2.00 for government and $1.35 for private workers. The other three states have established minimum hourly rates only for government workers: $1.25 for Chuuk; $1.49 for Kosrae; and $0.80 for Yap. The minimum hourly wage for employment with the national Government is $1.68. These minimum wage structures and the wages customarily paid to skilled workers are sufficient to provide a decent standard of living under local conditions.

There are no laws regulating hours of work (although a 40-hour workweek is standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability; working conditions vary in practice.

Two states permit foreign laborers to work in garment manufacturing enterprises. The foreign laborers are paid at a lower rate than citizens who work at the factories, work longer hours per day, and work a 6-day week in contrast to the 5-day week for citizens.

There is no law for either the public or private sector that would permit workers to remove themselves from dangerous work situations without jeopardy to their continued employment. f. Trafficking in Persons

The law does not specifically address the subject of trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

MONGOLIA

Mongolia made further progress in its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy, although the process continues to evolve and these gains still must be solidified. The Prime Minister is nominated by the majority party and, with the agreement of the President, is approved by the State Great Hural (Parliament), the national legislature. National progress in the development of democratic institutions was demonstrated by the unexpected June 1996 election defeat of the Mongolian People's Revolutionary Party (MPRP), which had been in power since 1921. The MPRP accepted its defeat and has entered into its role in opposition. There are 20 political parties, 4 of which hold seats in the Parliament. The judiciary is independent.

Security forces are under civilian control, and the Minister of Defense is a civilian. The national police have primary responsibility for law enforcement. The military forces are responsible for external security, including border security. Reduced government spending continued to force downsizing of the military forces. The State Security Agency (SSA), formerly the Mongolian Central Intelligence Agency is responsible for internal security; its head has ministerial status and reports directly to the Prime Minister. A parliamentary committee oversees the military forces, the police, and the SSA. Some members of the police on occasion committed human rights abuses.

Despite reforms in the 1990's, most large economic entities remain under state control; the Government had planned to privatize 60 percent of these entities by 2000. The economy continued to expand and strengthen, and inflation stayed below 10 percent. Mongolia remains a poor country with per capita income approximately $453 per year. It relies heavily on foreign economic assistance. The mainstays of the economy continue to be copper production and other mining, livestock raising, which is done by a majority of the rural population, and related food-, wool-, and hide-processing industries, which meet both local needs and produce goods for export. A growing trade and small entrepreneurial sector in the cities provides basic consumer goods. Garment manufacture and minerals, especially copper, constitute the bulk of export earnings. Lack of transportation and other infrastructure, legal and regulatory deficiencies, petty corruption, and a small domestic market discourage foreign investment.

The Government generally respected the human rights of its citizens; however, problems remain in some areas. Members of the police at times beat prisoners and detainees. Pretrial detention and prison conditions are poor, and arbitrary arrest and detention are problems. There are restrictions on due process for persons arrested or suspected of crimes. Official harassment of some religious groups that sought to register persists. Violence against women is a serious problem; however, efforts to assist victims increased during the year. Child abuse also is a problem. There were some instances of forced labor.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of political killings; however, it is suspected that the murder of the Minister of Infrastructure in October 1998 was politically motivated. Although the investigation is ongoing, the inability to solve this case has been a major problem for the democratic coalition Government.

Approximately 200 prisoners died in custody during the year, largely due to disease and inadequate prison management (see Section 1.c.).

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the Constitution forbids such practices and reports of such actions diminished, members of the police occasionally beat prisoners and detainees in the countryside, and unnecessary force in the arrest process is not uncommon. Reforms undertaken by the Ministry of Justice upon Parliament's recommendation, following reports by international human rights observers, have changed significantly the way that accused persons and prisoners are treated. The Ministry's Department for the Enforcement of Court Decisions now monitors conditions; however, the new laws and procedures have not been publicized widely, especially in the countryside, and citizens are not aware always of their rights with respect to detention and arrest.

Pretrial detention and prison facilities are poor—including insufficient food and heat—and threaten the health of inmates. Different authorities administer the pretrial detention system and the prison system, which creates tensions between the two and limits management improvements. Many inmates entered prison already

infected with tuberculosis or contracted it in prison. With the help of foreign donors, the prisons continued a 1997 program for surveying and treating tuberculosis among inmates, bringing the number of cases down by 1,500 in 2 years; the percentage of inmates who die of the disease also has decreased. Approximately 200 prisoners died in custody, largely due to disease and inadequate management by the authorities. Pretrial detention facilities, where suspects can be held for up to 36 months, are often worse than the prisons and contribute significantly to the tuberculosis problem. Although the number of inmates has remained fairly constant, the seriousness of crimes has increased. Severe crowding in both prisons and detention facilities is common, aggravating management, health, and funding problems. To address these problems under the continuing reform process, prison inmates in the capital were divided into smaller groups managed by trained personnel and provided better clothing and food, as well as health and hygiene instructions. The much-publicized case of the detention of three Members of Parliament (M.P.'s) from April to July highlighted the harsh conditions of the detention facilities and served as a catalyst for releasing over 100 detainees held without adequate cause. Improvements in detention and prison conditions outside of the capital are significantly less or nonexistent due to lack of funding.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that no person shall be searched, arrested, detained, or deprived of liberty except by law, but these protections have not been codified fully, and arbitrary arrest and detention are problems. Under the Criminal Procedures Code, police may arrest those caught committing or suspected of a crime and hold them for up to 72 hours before the decision is taken to prosecute or release. A prosecutor must issue a warrant for incarceration of longer duration or when the actual crime was not witnessed. A detainee has the right to a defense attorney during this period and during any subsequent stage of the legal process. If a defendant cannot afford a private attorney, the State appoints an attorney. Detainees may be released on bail with the agreement of the prosecutor.

However, citizens are not always aware of their rights in regard to arrest and detention (see Section 1.c.). When a new prosecutor general was appointed in June, with the pressure created by publicity surrounding the detention of three M.P.'s, the Government authorized the release of over 100 persons determined to have been detained unjustifiably for minor crimes (see Section 1.c.). The police may detain a suspect up to 10 months, and the prosecutor can authorize up to an additional 26 months of pretrial detention.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the courts are independent in practice.

The court system consists of local courts, provincial courts, and the Supreme Court. The 17-member Supreme Court is at the apex of the judicial system, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. Local courts hear mostly routine criminal and civil cases; provincial courts hear more serious cases such as rape, murder, and grand larceny and also serve as the appeals court for lower court decisions. The Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the Ministry of Justice, nominates candidates for vacancies on both the Supreme and lower courts; the President has the power to approve or refuse such nominations. The Council also is charged with ensuring the rights of judges and providing for the independence of the judiciary.

All accused persons are provided due process, legal defense, and a public trial, although closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases provided by law. Defendants do not enjoy a presumption of innocence. Defendants may question witnesses and appeal decisions. There were few complaints about the legal system to the local office of the U.N. High Commissioner for Human Rights (UNHCHR), because most citizens do not know about the organization. Complaints were usually about corruption that allegedly resulted in unfair court decisions. The UNHCHR staff referred the complaints to nongovernmental organizations (NGO's) and the Ministry of Justice.

There were no reports of political prisoners. In a program that began in 1998, the State Rehabilitation Commission pays a one-time allowance to the families of those individuals who were persecuted from 1922 through the 1960's. By year's end, approximately 5,000 families received payments of $1,000 (1 million tugrik) each.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides that the State shall not interfere with the private beliefs and actions of citizens, and the Government generally respects this in practice. The head

of the SSA may, with the knowledge and consent of the Prime Minister, direct the monitoring and recording of telephone conversations. The extent of such monitoring is unknown.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech, press, and expression, and the Government generally respects these rights in practice. An increasing variety of newspapers and other publications represent major political party viewpoints as well as independent views. On January 1, a new media law went into effect that bans censorship of public information and also bans future legislation that would limit the freedom to publish and broadcast. This law also bars state ownership or financing of the media or media organizations. The law took effect without agreement on regulations and procedures for the privatization of assets, and its implementation was difficult and controversial. Lack of access to information and of transparency in government continue to inhibit political dialog in the media, and led to media complaints. Nonetheless, the independent media reports freely, and, unlike previous years, there were no attempts to manipulate the media by the Government.

Although in the past the Government controlled access to newsprint, all newspapers now buy newsprint directly from private suppliers, and neither party-affiliated nor independent news media report difficulty securing an adequate supply. Due to transportation difficulties, uneven postal service, and fluctuations in the amount of newsprint available, access to a full range of publications is restricted in outlying regions.

The court system places the burden of proof on the defendants in libel and slander cases. This creates a stifling effect upon the free media.

There is a government-financed television station with countrywide broadcasting capability, a limited-operation international joint venture private television channel, a private television station, a local television station controlled by the Ulaanbaatar mayor's office, and several radio stations in Ulaanbaatar. State-owned radio is particularly important as the major source of news in the countryside, but the one independent radio station broadcasts widely. The media presents opposition and government news. Many residents of the country have access to television, and Ulaanbaatar residents receive broadcasts from China, Russia, Japan, the United Kingdom, France, Germany, the United States, and other countries by commercial satellite and cable television systems. An estimated 60 percent of households have television.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

c. *Freedom of Religion.*—The Constitution provides for the right both to worship and not to worship, and the Government generally respects these provisions in practice; however some groups that sought to register faced official harassment. Although the Constitution explicitly recognizes the separation of church and State and the country has no official state religion, the Government has contributed to the restoration of several Buddhist sites. These are important religious, historical, and cultural centers. It does not subsidize the Buddhist religion in other ways.

Although under the provisions of a 1993 law on relations between church and state, the Government may supervise and limit the numbers of both places of worship and clergy for organized religions, there are no reports that it has done so. However, religious groups must register with the Ministry of Justice. Proselytizing by registered religious groups is allowed, although a Ministry of Education directive bans the mixing of foreign language or other training with religious teaching or instruction. Contacts with coreligionists outside the country are allowed.

Religious groups reported bureaucratic obstacles but less harassment during the registration process. The application of the regulations for registration of religious groups and places of worship sometimes varied with locality. Groups that did not comply with the registration requirement were forced to close their offices and places of worship.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country as well as the right to travel and return without restriction, and the Government generally respects these rights in practice.

The country is not a party to the 1951 U.N. Convention Regarding the Status of Refugees and its 1967 Protocol and it has no laws for granting refugee status. The Constitution contains a provision that addresses political asylum, but there are no implementing regulations.

The Government cooperates with the U.N. High Commissioner for refugees and other humanitarian organizations in assisting refugees in the small number of cases reported in which such status has been claimed. There were no reports of the forced expulsion of persons with a valid claim to refugee status.

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

The Constitution provides citizens with the right to change their government through periodic, free elections by secret ballot and universal suffrage. Presidential, parliamentary, and local elections are held separately. In July the Prime Minister and his Government were forced to resign by a vote of the parliamentary majority, and in a peaceful transition within the framework of the Constitution, a new prime minister and cabinet were selected. This was the fourth government of the democratic coalition elected in 1996. These political changes highlighted constitutional questions concerning the powers of the President as Head of State and the President's relationship to Parliament and the Government, particularly the power to approve the candidate for head of government as proposed by the majority party. These questions remain unresolved.

There are 20 registered political parties; 4 are represented in the Parliament.

Although there are no legal impediments to the participation of women or minorities in government and politics, women are underrepresented in the Government, with 8 female members in the 76-member Parliament. In December 1998, Parliament approved the appointment of the first female minister, the Foreign Minister. Women and women's organizations are vocal in local and national politics and actively seek greater representation by women in government policymaking.

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

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

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

The Constitution states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The Government generally enforces these provisions in practice.

Women.—Violence against women is a serious problem. Although there are no reliable or exact statistics regarding the extent of such abuse, a wide range of qualified observers believe that it is common. After many years of government and societal denial, there is increasing public and media discussion of domestic violence, including spousal and child abuse. The large economic and societal changes underway have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics show that over 70 percent of the cases of family abuse are related to alcohol abuse. The high rate of alcohol abuse has contributed to increased instances of family abuse and abandonment, and has added to the number of single-parent families, most of which are headed by women. Although women's groups advocate new statutes to cope with domestic violence, there is no known police or government intervention in cases involving violence against women beyond prosecution under existing assault laws after formal charges have been filed.

However, the new family law which went into effect on July 1 details rights and responsibilities regarding alimony and parents' rights to bring about timely dispute settlement and avoid the causes of some domestic violence. The National Center Against Violence made progress in providing hot line services, shelters, and conducting training for police on how to deal with domestic violence cases and began to expand its work outside the capital. Rape is illegal, and offenders can be prosecuted and convicted, but there is no law specifically prohibiting spousal rape.

The Constitution provides men and women with equal rights in all areas and, both by law and practice, women receive equal pay for equal work and have equal access to education. Women represent about half the work force, and a significant number are the primary earners for their families. Many women occupy midlevel positions in government and the professions, and many are involved in the creation and management of new trading and manufacturing businesses. There is no government agency that oversees women's rights.

There are approximately 36 women's rights groups that concern themselves with such issues as maternal and children's health, domestic violence and equal opportunity. The law prohibits women from working in certain occupations that require

heavy labor or exposure to chemicals that could affect infant and maternal health. The Government enforces these provisions.

Children.—Increased stress on the family structure and throughout society has had adverse effects on many children, and the Government has been unable to keep pace with the educational, health, and social needs of the most rapidly growing segment of its population. The Government provides children of both sexes with free, compulsory public education through the age of 16, although family economic needs and state budgetary difficulties make it difficult for some children to attend school. In addition there continues to be a severe shortage of teachers and teaching materials at all educational levels.

The society has a long tradition of support for communal raising of children. The Government is now more willing to admit the extent of the problem of orphaned children, but it lacks the resources to improve the welfare of children who have become the victims of larger societal and familial changes. NGO's continue to assist orphaned and deserted children. Groups working in this field disagree on the number of street children; some report that the figure is 400 to 500, while others count all poor children who may or may not be homeless and estimate that it is as high as 2,000. The Government is committed in principle to children's rights and welfare, but it provides only minimal support for the few shelters and orphanages that exist; those facilities must turn to private sources to sustain their activities.

The new family law, which took effect on July 1, increases the obligations regarding divorce, custody, and alimony to the benefit of the parent caring for children. It provides for more speedy resolution of divorce cases where the relevant agencies have determined that domestic violence is involved.

There is growing awareness that child abuse, often associated with parental alcoholism, is a problem. In conjunction with efforts to counter violence against women, NGO's, have begun to address the issue.

People with Disabilities.—There is no discrimination against disabled persons in employment and education, and the Government provides benefits to the disabled according to the nature and severity of disability. Those who have been injured in industrial accidents have the right to be reemployed when ready to resume work. The Government also provides tax benefits to enterprises that hire the disabled, and some firms hire the disabled exclusively. There is no legislation mandating access for the disabled and, therefore, it is difficult for the disabled to participate fully in public life. Some disabled citizens groups are lobbying for higher government subsidies.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution entitles all workers to form or join union and professional organizations of their choosing. Union officials estimate that union membership dropped from 450,000 persons in 1998 to 430,000, and now is less than half of the workforce. Union membership decreased due to restructuring and privatization of former state enterprises and as increasing numbers of workers either become self-employed or work at small, nonunionized firms. No arbitrary restrictions exist on who may be a union official; officers are elected by secret ballot.

Union members have the right to strike. Those employed in essential services, which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the right to strike.

Most union members are affiliated with the Mongolian Trade Unions Confederation, but some are affiliated with the newer Association of Free Trades Unions. Both organizations have ties with international labor organizations and confederations in other countries.

b. *The Right to Organize and Bargain Collectively.*—The new labor law, which went into effect on June 1, defines conditions and regulates relations between employers, employees, the trade unions, and the Government, making adjustments for the changes in the structure of the economy. The Government's role is limited to ensuring that the contract meets legal requirements as to hours and conditions of work. Wages and other employment issues are to be set between the employer, whether state or private, and the employee, with trade union input, if appropriate. The new labor law also streamlines the process for dealing with labor conflicts.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law specifically prohibits forced or compulsory labor, including forced labor by children. The Government generally enforces this law; however, most members of the military forces are required to help with the fall harvest. In many cases, prisoners work to support the detention facility in which they are held, and detained alcohol abusers and petty criminals are sometimes required to perform menial tasks such as street sweeping.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 years of age may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, is the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement is limited due to the small number of labor inspectors and the growing number of independent enterprises. Due to pressures of the economic transition, there are indications that fewer children are staying in school until age 18, especially in the countryside. The Government is aware of this development and, with foreign assistance organizations, it is monitoring such socioeconomic trends. The Government prohibits forced and bonded labor by children, and enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—According to the new labor law, the legal minimum wage ranges from under $13 (13,000 tugriks) in some regions to $17 (17,600 tugriks) per month in the capital. This level applies to both public and private sector workers and is enforced by the Ministry of Health and Welfare. The lowest wage is for manual labor, such as janitorial work; virtually all civil servants earn more than this amount, and many in private businesses earn considerably more. The minimum wage alone is insufficient to provide a decent standard of living for a worker and family.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. For those under 18 years of age, the workweek is 36 hours, and overtime work is not allowed. Overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards, and the Ministry of Health and Welfare provides enforcement. The near-total reliance on outmoded machinery and problems with maintenance and management lead to frequent industrial accidents, particularly in the mining, power, and construction sectors. Effective enforcement of occupational health and safety standards is difficult, but the Government increased the number of full-time inspectors to 86 to cover the growing number of small enterprises. According to the labor law, workers have the right to remove themselves from dangerous work situations and still retain their jobs.

f. *Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons; and there is evidence that Mongolian women and teenagers are working in the sex trade in Asia and Eastern Europe. The problem is beginning to attract increased attention, and debate on its legal and social aspects is underway.

NAURU

The Republic of Nauru, a small Pacific island with approximately 10,500 inhabitants, gained independence in 1968, at which time it adopted a modified form of parliamentary democracy. Nauru has two levels of government, the unicameral Parliament and the Nauru Island Council (NIC). Parliamentary elections must be held at least triennially. The Parliament, consisting of 18 members from 14 constituencies, is responsible for national and international matters. It elects the President, who is both Chief of State and Head of Government, from among its members. The NIC acts as the local government and is responsible for public services. The judiciary is independent.

Nauru has no armed forces, although it does maintain a small police force (less than 100 members) under civilian control.

The economy depends almost entirely on the country's declining phosphate deposits. Secondary reserves and residual mining may extend the productivity of its mines. The government-owned Nauru Phosphate Corporation (NPC) controls the mining industry. The Government places a large percentage of the NPC's earnings in long-term investments meant to support the citizenry after the phosphate reserves have been exhausted. The Governments of Nauru and Australia reached a $70.4 million out-of-court settlement in 1993 for rehabilitation of the Nauruan lands damaged by Australian phosphate mining. Two new banks opened during the year. Media reports indicate that significant offshore deposits are associated with these new banking facilities. The Government is working with the Pacific Finance Tech-

nical Assistance Center (an International Monetary Fund facility based in Fiji) to update its banking regulations.

Fundamental human rights are provided for in the Constitution, and the Government generally respected them in practice. There were no reports of specific human rights abuses, but in the traditional culture, women occupy a subordinate role, with limits on their job opportunities.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits these practices, and the Government respects these prohibitions in practice.

The Government attempts to provide internationally accepted minimum prison conditions within its limited financial means and in accordance with local living standards. However, prison conditions are basic, and food and sanitation are limited. There are no local human rights groups, and the question of visits to prisons by human rights monitors has not been raised. Visits by church groups and family members are permitted.

d. *Arbitrary Arrest, Detention, or Exile.*—The constitutional prohibition against arbitrary arrest and detention is honored. The police may hold a person for no more than 24 hours without a hearing before a magistrate.

The Government does not practice forced exile.

e. *Denial of Fair Public Trial.*—The judiciary is independent, and constitutional provisions for both a fair hearing and a public trial are respected. Defendants may have legal counsel, and a representative will be appointed when required "in the interest of justice." However, many cases never reach the formal legal process, as traditional reconciliation is used—usually by choice but sometimes under communal (not government) pressure. Contract workers from Kiribati and Tuvalu are employed predominantly in the mining sector and do not have recourse to effective communal assistance; they are particularly at a disadvantage in complaints against citizens. There are only two trained lawyers, and many people are represented in court by "pleaders," trained paralegals certified by the Government.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution generally prohibits these abuses. Searches not sanctioned by court order are prohibited, and there is no surveillance of individuals or of private communications. Citizenship and inheritance rights are traced through the female line. Marriage between women and foreign males may still draw social censure. The law extends the right of citizenship—subject to approval by the NIC—to both male and female spouses, provided that marital and residency requirements are met.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of expression. News and opinion circulate freely, rapidly, and widely by the press and word of mouth. The country has no regular print media. Occasional publications include the government bulletin. The sole radio station is owned and operated by the Government; it broadcasts Radio Australia and British Broadcasting Corporation news reports. Local television includes Nauru TV, which is government owned, as well as a privately owned sports network.

There are no prohibitions or restrictions on academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice. No permits are required for public meetings, and there are no limitations on private associations.

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

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

Foreign workers must apply to their employers for permission to leave during the period of their contracts. They may break the contract and leave without permission but would lose their positions and often a sizable bond as a result. In most cases, foreign employees whose contracts are terminated by their employers must leave Nauru within 60 days.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person in recent memory has applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum.

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

Citizens have, and exercise, the right to change their government. Although there are no organized political parties, persons with diverse points of view run for and are elected to Parliament and to the NIC.

Parliament elects the President. There was a change in government in April, the seventh change in government in the past 3 years. All the changeovers were peaceful and in accordance with the Constitution. Voting by secret ballot is compulsory for all citizens over the age of 20 for parliamentary elections. There have been multiple candidates for all parliamentary seats during recent elections. The approximately 3,000 guest workers have no voice in political decisions.

There are no legal impediments to participation in politics by women; however women are underrepresented in government and politics. There are no female Members of Parliament.

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

There are no restrictions on establishing local groups that concern themselves specifically with human rights, but to date none has been formed. No allegations have been made by outside organizations of human rights violations in the country, nor have there been any requests for investigations.

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

Government policy prohibits discrimination on the basis of race, sex, religion, disability, language, or social status.

Women.—The Government does not keep track of incidents of physical abuse against women. However, credible reports indicate that sporadic abuse, often aggravated by alcohol use, occurs. Families normally seek to reconcile such problems informally, and, if necessary, communally. The judiciary and the Government treat major incidents and unresolved family disputes seriously.

Nauru law assures women the same freedoms and protections as men. The Government officially provides equal opportunities in education and employment, and women are free to own property and pursue private interests. However, in practice, societal pressures limit opportunities for women to exercise these rights fully. The Government has appointed a women's development officer to assist with the development of professional opportunities for women.

Children.—The Government devotes considerable attention to the welfare of children, with particular stress on their health and educational needs. Education is compulsory until age 16. Child abuse statistics do not exist, but alcohol abuse sometimes leads to child neglect or abuse. The NIC treats child abuse as a serious communal matter. There were no reported cases of child abuse during the year.

People with Disabilities.—There is no reported discrimination in employment, education, and the provision of state services to persons with disabilities. However, no legislation mandates access to public buildings and services for the disabled. The Government has assisted persons with disabilities by building access ramps to homes and workplaces and by purchasing office equipment adapted for persons with disabilities.

National/Racial/Ethnic Minorities.—Non-Nauruan Pacific island workers experience some discrimination. While guest workers are provided free housing, the shelters they are given often are maintained poorly and overcrowded. In the past, some guest workers alleged that the police rarely act on complaints they made against citizens.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, and there are no trade unions. Past efforts to form unions were discouraged officially. The transient nature of the mostly foreign work force and the relative prosperity of the citizenry also have served to hamper efforts to organize the labor force. The right to strike is neither protected, prohibited, nor limited by law. No strikes took place during the year. Nauru is not a member of the International Labor Organization. There are no prohibitions or limits on the right of unions to affiliate with international bodies.

b. *The Right to Organize and Bargain Collectively.*—While there are no legal impediments, collective bargaining does not take place. The private sector employs only about 1 percent of salaried workers. For government workers, public service regulations determine salaries, working hours, vacation periods, and other employment matters.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids forced or compulsory labor, including forced and bonded labor by children, and the Government effectively enforces these prohibitions.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Education is compulsory until age 16; the law sets 17 as the minimum age of employment. The only two large employers, the Government and the NPC, honor this. Some children under the age of 17 years work in the few, small, family-owned businesses. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Minimum wages exist for office workers and manual laborers and provide an adequate, if modest, standard of living. Most families live in simple but adequate housing, and almost every family owns some sort of motor vehicle. The Government sets the minimum yearly wage administratively for the public sector. Since November 1992, that rate has been $6,562 ($A9,056) for those 21 years of age or older. The rate is progressively lower for those under 21 years of age. Employers determine wages for foreign contract workers based on market conditions and the consumer price index. Usually foreign workers and their families receive free housing, utilities, medical treatment, and often a food allowance. Some noncitizen contract workers have complained about conditions in company living compounds. By regulation the workweek for office workers is 36 hours and for manual laborers 40 hours in both the public and private sectors. Neither law nor regulations stipulate a weekly rest period; however, most workers observe Saturdays and Sundays as holidays.

The Government sets health and safety standards. The NPC has an active safety program that includes an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. The NPC has a safety officer who is specifically responsible for improving safety standards and compliance throughout the company.

f. *Trafficking in Persons.*—The law does not specifically address trafficking; however, there were no reports that persons were trafficked in, to, or from the country.

NEW ZEALAND

New Zealand is a parliamentary democracy, with executive authority vested in an 18-member cabinet led by a prime minister. Five seats in the 120-member Parliament are reserved for the native Maori minority population. The judiciary is independent.

The police and defense forces are responsible to and firmly controlled by civilian officials.

New Zealand is a highly efficient producer of agricultural products. The mainstay of its market-based economy is the export of wool, meat, and dairy products. An expanding manufacturing sector is engaged primarily in food processing, metal fabrication, and the production of wood and paper products. Tourism is also a significant sector of the economy, and niche industries are developing in such high technology sectors as software production. Disparities in wealth are small but increasing. Most citizens enjoy a comfortable standard of living.

The Government generally respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with instances of abuse. The Government has taken steps to address the problems of overcrowded prisons, violence against women, and societal discrimination against indigenous people and Pacific islanders. Trafficking in persons is a small but growing problem.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other forms of mistreatment, and the Government respects these prohibitions in practice.

Prison conditions generally meet minimum international standards. The average inmate population during the year was 5,300, with a maximum capacity of 5,869. An additional 500 to 600 persons were in custody on remand at any one time. In response to complaints about overcrowding, the Government added 348 new prison cells in 1998. With the inmate population projected to increase to about 6,040 by 2002, the Government also announced plans to build three new contract-managed prisons by 2003. The first of these, the Auckland Central Remand Prison, is under construction and scheduled to open in May 2000, with capacity for up to 360 inmates. Conditions at older remand facilities in Auckland and Christchurch were a source of concern. In November a new 184-cell remand facility opened in Christchurch, in which each cell is equipped with its own toilet and shower. Addington prison (where slop buckets were used in place of toilets) was closed. An 80 percent recidivism rate within the first 24 months of release is the primary penal concern.

Special issues exist concerning treatment of youth and Maori offenders. As of 1998, 18 percent of the total inmate population was under age 20. In February the Government announced plans to build seven youth units to segregate young inmates from adults, in an effort to reduce recidivism by juveniles. The first of the youth units contained 17 beds and opened October 15. An additional 35-bed unit is scheduled to open in early 2000. Maori inmates constitute over half of the prison population, although Maori make up only 15 percent of the general population. During the year, three Maori "focus units" opened in the prison system, which integrate Maori values into the rehabilitation program. A special program for sex offenders, "kia marama," has halved the rate of recidivism among those who participate. Higher Maori suicide rates are also a concern, but the most recent data indicate a declining suicide rate in the entire prison population and among Maori inmates. There were eight suicides in custody during 1998–99. Over 98 percent of prison officers are trained in suicide awareness. Assaults in custody (mostly inmate on inmate) also declined from 113 to 97 in 1998–99.

The Government permits prison visits by human rights monitors.

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

e. *Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

There is an impartial judiciary, with the right of appeal to the Privy Council in London, although this option rarely is invoked. Within the country, the Court of Appeal is the highest appellate court, and it determines appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also handles appeals from lower courts and reviews administrative actions. Remaining original jurisdiction rests with 110 judges of the district courts. Special courts include: The Employment Court; family courts; youth courts; Maori Land Court; Maori Appelate Court; and the Environment Court.

The law provides for the right to a fair trial, and the judiciary implements this provision.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

During the year the nongovernmental Human Rights Commission noted an unusually high number of complaints about restrictions on free speech, often from persons who suggested that their views were censored because they were not "politically correct." For example the Auckland City Council's refusal to publish in its newsletter a column critical of the 1999 Asia Pacific Economic Cooperation summit hosted by New Zealand drew criticism.

Academic freedom is not limited.

b. *Freedom of Peaceful Assembly and Association.*—The law provides for these rights, and the Government respects them in practice.

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

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

The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Under its own refugee quota, the Government accepts up to 750 UNHCR-approved refugees per year. During the year, the Government supplemented its quota by pledging to accept up to 600 Kosovar Albanian refugees for family reunification. There were no reports of the forced expulsion of persons with a valid claim to refugee status.

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

The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member proportional representation system, and general elections were held in November.

Women and minorities are accorded full opportunity to participate in political life, but are underrepresented in government. In the 120-member Parliament, 36 seats are held by women; 16 by Maori; 3 members are of Pacific Island origin; and 1 is of Asian heritage. The Executive Council has 26 ministers (20 within the Cabinet and 6 outside the Cabinet) including 11 woman (one of whom is the Prime Minister), 4 Maori, and 1 Pacific Islander. The Cabinet has seven women, two Maori, and one Pacific Islander. The Prime Minister, the opposition leader, and the Chief Justice are women.

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

A number of domestic and international nongovernmental organizations (NGO's) operate without government restriction, investigating allegations and publishing their findings on human rights cases. Government officials are cooperative and responsive to the views of these human rights groups. The Human Rights Commission, a U.N.-accredited national human rights institution, investigates complaints of human rights violations and unlawful discrimination and acts as a conciliator. There is also a governmental race relations conciliator.

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

The law prohibits discrimination on the basis of these factors, and the Government effectively enforces it. The 1993 Human Rights Act prohibits discrimination on grounds of sex, marital status, religious belief, ethical belief, color, race, ethnic or national origins, disability, age, political opinion, employment status, and family status.

Women.—Violence against women is a major problem that cuts across all socioeconomic groups. A 1997 government-sponsored academic survey indicated that 1 woman in 16 was likely to be sexually assaulted each year and that 35 percent of men have abused a female partner physically at some time in their lives. It found that Maori and Pacific Islander women were particularly at risk and that multiple, violent victimization in these communities was common. In 1998 5,054 men were prosecuted for domestic assault, and 1,000 more face less serious family violence charges.

The law penalizes spousal rape. The Government convicted individuals on this charge during the year. The National Collective of Rape Crisis groups, a private, nonprofit organization, claimed that the majority of cases go unreported each year and that, of the cases that go to the police, only 10 to 15 percent end in convictions. The group reported that husbands and boyfriends commit about 25 percent of all sexual assaults.

The Domestic Violence Act, which came into effect in 1996, broadened the definition of violence to include psychological abuse, threats, intimidation, harassment, and allowing children to witness psychological abuse. It expanded intervention measures, such as the use of protection orders; education programs for men, women, and children; stronger police powers to arrest and detain offenders; improved access to legal services for women eligible for legal aid; and tougher penalties for breach of a protection order.

The Government's strategy to prevent family violence included a range of objectives such as providing victim support, incorporating successful innovations and proven methods from family violence centers into the national family violence programs (that is, the promotion of "best practice"), ensuring safety from violence, and implementing Maori-designed and delivered programs. The Government partially

funded women's refuges, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

Prostitution is legal, although organizing and recruiting women into prostitution is outlawed. There were reports of abuse and the involuntary detention of women involved in prostitution during the year (see Section 6.f.).

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, government documents acknowledge that in practice a gender earnings gap persists. Many statistics show that women earn 81 percent of men's average ordinary hourly wage, a rate that has been fairly static over the last decade. A 1997 report by the New Zealand Institute of Economic Research indicated that the gender pay gap was unlikely to narrow over the next 5 years based on current industry trends. The Council of Trade Unions has launched a campaign to achieve equal pay in the work force. Effective legal remedies are available for women who experience discrimination.

Children.—The law provides specific safeguards for children's rights and protection. The Government demonstrates its commitment to children's rights and welfare through its well-funded systems of public education and medical care.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, traditionally was not practiced. It is illegal to perform FGM or to make arrangements for a child to be taken outside the country in order to perform it. The Government has been concerned due to a continuing increase in arrivals in the immigrant communities most likely to practice FGM, that is, Somali, Sudanese, and Ethiopian immigrants. A national FGM awareness campaign organized workshops and distributed educational materials in the African refugee communities in 1998 and 1999.

While no societal pattern of abuse of children exists, the Government recognizes the problem of violence within the family. Both government-sponsored and charitable organizations work to prevent child abuse in the home.

People with Disabilities.—The law prohibits discrimination against people with disabilities in employment, education, and the provision of other state services. Compliance with access laws, mandated by the Human Rights Act and the Disabled Persons Community Welfare Act, varies as business owners and others strive to make necessary adaptations. The Government has not complied fully with equal access laws prohibiting discrimination on the basis of disability in areas such as public transportation and public accommodation. Under legislation that became effective on October 1, the Government extended its exemption from nondiscrimination laws for 2 more years, which means that it does not have to comply with equal access laws for the disabled until January 1, 2001. In the interim, the Minister of Justice is required to report semiannually on public sector compliance with equal access laws.

Indigenous People.—Approximately 15 percent of the population claim at least one ancestor from the country's indigenous Maori or Moriori minorities. While the law prohibits discrimination against the indigenous population, a 1999 government report noted the continuing disproportionate number of Maori included on the unemployment and welfare rolls, among the prison population, among school dropouts, in infant mortality statistics, and among single-parent households. For example the official Maori unemployment rate (19 percent) is over three times that for non-Maori. Similarly Maori inmates account for over 50 percent of the prison population. Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental issues that have an effect on commercial development. The Ministry of Maori Development, in cooperation with several Maori NGO's, seeks to improve the status of indigenous people. A special tribunal continues to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

National/Racial/Ethnic Minorities.—Pacific Islanders, who make up 5 percent of the population, are not an indigenous people, but they experience difficulties similar to Maori.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to establish and join organizations of their own choosing. The principal labor organization is the New Zealand Council of Trade Unions. A second, smaller national labor federation, the New Zealand Trade Union Federation, was established in 1993. There are also a number of independent labor unions.

Labor organization is rudimentary in the territory of Tokelau (population 1,800) and in the Freely Associated State of Niue (population 2,000). In the more developed Associated State of the Cook Islands (population 18,000), most workers in the public sector, the major employer, belong to the Cook Islands Workers' Association, an

independent local union inspired by New Zealand models. Industrial relations in the Cook Islands are governed by a simplified version of older national legislation.

The law protects unions from governmental interference, suspension, and dissolution. Unions, in fact, influence legislation and government policy. Some unions are affiliated with the Labor Party; others operate independently of political parties; all are free to support parties whose policies they favor. Unions often exercise the right to strike, although this right is limited to strikes related to the negotiation of a collective contract.

The Council on Trade Unions reported 35 work stoppages in 1998 involving over 15,200 workers and the loss of approximately $1 million ($NZ 1.9 million) in wages. Of these 19 involved the public sector and 16 involved the private sector. As of October, work stoppages occurred at a similar pace, including major disruptions involving teachers and pilots of the country's second airline, Ansett NZ. The law prohibits strikes designed to force an employer to become party to a multicompany contract. Under the Police Act of 1958 and amendments, "sworn police officers," that is, all uniformed and plainclothes police but excluding clerical and support staff, are barred from striking or taking any form of industrial action. However, police, have freedom of association and the right to organize and to bargain collectively. Issues that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration.

A committee of the International Labor Organization (ILO) ruled that the Employment Contracts Act of 1991 limits the right of freedom of association and the right to strike in a manner inconsistent with ILO conventions. The Labor-led Government, which came to power in December, has pledged to abolish it.

Unions can affiliate internationally. The New Zealand Council of Trade Unions is affiliated with the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and contract collectively, and this right is observed in practice. An ILO committee ruled that the 1991 Employment Contracts Act limits the right to bargain collectively. The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively.

Unions represent fewer than a quarter of all wage earners. Under the Employment Contracts Act, employment relationships are based on contracts. Individual employees and employers may choose to conduct negotiations for employment contracts on their own behalf, or they may authorize any other person or organization to do so on their behalf. Although choosing a union is entirely voluntary, unions have remained the most common agents used by workers to negotiate with employers. Employers must recognize a representative authorized by an employee or employees. However, neither employers nor employees are required to negotiate or to agree to a contract. Decisions by the Court of Appeals during the year emphasized the parties' freedom to contract to such an extent that union officials believe that it undermines work conditions.

The Government does not control mediation and arbitration procedures. The Employment Court hears cases arising from disputes over the interpretation of labor laws. A less formal body, the employment tribunal, is available to handle wage disputes and assist in maintaining effective labor relations. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and bonded labor by children. Inspection and legal penalties ensure respect for the provisions. However, there were reports of the involuntary detention of women involved in prostitution, and in October, in what appears to be an isolated case, seven Thai women were freed from slave labor conditions in an Auckland factory (see Sections 5 and 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Government prohibits forced and bonded child labor and enforces this prohibition effectively (see Section 6.c.). Department of Labor inspectors effectively enforce a ban on the employment of children under the age of 15 years in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. In addition to explicit restrictions on the employment of children, compulsory education ensures that children under the minimum age for leaving school (16 years) are not employed during school hours. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

e. *Acceptable Conditions of Work.*—The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. A 40-hour workweek is traditional, but under the Employment Contracts Act employers and employees may agree to

longer or shorter workweeks. While the law does not provide specifically for a 24-hour rest period weekly, management and labor accept the practice, and it is the norm. The government-mandated hourly minimum wage of approximately $3.50 ($NZ 7.00) applies to workers 20 years of age and older. Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage is generally adequate to provide a decent standard of living for a worker and family. In 1994 a minimum wage for younger workers was introduced at 60 percent of the adult minimum. A majority of the work force earns more than the minimum wage. The current youth minimum wage of approximately $2.10 ($NZ 4.20) applies to workers ages 16 to 19.

An extensive body of law and regulations govern health and safety issues, notably the 1992 Health and Safety in Employment Act. Under this legislation, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health as well as ensuring that their actions do not harm others. However, the New Zealand Council of Trade Unions has criticized the act, for not providing sufficient employee involvement in workplace decisions affecting health and safety. Under the Employment Contracts Act, workers have the legal right to strike over health and safety issues. Unions, and members of the general public may file safety complaints on behalf of workers. Department of Labor inspectors enforce safety and health rules, and they have the power to shut down equipment if necessary. The Department of Labor standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification. Workers have the right to withdraw from a dangerous work situation without jeopardy to continued employment.

f. *Trafficking in Persons.*—The law does not address trafficking in persons specifically, and the applicable related crime, aiding and abetting breach of immigration regulations, carries relatively light penalties. Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison and recently have been used to prosecute citizens working with foreign prostitutes. However, prostitution is legal.

Trafficking in women and children largely from Thailand for the sex industry is a small but growing problem. In addition in October seven Thai women were freed from slave labor conditions in an Auckland factory (see Sections 5 and 6.c.).

PALAU

Formerly a United Nations trusteeship administered by the United States, Palau became an independent nation in free association with the United States on October 1, 1994. Under the Compact of Free Association, the United States is responsible for the Republic of Palau's defense. An archipelago of more than 300 islands in the Western Pacific, Palau has a total land area of 188 square miles and is organized politically into 16 states. More than two-thirds of its approximately 18,000 population resides in or near the temporary capital, Koror.

The democratically elected government is modeled after that of the United States. The Constitution provides for free and fair elections, executive and legislative branches, and an independent judiciary. The legislature, the Olbiil Era Kelulau, is composed of two equal houses, the 14-member Senate and the 16-member House of Delegates. The judiciary is independent.

Palau has no security forces other than local police and civilian law enforcement personnel, all are under the firm control of civil authorities. Palau also has a Marine Law Enforcement Division that patrols its borders with assistance from the Australian Government.

With a household median income of over $12,000, Palau is a medium income country with a small, market-based economy largely sustained by transfer payments from the United States. The Government employs nearly half of the work force. Tourism and other service sectors account for most other paid employment. Tuna, harvested by foreign-operated fleets, is the dominant export. Several small-scale operations, employing foreign workers, assemble clothing from imported materials for export. Traditional subsistence agriculture and fishing is diminishing as people move to the city in search of employment. Also an increasing number of Chinese farmers operate vegetable farms that compete with indigenous farmers; most indigenous farmers are work and sell what they produce from their own land.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Traditional customs sustain a value system that distinguishes between people on the basis of social status and sex. The loosening ties of the extended family and the increasing abuse of alcohol and other drugs are major contributing factors that lead

to instances of domestic violence and child neglect. Societal discrimination against certain foreign workers, who account for nearly 30 percent of the population and 46 percent of the paid work force, is also a serious problem.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that officials employed them.

In April the special prosecutor filed charges against a police officer involving 11 counts, including assault and misconduct in public office, for threatening a former girlfriend in March. The police officer was given a sentence of 7 years.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

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

The judiciary comprises the Supreme Court, the National Court, and the Court of Common Pleas. The President appoints judges to the Supreme Court and National Court from a list recommended by the Judicial Nominating Commission. Appointments are for life.

The Government has an independent special prosecutor and an independent public defender system. The Constitution provides for the right to a fair trial, and an independent judiciary vigorously enforces this right.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

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

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

The Government has not formulated a policy regarding refugees, asylees, or first asylum, and government practice remains undefined. However, there were no reports of the forced expulsion of anyone having a valid claim to refugee status.

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

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

There are no legal impediments to women participating in government and politics; however, women are severly underrepresented in government. As a result of the 1996 general elections, a woman gained a Senate seat for the first time. Women hold office in 10 of the 16 state legislatures, where they constitute 7 percent of the membership.

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

The Government has a history of openness to a variety of human rights groups without restriction. Government officials have met with representatives of these groups and foreign officials regarding the civil rights of foreign minority workers. Government officials generally are cooperative and responsive to their views. The Palau Red Cross Society opened its office in 1996; having satisfied all requirements,

the Society has applications pending for full membership in the International Federation of Red Cross and Red Crescent Societies.

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

The Constitution prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the Government generally respects these provisions.

Women.—There are occasional allegations of violence against women, mainly domestic abuse. Alcohol and other drug abuse increasingly contribute to this problem. According to the Attorney General's office, the Government's Public Health Office, and women's groups, only a few such cases are reported to the authorities every year, but many more are believed to be unreported. Although assault is a criminal offense, women are reluctant to prosecute their spouses.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. Women serve by presidential appointment as bureau directors for women's interests, human resources, and clinical services. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

The sixth annual Women's Conference was held on March 24–25. The Conference's theme focused on children and families. Panel participants included government ministers, and issues discussed included health, education, drug abuse, prostitution, and traditional customs and values.

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. There is no societal pattern of abuse directed against children. Child prostitution is neither accepted within the culture nor practiced. There is no difference in the treatment of girls and boys in educational opportunities, or in the availability of scholarships to attend postsecondary education abroad. Girls and boys receive equal treatment in health care services.

Child abuse is thought to be uncommon, and there have been few child abuse prosecutions. While children's rights generally are respected, there were reports of several instances of child neglect, which is a byproduct of the breakdown of the extended family.

Both panel members and other participants at the sixth Women's Conference agreed that although education and drug abuse had been discussed since the first Women's Conference, little has changed to improve the education system or reduce drug abuse among youth.

People With Disabilities.—The National Code includes a Disabled Persons Antidiscrimination Act and a Handicapped Children Act. No instances of discrimination against the disabled were reported. Building codes and legislation do not require access for the disabled. The public schools have established special education programs to address problems encountered by those with disabilities.

National/Racial/Ethnic Minorities.—Non-Palauans are prohibited from purchasing land or obtaining citizenship. The rapid increase in the number of foreign workers, who now constitute nearly 30 percent of the population and 46 percent of the work force, is viewed negatively by a majority of citizens. Foreign residents are subject to some forms of discrimination and are targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Credible complaints are made by foreign residents that crimes against non-Palauans are not pursued or persecuted by authorities with the same vigor as crimes against citizens. Certain foreign nationalities experience generalized discrimination in employment, pay, housing, education, and access to social services, although such discrimination is prohibited by law. While precise data is lacking, there continue to be anecdotal reports about abuse of workers' civil rights perpetrated against domestic helpers, bar girls, construction laborers, and other semiskilled workers, the majority of whom are from the Philippines, China, and Bangladesh. The most common abuses identified are misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and, sometimes, physical abuse. In a number of instances, local authorities have taken corrective action when alerted by social service and religious organizations to which foreign workers have turned for assistance. Nonetheless, foreign workers often are reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution provides for the right of all persons to assemble peacefully or to associate with others for any lawful purpose, including

the right to organize and to bargain collectively. There are no active employee organizations.

b. *The Right to Organize and Bargain Collectively.*—The Constitution does not provide for the right to strike, and the Government has not addressed this issue. There is no legislation concerning collective bargaining or trade union organizations, although there are no legal impediments to either. Wages in the cash economy are determined by market factors.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced and bonded labor by children, but such practices are not known to occur. Instances were reported of foreign workers, especially domestic helpers and unskilled laborers, who were forced to do jobs different from those for which they were recruited. The freedom of foreign workers to leave employment situations not to their liking may be hindered by physical barriers or the withholding of passports and return tickets to their country of recruitment.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution states that the Government shall protect children from exploitation, and children are protected by the general constitutional prohibition against forced and bonded labor (see Section 6.c.). There is no minimum age for employment. Children typically are not employed in the wage economy, but some assist their families with fishing, agriculture, and other small-scale family enterprises. The law requires compulsory education for children between 6 and 17 years of age, and the Government generally enforces this law. By regulation no foreigner under the age of 21 may be admitted into the country for employment purposes.

e. *Acceptable Conditions of Work.*—In July 1998, Palau passed its first minimum wage law. The law sets the minimum wage at $2.50 per hour, effective January 1; foreign workers are exempt from the minimum wage law. This amount appears to be sufficient, given the level of economic development, to provide a worker and his family with a decent standard of living. Anecdotal evidence indicates that unskilled workers for commercial firms are paid only $1.50 to $2.00 per hour. However, foreign workers usually are provided, in addition to their wages, with basic accommodations and food at no or nominal cost. Although these wages are low, the country continues to attract large numbers of foreign workers from the Philippines, China, and Bangladesh. There are more than 6,000 foreign nationals with work permits in the country, two-thirds from the Philippines.

As the number of foreign workers increases, there continue to be increasing numbers of reports of mistreatment of such workers by their employers. These incidents of alleged mistreatment are common knowledge among the general public but rarely are reported to law enforcement authorities by the foreign workers themselves due to fear of their employers. Some types of mistreatment that foreign workers consistently complain about are: Physical and verbal abuse; working overtime and on days off without pay; withholding monthly salary; deductions from salary for the amount of airfare; and substandard housing. Some workers also complained that they are not given enough food. The foreign workers most likely to be abused are those who work under contracts and earn between $100 and $300 a month as domestic helpers, construction workers, farmers, waitresses, beauticians, and hostesses in karaoke bars and massage parlors. Under the terms of their contracts, they also are to be provided room and board and air travel from their home country to Palau and back after the termination of their contracts. It generally is assumed that legislators specifically exempted contract workers in the 1998 minimum wage bill to ensure a continued supply of low cost labor in industries that the legislators often control.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The Division may inspect the conditions of the workplace and employer-provided housing on specific complaint of the employees, but actual enforcement is sporadic; working conditions vary in practice. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions.

f. *Trafficking in Persons.*—The Constitution prohibits trafficking in persons, and there are no reports that persons were trafficked in, to, or from the country.

PAPUA NEW GUINEA

Papua New Guinea (PNG) comprises some 1,000 tribes and over 800 distinct languages in a population of about 4 million. It has a federal parliamentary system, based on universal adult suffrage with periodic free and fair elections, and has an independent judiciary.

The Government has constitutional authority over the Defense Force (PNGDF), the Royal Papua New Guinea Constabulary (RPNGC), and intelligence organizations. Members of the police force committed serious human rights abuses.

The economy relies heavily on the export of minerals, hydrocarbons, tropical timber, and tree crops such as coffee, cocoa, and copra. The value of the national currency fell, prices rose sharply, and many government services were underfunded as a result of poor commodity prices abroad and economic mismanagement at home. This in turn exacerbated the already high crime rate. Approximately 85 percent of the population resides in isolated villages and engages in subsistence and smallholder agriculture. For a majority of citizens, income and educational levels are low and infant and maternal mortality rates are high.

The Government continued to be responsible for human rights abuses. Police committed extrajudicial killings, beat suspects, and engaged in excessively punitive and violent raids. The Government on occasion investigated allegations of abuse and prosecuted those believed responsible. Prison conditions in several areas continued to be poor. Court understaffing reduced court sittings and increased pretrial detention periods for many persons. Police infringed on citizens' privacy rights. The Government continued to limit freedom of assembly in the form of marches or demonstrations, and imposed some restrictions on freedom of movement. Extensive violence and discrimination against women are problems, and abuse of children appears to be growing. Discrimination against the disabled persists, and violence between tribes remains a serious problem.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Several instances of killing by police were reported during the year. According to police reports, most occurred during gunfights with criminal suspects who were resisting arrest. However, in at least one case in Port Moresby, family members told the press that their relative was shot in both knees after he surrendered and left to bleed to death. They offered a post mortem as evidence.

All police shootings are investigated by the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police in such circumstances also may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office.

Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court. Such a case was initiated in the western highlands where police shot and killed a man who they said charged them when they went to investigate reports of hijacking on the main highway. The man's family contends that he was mentally disabled and not part of the criminal activity. In May police reportedly killed a child during a raid on cargo cultists (see Section 1.c.).

No human right violations were reported in connection with military operations during the year. However, although four soldiers suspected of complicity in the killing of Bougainville Transitional Government Premier Theodore Miriung in 1996 were questioned by police, no arrests were made and no further progress has been reported.

There were occasional instances of mob violence. In September a 17-year-old who was believed to have participated in the armed robbery of the college canteen was caught and beaten to death by residents on the grounds of the police training college. In November police reported that villagers in Kerowagi district, Chimbu province, threw three fellow villagers who were ill with AIDS into the Wahgi River, where they drowned.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and other cruel or degrading treatment or punishment; however, police often beat suspects during arrests and allowed members of the public to beat suspects as well. During the year, policemen in three different localities were charged with soliciting sex from or raping female detainees.

Although police policy continued to emphasize good community relations and showed results in several communities during the year, police in other areas destroyed houses and other property in the course of poorly controlled raids that employed excessive force. For example, in May in the course of a raid on cargo cultists who were reported to be extorting money from the community police burned nearly 80 houses and their contents in 2 villages in the highlands of Gulf Province. During the raid, a child was reported killed (see Section 1.a.) and a man was paralyzed. Police management investigated, but there was no report of further action. In September when unlicensed street vendors resisted a cleanup raid, Port Moresby police burned their equipment and stock, eliciting a warning from the Chief Justice that such actions may have violated the vendors' constitutional rights.

Prison conditions are poor. The prison system suffers from serious underfunding, which results in the deterioration of infrastructure and poor delivery of services. Three prisons in which conditions were previously described as "life threatening" remained closed because of unsanitary conditions; prisoners in some of those areas are confined in crowded conditions in police stations. Some prisons, particularly those in urban areas, are seriously overcrowded. Prison guards' living conditions are as poor as those of the prisoners. During the year, there were several prison breaks and, at the new year, the Government released 141 nonviolent offenders to relieve the overcrowding. Overcrowding is exacerbated in rural areas by infrequent court sessions and bail restrictions for certain crimes (see Section 1.d.).

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The courts generally enforce constitutional protections against arbitrary arrest and detention. In 1994 the Supreme Court found unconstitutional portions of the 1993 Internal Security Act which were inconsistent with due process provisions of the Constitution. Under 1993 amendments to the Bail Act and the Criminal Code, only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Suspects who are arrested have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review.

Due to limited police and judicial resources and a high crime rate, suspects often are held in pretrial detention for a long time, particularly in rural areas. Pretrial remand is subject to strict judicial review through continuing pretrial consultations, especially at the National Court level. Nonetheless cases are frequently delayed for months awaiting results of police investigations. Also circuit court sittings were infrequent because of a shortage of judges and budget difficulties, delaying both the trial process and the rendering of decisions. Some detainees have been held in jail for as long as 2 years because of the shortage of judges. An increase in the number of full-time judges, which was granted in September, is expected to improve the situation.

Following the election of the new Government, government departments issued orders preventing foreign advisers to the former government from leaving the country. To date the authorities have shown no legal basis for these actions, and they were dropped after court reviews.

Exile is prohibited by the Constitution and is not practiced.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the courts are independent of executive, legislative, and military authorities. At times political interests interfere with due process. For example following allegations in Parliament in 1998 that a politician had made an illegal videotape of his sexual activity with an underage girl, two police officers from another city enticed the girl allegedly involved from her home, took her to a second jurisdiction where they charged her with an offense, and then took her to a third jurisdiction where she was committed for trial. During the year, the charges against both the girl and the politician were dropped on technicalities or for lack of evidence. An investigation of the police officers who arrested the girl never was concluded.

The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district courts established at the provincial level. There are also village courts headed by lay persons, who judge minor offenses under both customary and statutory law.

The legal system is based on English common law. The Constitution provides for due process, including a public trial, and the court system generally enforces these provisions. Defendants have the right to an attorney. Legal counsel is provided by the Public Solicitor's office for those accused of serious offenses who are unable to afford counsel. "Serious offenses" are defined as charges for which a sentence of 2 years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges creates

delays both in the process of trials and in the rendering of decisions (see Section 1.d.).

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The authorities generally respect citizens' privacy rights, although there were instances of abuse, such as police destruction of property in May (see Section 1.c.). In another instance, a large force of heavily armed police searched the home of a man accused of a nonviolent offense in January. He protested to the court that the search procedures were politically inspired. The court agreed and found police methods excessive and contrary to constitutional protections of privacy.

Although provisions in the Constitution require warrants, the police continued to conduct warrantless searches and raids.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for free speech, including freedom of the media, and the Government generally respects this freedom in practice.

The media provided independent coverage and analysis of major issues, including accusations of corruption and immoral behavior directed at leading political figures.

The combined circulation of two daily English-language newspapers is less than 60,000. Two weekly newspapers, one in English and one in Pidgin (the national lingua franca), also are published. All freely express a variety of editorial viewpoints and report on controversial issues such as alleged abuses by police and security forces, cases of alleged corruption by government officials, and political opposition views. A Malaysian firm, which has invested heavily in the country's timber industry, owns one of the dailies; the newspaper publishes little on the controversial subjects of logging and forestry, but it is generally independent and unbiased on other issues.

The television broadcasting company, EM–TV, is independent. Television reception is limited mostly to the capital and provincial centers. The government-owned National Broadcasting Corporation owns two radio networks whose effectiveness is limited by inadequate funding and deteriorating equipment. A privately owned radio network, NAU–FM, is popular in Port Moresby and is expanding to other areas of the country.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limits this right in practice. Public demonstrations require police approval and 14-days' notice. Police assert that they fear violence from unruly spectators and rarely give approval. Even a march against domestic violence organized by national women's leaders was refused permission until the afternoon of the day for which it was scheduled, preventing advance publicity and an effective turnout.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Associations that wish to open a bank account and conduct financial transactions are required to register for this purpose. The process of registration may be slowed by bureaucratic inefficiency, but there is no policy of denying registration. International affiliation of church and civic groups is freely permitted.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government usually does not restrict freedom of movement within and outside the country. However, following the election of the present Government, with no legal basis the authorities prevented foreigners engaged as advisers by the previous government from leaving the country (see Section 1.d.). A reservation to the 1951 U.N. Convention Relating to the Status of Refugees regarding the issuance of travel documents restricted the travel of some Irian Jayans residing in a refugee camp in western part of the country.

Movement within Bougainville is free for all groups. Internally displaced persons are free to return to their homes, and most have done so. According to the U.N. High Commissioner for Refugees (UNHCR), there are fewer than 50 persons from Bougainville in the Solomon Islands who meet the criteria for refugee status. The Solomon Islands Red Cross reports that other Bougainvillians sheltering in the Solomon Islands have begun to return home and that none are any longer under their care. Those remaining are employed professionals. The Government negotiated agreements with the Government of the Solomon Islands to establish the means for traditional border crossers in southern Bougainville and the northern Solomon Islands to pass easily between the two countries.

Although a party to the U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted enabling legislation. The Government cooperates with the UNHCR, and has not forced any persons to return to countries where they feared persecution. The Government provides first asylum for approximately 3,500 persons who fled from the neighboring Indonesian province of Irian Jaya. An equal number reside in informal, unrecognized camps adjacent to the border with Indonesia. The Government cooperates with the UNHCR in assisting the Irian Jayans who live in the East Awin refugee camp in Western Province and has administered the camp since 1996, when the UNHCR office closed. The UNHCR planned to withdraw all program and financial support for the East Awin camp at year's end. The Government has a policy of limited integration for Irian Jayans with certain skills or other qualifications, who are accorded limited residency status and are permitted to leave the refugee settlement. During the year, the Government distributed over 1,500 permissive residency certificates to Irian Jaya refugees. Irian Jayans who choose not to apply for permissive residency may seek voluntary repatriation to Indonesia under the supervision of the Government and the UNHCR. Those who violate conditions of their refugee status can be repatriated. There were no known forced repatriations of Irian Jayans to Indonesia. Several thousand traditional border crossers live in the border area and move freely between the two countries.

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

Citizens freely exercise their right to change the government through direct elections with a secret ballot and universal adult suffrage. Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen can stand for election. Because of the high number of candidates for Parliament, some members have won election with less than 10 percent of the total votes cast.

The most recent general election was held in June 1997. Of the 109 seats in Parliament, 55 changed hands. A coalition government, led by Prime Minister Bill Skate, was formed following the election. In early July, faced with a threatened vote of no confidence, Prime Minister Skate resigned. On July 14, the Parliament elected Sir Mekere Morauta as Prime Minister. He formed a coalition government that includes nearly two-thirds of the Members of Parliament. Skate now leads the opposition.

The law provides that a losing candidate may dispute the election of the winning candidate by filing a petition with the National Court. Such petitions may question actions of the candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but is time consuming and expensive both to initiate and to defend. Following the 1997 election, 88 such petitions were filed. The majority of complaints were made against winning candidates or their supporters. The court accepted 40 of the petitions for trial. As of September, several of these cases were still undecided.

Although there are no legal barriers to the participation of women in political life, they are underrepresented in government and politics. Two women were elected to the 109 member Parliament in the 1997 elections.

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

There are no official barriers to the formation of human rights groups. The Government cooperates with human rights nongovernmental organizations (NGO's), but sometimes is slow in responding to their requests for information. The International and Community Rights Advocacy Forum, formed in 1993, concentrated on human rights and the environment.

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

The Constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion or sex. Despite these constitutional and other legal provisions, women often face discrimination.

Extreme geographic diversity prevents any one tribe or clan from dominating the country. The democratically elected government, based on loose coalitions, consistently has avoided favoring any group. Virtually all citizens share Melanesian ethnicity, and violence between groups is not ethnically based. Skirmishes and conflicts tend to be based on disputes between clans over issues such as boundaries, land ownership, injuries, and insults suffered by one clan at the hands of another. In May a serious tribal conflict erupted over the outcome of the 1997 parliamentary election in Southern Highlands province. In the past, clan and tribal warfare was

ritualized and fought with traditional weapons; the availability of firearms has made such conflicts deadlier.

Women.—Violence against women, including domestic violence and gang rape, is a serious and prevalent problem. Traditional village mores, which served as deterrents, are weakening and are largely absent when youths move from their village to a larger town or to the capital. Although rape is punishable by imprisonment, and sentences are imposed when assailants are found guilty, few assailants are apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecutions makes the crime difficult to combat. Domestic violence, such as wife beating, also is common and is a crime. However, since most communities view domestic violence as a private matter, and few victims press charges, prosecutions are rare.

Violence committed against women by other women frequently stems from domestic disputes. In areas where polygyny is still customary, an increasing number of women have been charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison are there for attacking or killing another woman.

The Constitution and laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and civil service. However, traditional patterns of discrimination against women persist. Many women, even in urban areas, are considered second-class citizens. Village courts tend to impose jail terms on women found guilty of adultery, while penalizing men lightly or not at all. Circuit-riding National Court justices frequently annulled such village court sentences. In 1996 the Government approved amendments to the Village Courts Act requiring that orders for imprisonment be endorsed by a district court before they take effect. Polygyny and the custom of paying a bride price tend to reinforce the view that women are property.

In addition to the purchase of women as brides, women also are sometimes given as compensation to settle disputes between clans. The courts have ruled that such settlements are a denial of the women's constitutional rights.

According to statistics published in the U.N. Development Program's 1999 report on human development, women are gaining rapidly on men in literacy and education. Adult literacy has risen to 73 percent of the population. Sixty-five percent of women are literate, trailing men by 21 percent. There are 15 percent fewer girls in primary schools than boys. Maternal mortality levels remain relatively high at 930 deaths per 100,000 live births.

There is an Office of Women's Affairs in the Office of Church and Family Services of the Ministry of Provincial Affairs.

Children.—The Government did not dedicate significant resources to protecting the rights and welfare of children. Most programs to protect and develop youth and children are operated by NGO's and religious organizations. Many government programs are underfunded. In the past, children have been well cared for within the family and under traditional clan and village controls. However, preliminary, small-scale studies indicate that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood. According to a report prepared by the Government and the U.N. Children's Fund, the sexual abuse of children is believed to be prevalent. Because of the geographic isolation and remoteness of many villages, malnutrition and infant mortality rates are very high. More than 60 of every thousand children born do not survive their first year.

People with Disabilities.—Through the National Board for the Disabled, the Government provides funds to a number of NGO's that provide services to the disabled. The Government does not provide programs or services directly. Services and health care for the disabled, except for those provided by the traditional clan and family system, do not exist in several of the country's provinces. There is no legislation mandating accessibility for the disabled. Disabled persons face discrimination in education, training, and employment. Most disabled persons do not find training or work outside the family structure.

Section 6. Worker Rights

a. *The Right of Association.*—The right to form and join labor unions is provided by law, subject to registration by the Department of Industrial Relations. The Government does not use registration to control unions. However, an unregistered union has no legal standing with the Department of Labor and Employment or before the courts and thus cannot operate effectively. About half of the 250,000 wage earners in the formal economy are organized and are members of approximately 50 trade unions. Most of the unions representing private-sector workers are associated with

the Trade Unions Congress. The Public Employees Association represents an estimated 23,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. Unions are independent of the Government and of political parties.

Both public and private sector unions exercised their legal right to strike during the year. Engineers working for the national airline staged an unauthorized strike in July. Airline management fired them all and then selectively rehired some. The courts ruled that both the union and the airline acted illegally, and at year's end, talks were underway to resolve the situation.

Unions may affiliate freely with international organizations.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to engage in collective bargaining and to join industrial organizations. These rights are exercised freely. Under the law, the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. This law was criticized by the International Labor Organization in 1994. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers. The Department of Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution forbids slavery and all forms of forced, compulsory, or bonded labor, including that performed by children, and there were no reports of such practices.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Employment Act establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment is rare, except in subsistence agriculture. Forced and bonded labor by children is prohibited and is not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—Minimum wages for the private sector are set by the Minimum Wage Board, a quasi-governmental body with labor and employer representatives. The Board made a determination in 1992, which is still valid, that reduced the minimum wage for newly hired urban workers to the level of the minimum wage for rural workers. Also in 1992, the national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. The adult minimum wage of $9.87 (22.96 kina) per week does not provide a decent standard of living for a worker and family who live solely on the cash economy. The Minimum Wage Board reconvened in mid-year to review the current minimum wage and made no change. Although the Department of Labor and Employment and the courts attempt to enforce the minimum wage law, enforcement is not effective due to a lack of resources. Minimum wage levels, allowances, rest periods, holiday leave, and overtime are regulated by law. The workweek is limited by law to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week. Enforcement is lax.

Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Employment. The law requires that work sites be inspected on a regular basis. However, due to a shortage of inspectors, inspections take place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varies by workplace. Unionized workers have some measure of protection in such situations.

f. *Trafficking in Persons.*—The Constitution does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

PHILIPPINES

The Philippines is a democratic republic with an elected president, a bicameral legislature, and a functioning political party system. President Joseph Estrada took office in June 1998. The Government is pursuing actively a negotiated settlement with Muslim separatists. An uneasy truce exists between insurgents and government forces. Sporadic clashes between government forces and the main Communist insurgent group led to a variety of human rights abuses by both sides. The judiciary is independent, but suffers from inefficiency and corruption.

The Department of National Defense directs the Armed Forces of the Philippines (AFP), and the Department of Interior and Local Government (DILG) has authority over the civilian Philippine National Police (PNP). The AFP, which has primary responsibility for antiinsurgency operations, also is involved in traditional law enforcement efforts, including the pursuit of kidnapers, a chronic criminal problem. Some members of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses, often in the context of counterinsurgency operations.

The Philippines has a market-based, mixed economy. Agriculture contributes about 20 percent of gross domestic product (GDP), but accounts for nearly 40 percent of employment. Principal crops include corn, sugar, and rice, most of which are consumed domestically. Export crops include coconut and fruits. Manufacturing, particularly electronics and electronic components, accounts for nearly two-thirds of export receipts; this export growth continued to be strong in spite of the recent regional economic downturn. Per capita GDP in January was approximately $886. Income distribution is highly skewed: The richest 30 percent of families earned about 63.4 percent of the national income, while the poorest 30 percent receive only 9.3 percent of income. Urban incomes average 2.43 times rural incomes.

The Government generally respected the human rights of citizens; however, there were problems in some areas. Members of the security services were responsible for extrajudicial killings, torture, disappearances, arbitrary arrest and detention, and other physical abuse of suspects and detainees. Police corruption remains a problem. Prison conditions are harsh. The Government's Commission on Human Rights (CHR), established by the 1986 Constitution, in January described the PNP as the leading abuser of human rights, followed by the Communist New People's Army (NPA), and the AFP. Some abuses were committed by police and military personnel while involved in criminal activities such as kidnap gangs, drug trafficking, and illegal logging. Police leaders at times appeared to sanction brutality and extralegal killings as expedient means of fighting crime. The Government has taken few effective steps to stop military and police abuses, although police officers have been sentenced to death for murder convictions. The Government has been ineffective in reforming the police, the military forces, or the court system, with its poorly paid, overburdened judges and prosecutors. The court system remains susceptible to the influence of the wealthy and powerful, while failing to provide equal justice for others. The courts are hobbled by backlogs and limited resources, and long delays in trials are common. The authorities failed to prosecute many persons who broke the law.

The President's Antiorganized Crime Task Force made significant progress during the year against kidnap gangs; however, the Estrada administration's support for the Task Force Chief, an otherwise effective police officer often accused of human rights abuses, caused some to question the Government's commitment to police reform. The Government at times infringed on citizens' privacy rights. There was an increase in the Government's forcible displacement of squatters from their illegal urban dwellings to make way for industrial and real estate development projects, which often led to disputes and human rights abuses.

An estimated 5 to 6 million citizens living abroad are disenfranchised because the Congress still has not enacted absentee voting, as required by the Constitution. The CHR, whose primary mission is to investigate complaints of human rights violations, expanded the local monitoring system; at midyear there were more than 13,000 local human rights officers nationwide, up from 8,000 at the end of 1998. However, some local military and police forces harassed human rights activists. Violence and discrimination against women and abuse of children continued to be serious problems. Discrimination against indigenous people and Muslims persists. Rural poverty and family displacement are major causes of the continuing child labor problem, which the Government has addressed only partially. Forced labor, including forced child prostitution, is a problem. Trafficking in women and children is a problem.

Communist and Muslim insurgent groups, including the Moro Islamic Liberation Front (MILF), and the Communist New Peoples' Army (NPA) committed serious abuses, including extrajudicial killings, kidnapings, torture, and detentions. The NPA's use of children as armed combatants and noncombatants increased significantly.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Police and military forces committed extrajudicial killings. The CHR investigated 185 extrajudicial killings during the

year, compared with 201 in 1998. The CHR includes killings by antigovernment insurgents in its totals. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) reported that 18 civilians were killed for political reasons from mid-1998 through June; 11 were victims of extrajudicial executions carried out by government forces.

In combating criminal organizations, police personnel sometimes resorted to summary execution of suspects, or "salvaging." Police spokesmen later reportedly misrepresented these killings as an unavoidable result of a reported exchange of gunfire with the suspects. The CHR reported that members of the PNP were responsible for 22 percent of the human rights violations involving deaths that it investigated during the year.

In April the head of President Estrada's Antiorganized Crime Task Force, Police General Panfilo Lacson, won a controversial dismissal of murder charges against himself and 25 police colleagues for their alleged involvement in the Kuratong Baleleng case, in which 11 robbery suspects allegedly were killed while in PNP custody in 1995. Despite eyewitness testimony, the case languished without trial for 4 years. The witnesses eventually retracted their testimony after facing reported intimidation and apparent bribery.

In March a member of the anticrime task force was charged with killing a community leader in Quirino province, reportedly on the orders of a senior provincial official. Also in March, three mid-ranking police officers were indicted for the murder of three criminal suspects. Investigations indicated that the police killings were in retribution for the suspects' failure to pay for police protection with a portion of the money that they stole. In Tarlac province in March, a survivor of a failed police "execution" in March pressed charges against the officers and was killed by a local police chief while ostensibly under guard at a hospital. The police chief, a graduate of the Philippine Military Academy, was dismissed from the PNP and faces criminal charges.

According to the TFDP, three migrant workers at a sugar plantation in Negros Occidental province were killed by AFP members in March. The military services stated that the victims were members of the Revolutionary Proletarian Army (RPA), an offshoot of the NPA. However, the plantation owner reportedly claimed that the victims were farmers from Panay island who had come to Negros island in search of work.

In August the bodies of four men, two of whom were confirmed NPA members, were recovered in Mawab in the province of Compostela Valley in Mindanao. Three of the bodies bore multiple gunshot wounds and torture marks (see Section 1.c.). The four men had been arrested by members of the PNP's 60th Infantry Battalion the day before.

MILF "courts" executed many persons during the year (see Section 1.e.).

The NPA claimed responsibility for several killings, including the December 31 "execution" of former priest and former NPA leader Conrado Balweg.

b. *Disappearance.*—The CHR cited 10 instances of involuntary disappearance for the first 9 months of the year, compared with 10 in 1998. The TFDP reported two disappearances from mid-1998 through mid-1999. One victim in March was a labor leader who failed to return home after a meeting. The international NGO Families of Victims of Involuntary Disappearance (FIND), reported 6 instances of involuntary disappearance from mid-1998 through year's end.

The courts and the police have failed to address complaints of victims' families concerning numerous past disappearances. FIND and Amnesty International's Manila office continued to support the efforts of the victims' families' to press charges, but in most cases evidence and documentation are unavailable. Court inaction on these cases contributes to a climate of impunity that undermines confidence in the justice system.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and evidence obtained through its use is legally inadmissible in court; however, members of the security forces and police continued to use torture and otherwise abuse suspects and detainees. The CHR provides the police with human rights training, including primers on the rights of suspects; however, such training is voluntary. Police awareness of the rights of those in custody remains poor. Attorneys in legal reform and public defender groups reported that the most common forms of abuse during arrest and interrogation as "mauling," slapping, hitting with clubs, and using guns to poke suspects.

Authorities reportedly tortured three suspected NPA members after their arrests in Compostela Valley province in January. The perpetrators reportedly were former members of a civilian armed forces geographical unit, a militia supported by the army.

The PNP, in response to growing criticism of alleged criminal activity by its officers, established a "Human Rights Desk" to take complaints and strengthen human rights training. The PNP dismissed one officer and detained or suspended nine others through November.

Prison conditions are harsh. Provincial jails and prisons are overcrowded, have limited exercise and sanitary facilities, and provide prisoners with an inadequate diet. Administrators reportedly budget a daily subsistence allowance of about $0.75 (30 pesos). Prison inmates often depend on their families for food because of the insufficient subsistence allowance. Male and female inmates are held in separate facilities, overseen by guards of the same sex. The exception is the Bureau of Immigration and Deportation detention facility, which segregates male and female inmates, but both are overseen by male guards. Women and children still are being held in facilities not fully segregated from adult male inmates. There were reports that guards abused prisoners. Female prisoners in particular are at risk of sexual assault.

Official corruption is a serious problem in the prison system. Jail administrators reportedly delegate authority to maintain order to senior inmates. Some prominent prisoners and jailed celebrities receive preferential treatment. Favored inmates reportedly enjoy access to outside contacts, enabling them to trade in prostitution and drugs.

According to the penal authorities, there were over 57,000 persons held in national and provincial prisons in November. Many were detained there at the discretion of local law enforcement authorities without benefit of a trial. Through September the CHR helped 46 prisoners and detainees obtain paroles or pardons.

International monitoring groups, the International Committee of the Red Cross, and foreign embassy officials are allowed free access to jails and prisons. There were no credible reports that prisoners died due to prison conditions or treatment during the year.

d. *Arbitrary arrest, Detention, or Exile*.—The Constitution requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, police in some cases arrested and detained citizens arbitrarily. The CHR listed 98 cases of illegal arrest and detention during the first 9 months of the year, compared with 59 in 1998. The TFDP documented 48 politically motivated arrests during the period from mid-1998 to mid-1999. With regard to civil and political rights, the TFDP documents only violations committed by the Government against suspected members of the Communist Party of the Philippines, the NPA, or other insurgent or opposition groups. The Government denies that there are any political detainees.

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence of guilt is strong), the right to bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime for which the arrest was made.

In June Vicente Ladlad, a National Democratic Front consultant and Communist peace negotiator, was arrested for illegal possession of a firearm. He was detained for 9 days before being released on bail. Subsequently he was accused of plotting the killing of top government leaders. Left-wing groups insisted that Ladlad was a victim of a government effort to eliminate members of revolutionary groups by depicting them as common criminals.

The NPA and the MILF were responsible for a significant number of arbitrary arrests and detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and civilians for "crimes against the people." (see Section 1.e.).

In February two army officers, one a general, were abducted by the NPA near Davao City. In a separate incident also in February, the NPA kidnaped a police officer in Bicol province. In March the NPA kidnaped an army sergeant. In April these four persons, together with a police officer held by the NPA since February 1998, were freed after the Government refused to meet the NPA's demand to release NPA prisoners convicted of crimes.

Forced exile is illegal and is not practiced.

e. *Denial of Fair Public Trial*.—The Constitution provides for an independent judiciary, but the judicial system suffers from corruption and inefficiency. Personal ties undermine the commitment of some employees of some government institutions to ensuring due process and equal justice, resulting in impunity for those who commit offenses but who are rich and influential.

The national court system consists of four levels: Local and regional trial courts; a national court of appeals divided into 15 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain problems outside

the formal court system. The Sandiganbayan, the Government's anticorruption court, hears criminal cases of misconduct brought against officials.

The Constitution provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respect the right of defendants to be represented by a lawyer, although poverty often inhibits a defendant's access to effective legal representation. The public attorney's office is staffed by highly skilled and motivated defense lawyers, but the workload is daunting and resources are scarce.

Legal experts inside and outside the justice system also criticize personal and professional relationships between some judges and individual or corporate litigants. Some lawyers act as "case fixers," gaining the favor of judges and other court officials, and allegedly bribe some witnesses. Technically it is illegal to settle criminal cases out of court, but the practice of reaching an "amicable settlement" is routine. In some cases, without key victims or witnesses to testify, prosecution is problematic.

The pace of justice is slow. The court system is unable to assure detained persons expeditious trials. There is a widely recognized need for more prosecutors, judges, and courtrooms. Approximately 700 of 2,130 judgeships nationwide remain vacant for lack of qualified applicants. Vacancies in provincial capitals are unattractive to many jurists. In other cases, judges' salaries are considered too low in comparison with other opportunities. Low pay also renders some prosecutors susceptible to corruption.

According to the Constitution, cases are to be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 for the court of appeals; and 3 months for lower courts. There are no time limits for trials. Because of numerous technical delays and frequent failures of judges and prosecutors to appear, trials can last many months. Officials in the Labor and Social Welfare Departments complain that prosecutors often fail to follow up on cases involving child labor violations (see Section 6.d.).

The CHR reported that about 36 percent of the human rights cases that it referred to courts and other government agencies were resolved, and that the courts dismissed 158 cases that went to trial. The Supreme Court, which reviews all death sentences, commuted some death sentences and overturned others.

The Crusade Against Violence, an NGO representing families of crime victims, reported some success in providing families with legal advice, monitoring court processes, and spurring prosecutors to address cases despite the efforts of local criminal organizations or public officials to hinder proceedings.

There were no credible reports of attempts to intimidate attorneys involved in human rights cases.

Amnesty International criticized the apparent unfairness in many of the court proceedings that result in death sentences, stating that the judicial system does not ensure the rights of defendants to due process and legal representation. At times defendants in such cases had no lawyers to assist them when they were arrested, indicted, and brought to trial.

Indemnification claims for alleged human rights abuses during the Ferdinand Marcos era, which ended in 1986, remain unsolved. A government-brokered agreement that appeared near success early in the year collapsed under criticism of its immunity provisions for the Marcos family, and the presiding judge of the Sandiganbayan refused to release $150 million in escrowed Marcos funds.

Reflecting the MILF's claim to recognition as an independent state in areas that it controls, MILF spokesmen asserted their Shari'a (Islamic law) courts have criminal jurisdiction, and the MILF executed several alleged criminals during the year.

The NPA and the MILF were responsible for a significant number of arbitrary arrests and detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and civilians for "crimes against the people." The NPA continued to try these defendants in its courts. The NPA claimed responsibility for several killings, including the December 31 "execution" of former priest and former NPA leader Conrado Balweg (see Section 1.a.).

The TFDP and the Philippine Alliance of Human Rights Advocates, a leading NGO network, reported that there were at least 160 political prisoners held at year's end, compared with 147 held at the end of 1998. The Government denies that it holds political prisoners, contending that those jailed for political reasons in fact were convicted for common crimes. Frequently political prisoners counted by the TFDP were convicted of the illegal possession of firearms. The TFDP asserts that the authorities deliberately "criminalize" political offender cases in order to strip political prisoners of public sympathy. There are differences of opinion even within the

CHR; some members of the Commission believe that certain persons are incarcerated for political reasons, but other members believe that the same persons are guilty of common crimes.

The Presidential Committee on Grant of Bail, Release, or Pardon claims that some political prisoners remain in custody.

In February the Technical Working Group of the Presidential Committee on Grant of Bail, Release, or Pardon Committee recommended the release of 61 prisoners whom it deemed had been convicted mainly because of the legitimate exercise of their political beliefs. However, after the NPA kidnaped an AFP general and four other members of the armed forces early in the year, President Estrada deferred action on the Working Group's recommendation. The AFP prisoners were released by the NPA in April. In December the President pardoned and ordered the release of 11 of the 61 prisoners. He reportedly stated that most of those given pardon were political prisoners. The Government indicated its intention to pardon and release the remaining 50 if their appeals were withdrawn.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—The Constitution provides that a judge may issue search warrants on a finding of probable cause. Restrictions on search and seizure within private homes generally are respected, although searches without warrants do occur. Judges have declared evidence obtained illegally to be inadmissible.

There were reports that the Presidential Antiorganized Crime Task Force placed illegal wiretaps on the telephones of government officials and military officers identified with opposition parties.

Having campaigned as the "pro-poor" candidate, President Estrada early in his administration sought to avoid confrontations with squatter communities; however, there was an increase in the forcible displacement of urban "squatters" to make room for infrastructure and commercial developments. The law provides certain protections for squatters; eviction often is difficult, especially because politicians generally recognize squatters' voting power. The CHR classified as human rights violations nine instances of community demolition by the Government through September. In many instances, the Government did not offer relocation sites to displaced families, as required by law. The NGO Ecumenical Commission for Displaced Families (ECDFC) reported seven mass displacements due to government demolition of houses for economic purposes. These actions affected 15,876 citizens in 2,646 families, mostly in the Manila area.

g. *Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts*.—Periodic AFP clashes with the main remaining Islamic Insurgent Group, the Moro Islamic Liberation Front (MILF) continued to inflict hardships on civilians. Most of the fighting took place in western Mindanao provinces and was related to the control of territory, a central issue in the Government's peace talks with the MILF. Displaced families fear being caught in the crossfire or becoming casualties as a result of artillery exchanges or bombings near their areas of residence.

According to the ECDFC, 27 incidents of armed clashes between the AFP and the MILF, NPA, or other paramilitary groups in Mindanao and in Bohol provinces in the Visayas displaced an estimated 304,908 noncombatants. Some Muslim families in Mindanao suffered recurrent displacements. Although neither the government forces nor the insurgents appeared to target civilian populations or restrict food supplies, there were periodic food shortages in some areas associated with the large number of displaced families.

During November Government and the MILF clashed in North Cotabato and Maguindanao provinces in Mindanao. A reported 45 combatants on both sides were killed in the fighting. An estimated 6,000 persons reportedly were displaced during the skirmishes.

In June the CHR protested the increased recruitment of minors (boys and girls under the age of 18) by the Communist NPA. The growing number of NPA members under 18 years of age who were captured or surrendered to government forces confirmed the widespread use of children in both combat and noncombat roles by the NPA. The Department of Social Welfare and Development (DSWD) provided care and assistance to these children after they were turned over by the military to the civilian authorities (see Sections 5 and 6.d.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution provides for freedom of speech and of the press, and the Government generally respects this right in practice.

The Philippine Press Institute (PPI) is active in helping investigate cases of harassment of journalists. The PPI favors the repeal of legislation banning political advertising in the media. It believes that the total ban, enacted in the interest of fair-

ness, favors incumbents and deprives new candidates of the opportunity to make their views known.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association*.—The Constitution provides for freedom of peaceful assembly and association, and the Government respects these rights in practice.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens enjoy the freedom to change their places of residence and employment. Travel abroad is limited only in rare circumstances, such as pending court cases. Government authorities discourage travel by vulnerable workers such as young women to areas where they face personal risk (see Section 6.f.). The Philippine Overseas Employment Administration (POEA) seeks to limit departures for work abroad to only those persons whom the POEA certifies as qualified for the jobs. An estimated 5 to 6 million citizens work overseas and remit money home amounting to nearly 10 percent of the GNP.

There is no comprehensive legislation that provides for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Refugee Unit in the Department of Justice determines which asylum seekers qualify as refugees; this serves to implement many of the basic provisions of the 1951 U.N. Convention.

The Government provides first asylum.

The Government continued to allow approximately 1,600 asylum seekers from Vietnam to remain in the country. All were "screened out" from refugee status. Most now live in major urban areas. There is significant popular support, particularly from the Roman Catholic Church, for allowing the permanent stay of those asylum seekers who do not wish to repatriate and are ineligible for resettlement in other countries. The Government continued to encourage voluntary repatriation of these asylum seekers. The Government has not ruled out forcible repatriation, although that action is unlikely. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic elections that are largely free and fair and held on the basis of universal suffrage. However, Congress has yet to enact a system for absentee voting as required by the Constitution. This affects an estimated 5 to 6 million potential voters or about 10 percent of the electorate, most of whom are expatriates. The party of President Estrada continued to hold large majorities in both the House of Representatives and the Senate.

The Government attempted to bring disadvantaged groups into the political process using the party list system. Along with many other citizens, Muslims argue that the method of election of senators from a nationwide list favors the established political figures from the Manila area. Election of senators by region would require a constitutional amendment, but it is favored by many Muslims and members of other disadvantaged groups who are underrepresented in the national legislature. There are no Muslim senators, and none of President Estrada's cabinet members are Muslims. However, the House of Representatives has nine Muslim members, including some elected from Christian majority districts.

There are no restrictions in law or practice on participation by women and members of minorities in politics. The Vice President is a woman; she received more votes than the President did in the last national elections. There are two female cabinet members. There are 4 women in the 22-member Senate, and 25 women in the 222-member House of Representatives.

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

A wide variety of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Many government officials, including those of the CHR, are responsive to their views. Some domestic NGO's were critical of the Estrada administration's human rights record; these NGO's also had criticized previous Presidents' human rights records. In September the CHR hosted a regional conference of national human rights commissions with participation by domestic, regional, and international NGO's. Domestic NGO's were given the opportunity to criticize the CHR publicly and did so.

The Philippine Alliance of Human Rights Advocates, a leading NGO network, effectively monitors human rights problems and seeks redress through its contacts with government agencies, the Congress, and the CHR. Human rights activists continued to encounter minor harassment, chiefly by police or military units or detachments based in the localities in which the incidents were reported.

The CHR further augmented the system of local ("barangay") human rights officers who monitor local authorities and report complaints to regional CHR offices. There were more than 13,000 local human rights officers at year-end compared with approximately 8,000 in December 1998.

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

The Constitution prohibits discrimination against women, children, and members of minorities. Implementation of constitutional protections at times is hindered by the lack of specific regulations and by budgetary constraints.

Women.—Violence against women, particularly domestic violence, remains a serious societal problem. Rape is illegal and in certain cases punishable by death. Spousal rape and abuse also are illegal, but enforcement is ineffective. Women's advocates cite the lack of laws on domestic violence, double standards of morality, and a traditional societal reluctance to discuss private family affairs as some of the reasons for domestic violence. The absence of divorce under the law and limited job opportunities combine to limit the ability of both poor and wealthy women to escape destructive relationships.

The PNP and DSWD both maintain women's help desks to protect victims of violence against women and to encourage the reporting of crimes. Their role was strengthened further by Vice President Gloria Macapagal-Arroyo, who served concurrently as the secretary of the DSWD and continued to give women's issues a high public profile during the year. Many PNP stations included female officers. With the assistance of NGO's, some male officers received gender sensitivity training to assist victims of sexual crimes and domestic violence.

Rape continued to be a major problem as the number of rapes reported to the police has risen by about 16 percent annually since 1992. The PNP reported that it investigated 3,283 cases of rape through November; 70 percent of the alleged perpetrators were arrested. However, some women's groups stated that courts' imposition of death sentences for rape convictions might inhibit some victims from pressing charges. The number of prisoners awaiting execution for rape exceeds the number awaiting execution for murder.

Many women suffer exposure to violence through their recruitment, often through deception, into prostitution. Although illegal, prostitution remains widespread. An International Labor Organization (ILO) study estimated that 500,000 Filipino women are engaged in prostitution within the country. Most work independently or in small brothels rather than in prominent "entertainment clubs." Penalties for the offense are light, but detained prostitutes are subjected to administrative indignities. The Antivagrancy Act often is used by police officers as a pretext to extort money from prostitutes; those unable to pay may be subjected to sexual abuse. Hotel and travel industry leaders failed to honor their pledges to cooperate with a code endorsed by international tourism groups to stop sex tourism.

Local officials condone a climate of impunity for those who exploit prostitutes—both the "entertainment club" owners and their patrons. Highly publicized official campaigns to close clubs and brothels fail to rescue young women from the abuse, since a few days after such raids, the offending establishments usually are back in business.

The DSWD reported that it rescued victims of illicit recruitment who were trapped in prostitution. DSWD officials noted that the number failed to reflect the true extent of the prostitution problem since it reflected only those who obtained temporary shelter and counseling through the DSWD and local governments. NGO's argue that the Government should first address the abuses of dislocation and homelessness in order to treat effectively the problem of women's exposure to the structural violence inherent in prostitution.

Trafficking in women and children for forced prostitution and forced labor is a problem (see Section 6.f.).

Sexual harassment in the workplace also continues to be a problem; it is thought to be widespread yet underreported due to victims' fear of losing their jobs. Harassment by managers in Special Economic Zones (SEZ's) is thought to be a common practice. Most of the female employees at SEZ's are economic migrants who are required to work long hours and have no independent workers' organization to assist with filing complaints. Women also are hired as contractual employees without ben-

efits in the pressing and sewing industry. Many are subjected to long hours in inadequately ventilated facilities.

In law but not always in practice, women have most of the rights and protections accorded men. The Presidential Commission on the Role of Filipino Women seeks to coordinate programs for women, working closely with NGO's such as the 10 million-member National Council of Women in the Philippines. More women than men enter secondary and tertiary education. A 1997 study by the Asian Development Bank found that women had made important gains toward gender equity in recent years, but the negative effects of the 1997–98 Asian financial crisis still have not been overcome. Unemployment rates among women are consistently higher than those among men. Women's salaries averaged about 47 percent lower than their male counterparts. Except for government service and jobs in government-owned or government-controlled corporations, women continued to face discrimination in employment.

Church opposition to divorce in this predominantly Roman Catholic nation is strong. However, changes in the legal code have made marriage annulment fairly easy and increasingly common. However, the legal cost precluded this option for many women. The practice of "unofficial divorce" or permanent separation was common among lower income families. In such cases, the wife usually was left with the children, and the husband provided little or no financial support.

Children.—Several government agencies have programs devoted to the education, welfare, and development of children. Nevertheless, children faced serious problems in their development. Family poverty forces many school dropouts. Only about 65 percent of children complete the sixth grade. As the grade level goes up, the number of children who stay continues to decline. Public primary and secondary schools are free of tuition charges, but poor families are unable to meet numerous peripheral costs for uniforms, school supplies, shoes, and transportation. The Asian Development Bank expressed concern over an apparent growing inequity in the opportunity for an education as public spending per pupil declines. In the 1980's, public spending covered 80 percent of the cost of elementary education; however, this share declined to only 69 percent by the mid-1990's.

Widespread poverty forces many young children to work. The Department of Labor and Employment (DOLE) worked with the ILO and NGO's to address the problem of widespread child labor. According to the U.N. Children's Fund (UNICEF) and ILO studies, over 2 million children were exposed to hazardous working environments such as quarries, mines, and at docksides in order to earn their living (see Section 6.d.). Trafficking in children for the purpose of forced prostitution is a problem (see Section 6.f.).

The DSWD reported that there were over 50,000 street children in Manila and over 100,000 nationwide. Welfare officials believe that the number is increasing as a result of widespread unemployment in rural areas. Many of these apparently are abandoned children engaged in scavenging or begging.

The family court system adopted in 1998 has helped expedite juvenile and domestic relations cases and served to strengthen safeguards against the sale and trafficking of children abroad. Previously, less specialized courts had tended to regard children as extensions and property of the parents and to favor parental authority over the rights of a child.

Greater public awareness eroded traditional reticence to report abuses against children. DSWD offices cared for children who were the victims of rape. The problem of foreign pedophiles continued to receive significant reporting in the press. The Government continued to prosecute accused pedophiles.

Despite government efforts at law enforcement and expanded children's programs, it is estimated that some 60,000 children are involved in the commercial sex industry. Children in the "entertainment industry" work long, odd hours (10 to 12 hours) from evening until early morning. Typically they come from families with unemployed or irregularly employed parents.

In June the CHR protested the increased recruitment of minors (boys and girls under the age of 18) by the Communist NPA. The growing number of NPA members under 18 years of age who were captured or surrendered to government forces confirmed the widespread use of children in both combat and noncombat roles by the NPA. The DSWD provided care and assistance to these children after they were turned over by the military to the civilian authorities (see Section 1.g.).

People with Disabilities.—The law provides for equal physical access for the disabled to all public buildings and establishments, and for "the rehabilitation, self development, and self-reliance of disabled persons and their integration into the mainstream of society." Advocates for the rights of the disabled contend that the law has been ineffective because implementing regulations have not been published, and because government programs are palliative rather than focused on reintegration. Re-

portedly only about 2 percent of an estimated 3.5 million disabled citizens received access to services.

In July the Supreme Court ruled that 27 deaf mute bank workers were regular employees, entitled to security of tenure, and who could be terminated only for authorized cause. The workers had been dismissed as nonpermanent employees after from 3 to 6 years' service.

Indigenous People.—Indigenous people live throughout the country but primarily in the mountainous areas of northern and central Luzon and Mindanao. They account for about 18 percent of the national population. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevent their full integration into society. Indigenous children suffer from lack of basic services, health, and education. Because they inhabit mountainous areas also favored by guerrillas, indigenous people suffer disproportionately from counterinsurgency operations.

The 1997 Indigenous Peoples' Rights Act, which was intended to implement constitutional provisions to protect indigenous people, established a National Commission of Indigenous People staffed by tribal members empowered to award certificates of title to lands claimed by the over 12 million native people in the country. It awards "ancestral domain lands" on the basis of communal rather than individual ownership, impeding sale of the lands by tribal leaders. The law requires a process of "informed" consultation and written consent by the indigenous group to allow mining on tribal lands. The law also assigns the indigenous groups the responsibility to preserve forest, watershed, and biodiversity areas in their domains from inappropriate development. However, the Government has been slow to implement the legislation, as it faces strong opposition from mining and agribusiness interests.

Other measures have affected indigenous communities in adverse ways. The 1995 Mining Act continued a legislative trend of promoting mining operations, hydroelectric dams, and other large-scale projects that force indigenous people to relocate and abandon farming and hunting land used for generations.

Indigenous people continued to face legal threats to their claims to ancestral lands from developers, mining interests, and local political interests. The Higaonon people in Mindanao continue to be deprived of portions of their ancestral land by a powerful local landowning family that enforced their removal through a violent demolition conducted by the PNP and private security forces in 1997. The Catholic Bishops Conference of the Philippines continues to express concern over the effects of existing and planned large-scale mining on the livelihood of the many indigenous people of Mindanao.

Religious Minorities.—About 5 million Muslims, who constitute 7 percent of the population, reside principally in Mindanao and nearby islands and are the largest single minority group in the country. Historically, they have been alienated from the dominant Christian majority, and government efforts to integrate Muslims into the political and economic fabric of the country have met with only limited success. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group. Many Muslims claimed that they continue to be underrepresented in senior civilian and military positions. Provinces in Mindanao that are predominantly Muslim lag behind the rest of the island in almost all aspects of socioeconomic development.

There was progress in improving Christian-Muslim relations following a 1996 government agreement with the insurgent MNLF. In accordance with the agreement, a Southern Philippines Council on Peace and Development was established to coordinate economic growth in 14 provinces in Mindanao, and MNLF chairman Nur Misuari became its chair. Misuari later was elected governor of the autonomous region of Muslim Mindanao, which was established in 1990 to meet the demand of Muslims for local autonomy in areas where they are a majority or a substantial minority. The accord also provided for the integration of MNLF fighters into the armed forces and police.

Although the MNLF agreement has brought somewhat more regional stability, intermittent military clashes with insurgent MILF forces still result in family displacements. In September the plebiscite promised in the 1996 peace agreement between the Government and the MNLF on autonomy for an expanded Islamic region was postponed for 1 year. Misauri favored an even longer delay.

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution and laws provide for the right of workers, including public employees, to form and join trade unions. Although this right is exercised in practice, aspects of the public sector organization law restrict and discourage organizing. Trade unions are independent of the Government and

generally free of political party control. Unions have the right to form or join federations or other labor groups.

Although unions claimed to have organized more than 12 percent of the total work force of 29.5 million, only about 541,000 workers, or 14.6 percent of union members, are covered by collective bargaining agreements. According to the DOLE Bureau of Labor Relations, the number of new union registrations fell continuously since 1995. The number of firms, primarily large employers, that used "contractual" labor continued to grow.

Subject to certain procedural restrictions, strikes in the private sector are legal. However, the law requires that all means of reconciliation must be exhausted and that the strike issue must be relevant to the labor contract or the law. The Secretary of Labor and Employment can intervene in some labor disputes by "assuming jurisdiction" and mandating a settlement if the Secretary views the industry involved in the strike as "vital to national security."

Legislation that the ILO Committee of Experts criticized for placing undue restrictions on the right to strike in nonessential services remained unchanged. The Committee remained concerned by the imposition of penalties in cases where strikes were deemed illegal, by restrictions on the right of government workers to strike, and by some restrictions on the right to organize and form a bargaining unit that are in conflict with ILO Convention 87 on freedom of association.

Strikes were fewer and shorter in duration. The National Conciliation and Mediation Board (NCMB reported 53 strikes through November, compared with 89 strikes the previous year. There were 189,000 workdays lost to strikes, compared with 548,000 in 1998.

In May the Associated Labor Unions called a strike of longshoremen at the port of Cebu after a shipping company had fired 14 union members. The DOLE Secretary assumed jurisdiction and the situation was stabilized until July, when 21 union members were fired and a second brief strike was called. In September company security officers fired on striking workers, injuring two persons. In October the National Labor Relations Commission (NLRC) cited the company for unfair labor practices and the fired workers for conducting an illegal strike. The case remained unresolved at year' end.

Union leaders and NGO's express concern that workers involved in union activity face intimidation tactics by management, including physical assaults by security guards. In late 1997, the ILO's Committee on Freedom of Association expressed concern over the violent dispersal of pickets and the brief police detention of union leaders during a 1995 strike at the Telefunken Semiconductor plant near Manila. The management ignored repeated the DOLE Secretary's orders to reinstate workers fired for their strike decision. The company has not reinstated the workers.

Unions have the right to affiliate with international trade union confederations and trade secretariats. Two of the largest trade union centrals, the Trade Union Congress of the Philippines and the Federation of Free Workers, are affiliated with the International Confederation of Free Trade Unions and the World Confederation of Labor, respectively.

b. *The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and bargain collectively. The Labor Code provides for this right for private sector employees and for employees of government owned or government controlled corporations, but the law limits the rights of government workers.

Allegations of intimidation and discrimination in connection with union activities are grounds for review as possible unfair labor practices before the quasijudicial NLRC. Before disputes reach the NLRC, the DOLE provides the services of the NCMB, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes can be declared.

Labor law is uniform throughout the country, including the industrial zones, where tax benefits encourage the growth of export industries. However, local political leaders and officials governing these special economic zones have tried to frustrate union organizing efforts by maintaining "union free/strike free" policies. A conflict over interpretation of the SEZ law's provisions for labor inspection has created further obstacles to enforcement of workers' rights to organize. Despite objections from the DOLE, SEZ local directors claim authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often is controlled tightly through "SEZ labor centers," where political ties to local figures play a role in gaining job eligibility. Despite sporadic labor unrest and some organizing efforts, union successes in the SEZ's have been few and marginal. Some mainstream unions avoid a major unionizing effort in the lower-wage SEZ industries such as the garment industry. They consider it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young,

mainly female staff working on short-term contracts in the zones' many electronics and garment factories.

c. *Prohibition of Forced or Compulsory Labor.*—Forced labor is prohibited, including forced and bonded labor by children; however, despite the Government's generally effective prohibition of forced labor, there were reports of forced or bonded labor by children, mainly in the informal sector. Over 300,000 children aged 17 and younger work as family domestic workers, for whom the minimum age is 15. Some recruiters reportedly bring girls between the ages of 13 and 17 to work in Manila or Cebu homes under terms that involve a "loan" advanced to their parents that the children are obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings. Some children reportedly worked to help their parents repay loans from planters. NGO's and the ILO reported that "piggeries" in Bulacan province near Manila no longer appeared to employ underage workers. Trafficking in women and children for purposes of forced prostitution and forced labor is a problem (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children below age 15, except under the direct and sole responsibility of parents or guardians, or where employment in cinema, theater, radio, or television is essential to the integrity of the production. The Labor Code allows employment of those between the ages 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor but forbids the employment of persons under 18 years of age in hazardous or dangerous work. However, a significant number of children are employed in the informal sector of the urban economy or as unpaid family workers in rural areas.

There are few child labor violations in the formal manufacturing sector. However, children reportedly continue to be employed illegally on the docks of some Mindanao and Visayan ports. Working at a piece rate in the unloading of bulk cargo, the children earn far less than adults would demand for the same work even though they are exposed to harmful dust and chemicals in the ships' holds. Employment of children as divers in dangerous conditions on coral reef fishing vessels reportedly continued. In Mindanao plantations raising bananas for export frequently used children as day laborers in trimming and fertilizing plants and clearing irrigation ditches.

The DOLE and other agencies continue to work closely with UNICEF and the ILO's International Program for the Elimination of Child Labor to reduce violations of child labor laws. The DOLE works with local NGO's to educate the community on the negative aspects of child labor while providing counseling and other outlets for children. The Department of Education, Culture, and Sport participates in an interagency effort to put children back in school.

The DOLE increased its efforts to prosecute violators of child labor laws. In April a labor recruiter was imprisoned after a child whom he had recruited to work at a soybean factory in Mindanao fell into a hopper and was suffocated.

The DOLE and other government agencies applied considerable pressure throughout the year on the companies licensed to engage in hazardous pa-aling fishing methods to enforce the prohibition of underage employees.

The law prohibits forced and bonded labor by children. However, despite government enforcement efforts, there were reports of its use, mainly in prostitution (see Sections 6.c. and 6.f.).

e. *Acceptable Conditions of Work.*—Tripartite regional wage boards set minimum wages. A round of wage increases was implemented late in the year, the first in 2 years. The highest rates are in the National Capital Region (NCR) and the lowest in rural regions. The minimum daily wage for NCR nonagricultural workers is about $5.60 (223.50 pesos), which does not provide a decent standard of living for a worker and family. With this pay level, at least two family members would have to work full-time to support a family of six above the level of the Government's minimum daily cost of living for the Manila area. The lowest minimum wages are in the autonomous region in Muslim Mindanao, where the daily agricultural wage is approximately $2.95 (118 pesos). Large numbers of workers do not receive the minimum wage set for their area.

Regional wage board orders cover all private sector workers except domestic helpers and those employed in the personal service of another. Boards outside the NCR exempted some employers because of factors such as establishment size, industry sector, involvement with exports, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law.

Violation of minimum wage standards is common. Many firms hire employees at subminimum apprentice rates even if there is no approved training in their production-line work. DOLE officials estimate a 30 to 40 percent noncompliance rate with the minimum wage requirement and acknowledge that the shortage of inspectors

makes the law difficult to enforce. The Government relies on administrative procedures and moral suasion to encourage voluntary employer correction of violations.

The standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. An overtime rate of 125 percent of the hourly rate is mandated on ordinary days and 130 percent on rest days and holidays. The law mandates a full day of rest weekly. However, there is no legal limit on the number of overtime hours that an employer may require. Enforcement of work week hours is managed through periodic inspections by the DOLE.

Several NGO's seek to protect the rights of the country's more than 5 million overseas workers. The Government uses financial sanctions and criminal charges against unfair practices by domestic recruiting agencies. Although the Philippine Overseas Employment Agency has registered and supervised domestic recruiters' practices successfully, the Government largely is unable to ensure workers' protection overseas. It seeks cooperation from receiving countries and proposes migrant worker rights conventions in international forums. The Government also provides assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

A comprehensive set of occupational safety and health standards exists in law. The DOLE has responsibility for policy formulation and review of these standards, but with fewer than 300 inspectors nationwide, actual enforcement often is carried out by local authorities. DOLE officials acknowledge that the number of inspectors is inadequate for the number of work sites in need of visits. Statistics on actual work-related accidents and illnesses are incomplete, as incidents (especially in agriculture) are underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

f. *Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, but the Government used laws against related illegal commerce to address trafficking. Trafficking in women and children is a problem. Many women seek employment overseas and are particularly vulnerable to exploitation by unethical recruiters who promise attractive jobs or, in some cases, arrange marriages with foreign men. Some eventually work as prostitutes or suffer abuse by their foreign employers or husbands. Those recruited to work as maids, entertainers, or models may while overseas be forced to participate in public shows or dances where nudity and the prospect of sex are the principal attractions. Others knowingly accept questionable jobs to support parents, children, or siblings with their remittances. The Government has continued its efforts to end illegal recruiting and, by raising age, educational, and professional standards for young women seeking jobs abroad, has tried to discourage employment migration. The 1995 Migrant Workers and Overseas Filipinos Act sought to provide the Government with greater financial resources and improved authority to combat these problems. However, NGO's believe that these measures have not been adequate since traffickers remain numerous and effective in luring women with promises of lucrative overseas contracts. The Government is the host and cosponsor of the Asian Regional Initiative Against Trafficking in Women and Children, scheduled for March 2000. The goal of this conference is the formulation of a comprehensive action plan to combat trafficking within and from Asia, including strategies for prevention, protection, and prosecution.

Child trafficking by illegal recruiters often brought children from poor rural areas to low-paying jobs in cities. The family court system adopted in 1998 has helped expedite juvenile and domestic relations cases and served to strengthen safeguards against the sale and trafficking of children abroad. Previously, less specialized courts had tended to regard children as extensions and property of the parents and to favor parental authority over the rights of a child.

SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its legislative system. The Constitution of this Pacific island country of approximately 170,000 persons provides for a head of state, a unicameral legislature composed of family heads, or "matai," who are elected by universal suffrage, the protection of land rights and traditional titles, and guarantees of fundamental rights and freedoms. Executive authority is vested in the Head of State with the Government administered by the Cabinet, consisting of the Prime Minister and 12 ministers chosen by him. All laws passed by the Legislative Assembly need the approval of the Head of State, Malietoa Tanumafili II, who holds the position for life. The

Legislative Assembly is to elect his successors for 5-year terms. The judiciary is independent.

The country does not have a defense force. The small national police force is controlled by the Government but has little effect beyond Apia, the capital city. Enforcement of rules and security within individual villages is vested in the "fono" (Council of Matai), which settles most internal disputes. Judgments by the fono usually involve fines or, more rarely, banishment from the village.

The country is poor with a market-based economy in which more than 60 percent of the work force are employed in the agricultural sector. Fish, kava, and coconut products are the principal exports. The small industrial sector is dominated by a Japanese factory that assembles automotive electrical parts for export. The Government has initiated a major effort to promote tourism. Per capita gross domestic product is $1,100 per year. The country is heavily dependent on foreign aid and on remittances sent to family members by the more than 100,000 Samoans living overseas.

The Government generally respected the human rights of its citizens. Principal human rights abuses arise from political discrimination against women and nonmatai and violence against women and children. Societal pressures and customary law may interfere with the ability to conduct fair trials. Those who do not conform to accepted societal values may face pressure, threats, and violence. There are some restrictions on freedom of speech, press, and religion.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—Minister of Public Works Luaglau Levaula Kamu was shot and killed on July 16. Three persons were charged in the case: The former Minister of Women's Affairs; his son; and the former Minister of Telecommunications. Eletise Leafa Vitale, the son of the former minister of Women's Affairs, confessed and was sentenced to death on August 7. At year's end, all three remained in custody. They also are charged with the attempted assassination of the Prime Minister. The trial of the two former ministers is ongoing.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that officials practiced them.

Although jail conditions are fairly basic so far as food and sanitation are concerned, they appear to meet minimum international standards, and there have been no reports of abuses in prisons. While there are human rights groups, the question of monitoring prison conditions by them has not arisen. Prison visits by family members and church representatives are permitted.

d. *Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions. However, villages are governed by customary law, and the fono may mete out banishment when deemed necessary. Banishment is one of the harshest forms of punishment in this collective society.

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

The law provides for the right to a fair public trial, and this is honored by the official court system. However, many civil and criminal matters are not handled by courts but by village fono, which vary considerably both in their decisionmaking style and in the number of matai involved in the decisions. The 1990 Village Fono Act gives legal recognition to the decisions of the fono and provides for limited recourse of appeal to the Lands and Titles Courts and to the Supreme Court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The law provides substantive and procedural safeguards from invasion of the home or seizure of property, including a need for search warrants, which are issued by the judicial branch. However, there is little or no privacy in a village. While village officials by law must have permission to enter homes, there can be substantial social pressure to grant such permission.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. However, in 1997 the then Prime Minister banned coverage of the leader of the opposition on state-run radio and television stations. This ban has not been lifted, but remarks by the leader of the opposition received limited coverage during the year.

However, in practice the Government's ban remains largely symbolic, since opposition statements receive prominent coverage in the private news media.

The Newspapers and Printers Act and the Defamation Act require journalists to reveal their sources in the event of a defamation suit against them. There has been no court case requiring that these acts be invoked.

On February 15, the Supreme Court granted government-owned Polynesian Airlines an injunction to prevent an independent daily, the Samoa Observer, from publishing news about the company's expenses for senior staff. In response to a subsequent editorial published about the incident, the airline filed a petition asking the court to jail the newspaper's editors. At year's end, the case was still pending.

Two English-language newspapers and a number of Samoan-language newspapers are printed regularly. The Government operates a radio station and the sole television station. There are two private radio stations, and a satellite-cable system is now available in parts of Apia. Television from American Samoa is readily available.

The Government respects academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for these rights, and the Government respects them in practice.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, along with freedom of thought and conscience. Nearly 100 percent of the population is Christian. While the Constitution grants each person the right to change religion or belief and to worship or teach religion alone or with others, in practice the matai often choose the religious denomination of the aiga (extended family). There is strong societal pressure to support church leaders and projects financially, and such contributions often total more than 30 percent of family income.

Despite the constitutional protection, village councils sometimes banish or punish families that do not adhere to the prevailing religious belief in the village.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of internal movement, but in practice some citizens have been banished either from village activities or completely from the village. The Government actively supports emigration as a "safety valve" for pressures of a growing population, especially for potentially rebellious youths, and because it generates foreign income through remittances. The Government does not restrict foreign travel arbitrarily or the right of citizens to return from abroad.

Samoa has not had any refugees or asylum seekers, and it is not a party to any international agreement concerning them. The Government has not formulated a policy regarding refugees, asylees, or first asylum. However, the authorities have indicated that they would conform to international norms if such cases should arise.

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

Citizens have the right to change their government through direct, multiparty elections, but women's political rights are restricted by the fact that few of them are traditional family leaders (matai). While all citizens above the age of 21 may vote, the right to run for 47 of the 49 seats in the Legislative Assembly remains the prerogative of the approximately 25,000 matai, 95 percent of whom are men. The remaining two seats are reserved for citizens not of Samoan heritage. While all adult Samoans may vote for the Legislative Assembly, matai continue to control local government through the village fono, which are open to them alone.

The political process is more a function of personal leadership characteristics than of party. The Human Rights Protection Party (HRPP) has dominated the political process, winning five consecutive elections since 1982. The 1996 general elections again gave the HRPP a majority, but in November 1998 ill health forced then-Prime Minister Tofilau Eti Alesana to resign. The HRPP caucus selected former Deputy Prime Minister Tuilaepa Sailele Malielegaoi as Acting Prime Minister. Tofilau died in March, and Tuilaepa became Prime Minister. Although candidates are free to propose themselves for electoral office, in practice they require the blessing of the village high chiefs. Those who ran in the 1996 elections in spite of fono objections faced ostracism and even banishment from their village. Following the 1996 elections, there were multiple charges of fraud and bribery. Four elections subsequently were overturned by the Supreme Court, and by-elections were held.

Women are underrepresented in government and politics; however, they occasionally reach high public office. The 12-member Cabinet has 1 female member, and women hold 3 of the 49 seats in the Legislative Assembly. The first female Attorney General was appointed in 1997.

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

A number of human rights groups operated without government restriction. Government officials are usually cooperative.

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

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status. Society is homogeneous with no significant ethnic minorities. Politics and culture are the product of a heritage of chiefly privilege and power, and members of certain families have some advantages. While there is discrimination against women and nonmatai, women (and particularly female matai) play an important role in society and occasionally may reach high office.

Women.—While the law prohibits the abuse of women, social custom tolerates their physical abuse within the home. The role and rights of the village fono and tradition prevent police from interfering in instances of domestic violence, unless there is a complaint from the victim—which village custom strongly discourages. While police receive some complaints from abused women, domestic violence offenders typically are punished by village councils, but only if the abuse is considered extreme. ("Extreme abuse" would be visible signs of physical abuse.) The village religious leader may also intervene in domestic disputes.

The State punishes persons responsible for extreme assault cases, which can result in imprisonment.

Many cases of rape still may go unreported because tradition and custom discourage such reporting. In spite of this, the authorities note a greater number of reported cases of rape, as women slowly become more forthcoming with the police. Rape cases that reach the courts are treated seriously. Convicted offenders often are given relatively stiff sentences of several years' imprisonment.

The traditional subordinate role of women is changing, albeit slowly, especially in the more conservative parts of society. The Ministry of Women's Affairs oversees and helps ensure the rights of women.

Children.—The Government has made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Education and the Ministry of Health. Law and tradition prohibit severe abuse of children, but tradition tolerates corporal punishment. The police noted an increase in reported cases of child abuse, attributed to citizens becoming more aware of the need to report physical, emotional, and sexual abuse of children.

People with Disabilities.—The Government has passed no legislation pertaining to the status of disabled persons or regarding accessibility for the disabled. Tradition dictates that the family cares for a disabled person, and this custom is observed widely in practice.

Section 6. Worker Rights

a. *The Right of Association.*—Workers legally have unrestricted rights to establish and join organizations of their own choosing. To date two trade unions have been organized. The Samoa National Union, organized in 1994, is a six-member association, which includes workers from the three major banks. A second union represents members at the sole factory in the country. Both unions are independent of the Government and political parties. There are no laws specific to union activity. The Commissioner of Labor would adjudicate any cases of retribution against strikers or union leaders on a case-by-case basis.

The Public Service Association, representing government workers, an increasingly important sector of the work force, also functions as a union. The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety. Workers in the private sector have the right to strike, but there were no strikes during the year. The Public Service Association freely maintains relations with international bodies and participates in bilateral exchanges.

b. *The Right to Organize and Bargain Collectively.*—While workers have the legal right to engage in collective bargaining, they have seldom practiced it, due to the newness of union activity and the inexperience of union leaders. However, the Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. An advisory commission to the Minister of Labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. Any antiunion discrimination case would be reported to and adjudicated by the Commissioner of Labor. Arbitration and mediation procedures are in place to resolve labor disputes, although these rarely arise.

Labor law and practice in the one export processing zone are the same as in the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—While the Government does not demand compulsory labor and it is prohibited by law, in this collective society persons, including minors, frequently are called upon to work for their villages. Most people do so willingly, but if not, the matai can compel them to do so.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Under the 1972 Labor and Employment Act (LEA) as amended, it is illegal to employ children under 15 years of age except in "safe and light work." The Commissioner of Labor refers complaints about illegal child labor to the Attorney General for enforcement. Children frequently are seen hawking goods and food on Apia street corners. Although a violation of the LEA, local officials mostly tolerate and overlook the child vendors. There are no reports of bonded labor by children, but the LEA does not apply to service rendered to the matai, some of whom require children to work for the village, primarily on village farms (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The LEA established for the private sector a 40-hour workweek and an hourly minimum wage of $0.47 (WS$ 1.40). This minimum wage suffices for a basic standard of living when supplemented by the subsistence farming and fishing in which most families engage.

The act provides that no worker should be required to work for more than 40 hours in any week.

The act also establishes certain rudimentary safety and health standards, which the Attorney General is responsible for enforcing. However, independent observers report that the safety laws are not enforced strictly except when accidents highlight noncompliance. Many agricultural workers, among others, are inadequately protected from pesticides and other dangers to health. Government education programs are addressing these concerns. The act does not apply to service rendered to the matai. While the act does not specifically address the right of workers to remove themselves from a dangerous work situation, a report of such a case to the Commissioner of Labor would prompt an investigation, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which are enforced adequately by the Public Service Commission.

f. *Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked in, to, or from the country.

SINGAPORE

Singapore is a parliamentary republic in which politics is dominated overwhelmingly by the People's Action Party (PAP), which has held power uninterruptedly since Singapore gained autonomy from the United Kingdom in 1959. Opposition parties exist and regularly contest elections; however, the PAP holds 80 of 83 elected parliamentary seats (1 is vacant) and all the ministerial positions. Elections take place at regular, constitutionally mandated intervals. The judiciary is efficient and constitutionally independent; however, there has been a perception that it reflects the views of the executive in politically sensitive cases as government leaders historically have utilized court proceedings, in particular defamation suits, against political opponents and critics.

The police are responsible for routine security within the country and for the protection of the borders, including action against illegal immigrants and patrolling the island's territorial waters. The military forces are responsible for external defense. The Internal Security Department (ISD) in the Ministry of Home Affairs operates under the Internal Security Act (ISA) to counter such perceived threats to the nation's security as espionage, international terrorism, threats to racial and religious harmony, and subversion. The civilian Government maintains tight control over all security activities. The Government's use of the ISA to control what it considers serious security threats has decreased, although the Government continues to rely on the ISA and related security laws to deal with espionage, organized crime, and narcotics. There were reports that members of the security forces occasionally committed human rights abuses.

Singapore has an open free market economic system. The financial services industries and manufacturing of computer-related components are key sectors of the economy. During the year, the economy began to recover from a substantial slowdown. Gross domestic product (GDP) rose approximately 5.6 percent during the year, compared with 0.3 percent in 1998. The annual per capita GDP was approximately $26,000 in 1998. Wealth is distributed relatively equally in an economy that, despite the economic crisis, maintained a low rate of unemployment.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. The Government has wide powers to limit citizens' rights and to handicap political opposition. There were occasional instances of police abuse; however, the Government investigates and punishes those found guilty and the media fully cover allegations of mistreatment. Caning, in addition to imprisonment, is a routine punishment for numerous offenses. The authorities sometimes infringe on citizens' privacy rights. Government intimidation and pressure to conform result in the practice of self-censorship among journalists. Government leaders historically have utilized court proceedings, in particular defamation suits, against political opponents and critics. However, while it initiated no new defamation suits against its political opponents or critics during the year, this practice, plus the consistency of judgments in favor of government plaintiffs, has had a chilling effect on political speech and action and highlighted concerns about the ruling party's use of the judicial system for political purposes. During the year, a prominent opposition figure was convicted for speaking in public without a permit. Despite a continuing discussion of the possibility of an expansion of free speech rights and the Government's role regarding these rights, the Government still did not take significant concrete steps to change the wide array of laws and government practices, or the informal levers of government influence, that lie behind the limitations on civil and political rights. The Government significantly restricts freedom of assembly and association. Jehovah's Witnesses and the Unification Church are banned; however, freedom of religion otherwise generally is respected. There is some legal discrimination against women, which affects benefits for children and husbands in limited cases. The Government has moved actively to counter societal discrimination against women and minorities, but some discrimination persists. Foreign workers are vulnerable to mistreatment and abuse. Trafficking in women for the purpose of prostitution is a limited problem.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, there have been occasional instances of police mistreatment of detainees, and there were a few reports of police abuse during the year. For example, a Malaysian youth claimed that Central Narcotics Bureau officers punched him when he was picked up for a random drug test on December 7. The media report fully on, and the Government takes action against, allegations of police abuse of those arrested. The press reported that approximately 10 law enforcement officers were jailed for using brute force on prisoners and suspects in the 1995–99 period. During the year, three prison guards were sentenced to between 6 and 10 years in prison and caned for attacking and killing a prisoner in 1995. In February a police officer was sentenced to 8 months in prison for throwing a prisoner against a wall in 1997.

The Government has been known to investigate and punish instances of such practices as sleep deprivation or interrogation of detainees in very cold rooms where the prisoners may be stripped of their clothes and doused with water. In 1993, the last year for which statistics are available, of the 94 complaints of police abuse investigated, 14 were substantiated.

The Penal Code mandates caning, in addition to imprisonment, as punishment for some 30 offenses involving the use of violence or threat of violence against a person, such as rape and robbery, and also for such nonviolent offenses as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of criminal force, such as kidnaping, or voluntarily causing grievous hurt. Women, men over age 50 or under age 16, and those determined unfit by a medical officer are exempted from caning. Although current statistics were not available, caning is a commonly administered punishment within the stipulations of the law. In 1993, the last year for which statistics are available, the courts included a caning sentence in 3,244 cases. Prison conditions generally are good and meet minimum international standards.

The Government does not allow human rights monitors to visit prisons.

d. *Arbitrary Arrest, Detention, or Exile.*—The law provides that, in most instances, arrests are to be carried out following the issuance of an authorized warrant; however, some laws provide for arrests without warrants. Those arrested must be charged before a magistrate within 48 hours. The great majority of those arrested are charged expeditiously and brought to trial. Those who face criminal charges are

allowed counsel, and the Law Society of Singapore administers a criminal legal aid scheme for those who cannot afford to hire an attorney. A functioning system of bail exists for persons who are charged. In death penalty cases, defendants who cannot afford their own counsel have two attorneys appointed by the Supreme Court on their behalf.

Some laws—the Internal Security Act (ISA), the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest without warrant. The ISA historically has been employed primarily against suspected Communist-related security threats. The CLA historically has been employed primarily against suspected organized crime (i.e., mainly secret society activities), and drug trafficking; however, it also has been used against suspected espionage activities. Opposition politicians have called for the abolition of the ISA, but the Government has rejected these calls, claiming that citizens accept the act as an element of the nation's security.

The ISA and the CLA permit preventive detention without trial for the protection of public security or safety or the maintenance of public order. The ISA gives broad discretion to the Minister for Home Affairs to order detention without charges at the direction of the President, if the latter determines that a person poses a threat to national security. The initial detention may be for up to 2 years and may be renewed without limitation for additional periods up to 2 years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead detainees may make representations to an advisory board, headed by a Supreme Court Justice, which reviews each detainee's case periodically and must make a recommendation to the President within 3 months of the initial detention. The President may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order but is not obligated to do so. No one was detained under the ISA from 1989 through 1996. Two persons were detained in 1997, and four in 1998, all for alleged espionage. Of these six, two remained in detention at the end of 1998. There were no reports of any new detentions under the ISA during the year.

The CLA, which comes up for review every 5 years, was strengthened and extended for another 5 years in April. Under the terms of the CLA, the Minister for Home Affairs can order preventive detention, with the concurrence of the Public Prosecutor, for an initial period of 1 year, and the President can extend detention for additional periods up to 1 year at a time. The Minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of making the order. The CLAC then reviews the case at a private hearing. CLAC rules require detainees to be notified of the grounds of their detention at least 10 days prior to the hearing. The detainee may represent himself or be represented by a lawyer. After the hearing, the Committee makes a written recommendation to the President, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA may have recourse to the courts via an application of a writ of habeas corpus. Persons detained without trial under the CA are entitled to counsel but only may challenge the substantive basis for their detention to the CLAC. The CLA is used almost exclusively in cases involving narcotics and secret criminal societies and has not been used for political purposes. At the end of 1998, the last year for which statistics are available, 450 persons were detained under the CLA.

Persons alleging mistreatment under detention may bring criminal charges against government officials who are alleged to have committed such acts; there were no reports during the year that persons were discouraged from making such accusations by fear of official retaliation (see Section 1.e.).

Both the ISA and the CLA contain provisions that allow for such modified forms of detention as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, or, in the case of the ISA, restrictions on political activities and association.

The MDA permits detention without trial. Under the MDA, the director of the CNB also may commit—without trial—suspected drug users to a drug rehabilitation center for up to 6 months, with subsequent extensions in cases of positive urinalysis tests.

The Constitution prohibits exile, and the Government respects the prohibition in practice.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respects this provision; however, control over the assignment of judges and laws that limit judicial review allow for some restric-

tions in practice. Many judicial officials, especially Supreme Court judges, have close ties to the ruling party and its leaders. The President appoints judges to the Supreme Court on the recommendation of the Prime Minister in consultation with the Chief Justice. The President also appoints subordinate court judges on the recommendation of the Chief Justice. The term of appointment is determined by the Legal Service Commission, of which the Chief Justice is the chairman. The 1989 constitutional amendments that eliminated judicial review of the objective grounds for detention under the ISA and subversion laws allow the Government to restrict, or even eliminate, judicial review in such cases and thereby restrict, on vaguely defined national security grounds, the scope of certain fundamental liberties provided for in the Constitution. Under the ISA and the CLA, the President and the Minister of Home Affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics. Both this practice and consistent awards in favor of government plaintiffs have raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflects the views of the executive in politically sensitive cases. A series of decisions in favor of political leader plaintiffs was taken as an indication of a compliant judiciary in these particular cases. The two most recent cases—defamation actions against Workers' Party (WP) politicians Tang Liang Hong and J.B. Jeyaretnam for statements they made during the 1996–97 election campaign (see Sections 2.a. and 3)—perpetuated the perception of undue judicial sympathy to government plaintiffs. During the February trial and May appeal of Chee Soon Juan on charges of speaking in public without a permit (see Sections 2.a. and 3), the appeal judge did not specifically address a key defense challenge to the constitutionality of the law under which Chee was convicted.

The judicial system has two levels of courts: The Supreme Court, which includes the High Court and the Court of Appeal; and the subordinate courts. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. If they wish, Supreme Court Justices may remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, renewable terms at full salary. The Constitution has a provision for the Prime Minister or the Chief Justice to convene a tribunal in order to remove a justice "on the ground of misbehavior or inability . . . to properly discharge the functions" of office, but it has never been used.

The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court.

In addition the law provides for Islamic courts whose authority is limited to Islamic family law.

The judicial system provides citizens with an efficient judicial process. In normal cases, the Criminal Procedures Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Defendants enjoy a presumption of innocence and the right of appeal, in most cases. They have the right to be present at their trials, to be represented by an attorney, to confront witnesses against them, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and by judge. There are no jury trials.

The Constitution extends these rights to all citizens. However, persons detained under the ISA or CLA are not entitled to a public trial. In addition proceedings of the advisory board under the ISA and CLA are not public (see Section 1.d.).

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Although the Government generally respects the privacy of homes and families, it has a pervasive influence over civic and economic life and sometimes uses its wide discretionary powers to infringe on these rights. Normally, the police must have a warrant issued by a magistrate's court to conduct a search. However, they may search a person, home, or property without a warrant if they decide that such a search is necessary to preserve evidence. The Government has wide discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it

determines that national security, public safety or order, or the public interest are at issue. Defendants may request judicial review of such searches.

Divisions of the Government's law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, have wide networks for gathering information and highly sophisticated capabilities to monitor telephone and other private conversations and conduct surveillance. It is believed that the authorities routinely monitor telephone conversations and use of the Internet, and there were credible reports of such practices during the year. Government monitoring of Internet use first became widely known 7 in 1996 when authorities aided Interpol in a case that led to the arrest and conviction of a citizen for downloading child pornography. This incident made all citizens keenly aware that, even if the Government does not regularly monitor their use of the Internet, it has the ability to do so. In April at the request of Singnet (a proxy server), the Ministry of Home Affairs (MHA) probed the computers of 200,000 Singnet customers to determine whether they had been infected with a computer virus. Although Singnet explained that it asked for the probe after several of its customers' computers had been interfered with in March, the probe caused popular anger over a perceived violation of privacy rights. Subsequently, the MHA stated that it would reject future requests to conduct such scans (see Section 2.a.).

The Misuse of Computers Act and 1998 amendments to it stipulate that unauthorized access to computers, interference with another person's use of a computer, or disclosure of another person's password are crimes. However, it is widely believed that the authorities routinely conduct surveillance on some opposition politicians and other government critics, although there were no specific allegations that they did so during the year.

The Government is active in some areas normally considered private, in pursuit of what it considers the public interest. For example, in publicly subsidized housing, where the majority of citizens live and own their own units, the Government continues to enforce ethnic ratios designed to achieve an ethnic mix more or less in proportion to that in the society at large.

The Government does not permit the import of newspapers from Malaysia and bans the import of other publications (see Section 2.a.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and expression but permits official restrictions on these rights, and in practice, the Government significantly restricts freedom of speech and of the press. Government intimidation and pressure to conform result in the practice of self-censorship among journalists. The Government's authoritarian style has fostered an atmosphere inimical to fully free speech and the press. However, there was some limited progress towards greater openness during the year.

The Government has defined certain topics as out of bounds. The ISA permits the Government to prohibit or to place conditions on publications that incite violence, that counsel disobedience to the law, that might arouse tensions among the various segments of the population (races, religions, and language groups), or that might threaten national interests, national security, or public order. The Government uses a broad definition of these laws to restrict political opposition and criticism. Strict defamation and press laws, and the Government's demonstrated willingness to defend vigorously against what it considers personal attacks on officials have led journalists to be cautious about publishing items about such issues as alleged government corruption, nepotism, or a compliant judiciary. Furthermore, political leaders have challenged publicly the legitimacy of political speech articulated outside the boundaries of the formal political system. In a case that continues to have an impact, the Prime Minister in 1994 publicly castigated the writer Catherine Lim for two opinion pieces published in the local press that were mildly critical of the ruling party's authoritarian style. The Prime Minister suggested that such comments would be legitimate only if uttered in a formal political context.

The Government strongly influences both the print and the electronic media. Singapore Press Holdings Ltd. (SPH), a private holding company with close ties to the Government, owns all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. The Government must approve, and can remove, the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. Hence, while newspapers print a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and coverage of sensitive foreign relations issues closely reflect government policies and the opinions of government leaders. Government leaders often criticize what they call the "Western model" of journalism, in which the media are free to report the news as they see it. Government officials argue that the role of

the domestic media is to act responsibly, which generally is understood to mean support for the goals of the elected leadership and preservation of social and religious harmony.

A wide range of international magazines and newspapers may be purchased uncensored, although newspapers printed in Malaysia may not be imported. A 1990 law requires foreign publications that report on politics and current events in Southeast Asia to register and post a $141,000 (S$234,000) bond, and name a person in the country to accept legal service. These requirements strengthen government control over foreign media. The Government may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA.

Under amendments to the Newspaper and Printing Presses Act, the Government may limit the circulation of foreign publications that it determines interfere in domestic politics. The weekly circulation of the Asian Wall Street Journal (AWSJ), Asiaweek, and the Far Eastern Economic Review (FEER) is limited (or "gazetted"). The fact that the Government gradually has raised the weekly circulation of the FEER and Asiaweek more or less commensurate with actual demand allows the Government to maintain this aspect of control over the press while still giving the appearance of flexibility.

The Government has become more receptive to the presence of foreign correspondents and to the establishment of regional headquarters by foreign or international media, whose numbers have increased in recent years. According to the Foreign Correspondents Association, journalists were expected to stay in the country for 3 years, and then depart. However, there are a number of journalists who have been in the country for many years, and some report that they feel increasingly welcome.

In March the Government announced that foreign electronic media would have to meet the same reporting standards as foreign print media. Although this was interpreted as signaling a higher level of censorship, specific guidelines were not provided and it was unclear how the policy would be enforced.

Import of some publications is barred, and the authorities censor movies, television programs, video materials, computer games, and music. The ISA, the UPA, and the Films Act allow banning, seizing, censoring, or restricting written, visual, or musical materials if it is determined that they threaten the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. Polls indicate that there is strong public support for continued censorship of sex and violence in films. There is a list of banned films, which is not made public. Certain films that might be barred from general release may be allowed limited showings, either censored or uncensored, with a special rating.

The UPA was amended in 1998 to include compact discs, sound recordings, pictures, and computer-generated drawings, and to raise the fine for distribution or possession of banned publications. The list of banned English-language publications consists primarily of sexually oriented materials, but also includes some religious and political publications. The Films Act was amended in 1998 to ban political advertising using films or videos. The Government justified the ban as protecting politics from sensationalism, innuendo, and inaccuracy, but one effect was to further restrict an already limited range of what was deemed acceptable political discourse (see Section 3). Opposition politician Chee Soon Juan alleged that prominent bookstores, influenced by the Government, refused to carry copies of a book he authored. He also alleged that, after his book was printed in Malaysia, the Government would not allow its import. The government-linked holding company, Singapore International Media Pte Ltd., has a near monopoly on broadcasting. Subsidiaries operate all 4 broadcast television channels and 10 of the 15 domestic radio stations. Of the five remaining radio stations, four are owned by organizations with close government affiliation—two by the Singapore Armed Forces Reservists' Association (SAFRA) and two by the National Trade Union Congress (NTUC). Only one, the British Broadcasting Corporation (BBC) World Service, is completely independent of the Government. Some Malaysian and Indonesian television and radio programming can be received, but satellite dishes are banned, with few exceptions.

The Singapore Broadcasting Authority (SBA), established in 1994 to regulate and promote the broadcasting industry, develops censorship standards with the help of a citizen advisory panel. Since 1996 the SBA has regulated access to material on the Internet, using a framework of web site licenses to encourage accountability and responsible use of the Internet. It also regulates Internet material by licensing Internet service providers who install "proxy servers" through which local users must route their Internet connections. These act as a filter for objectionable content and can block access to certain sites. While the Government does not classify regulation of the Internet as censorship, the SBA directs service providers to block access

to web pages that, in the Government's view, undermine public security, national defense, racial and religious harmony, and public morals. In September 1996, the SBA ordered Internet service providers to block access to about a dozen sites deemed to violate these rules. A number of prohibited sites are blocked. Most of these sites are believed to be pornographic in nature; however, it is difficult to verify this because the list of sites is not a matter of public record.

In 1997 the SBA announced a new Internet Code of Practice to further clarify what types of material were forbidden and specify the responsibilities of Internet providers. The SBA has stated that it has no intention of monitoring Internet or e-mail use but intended to block access to material that contained pornography or excessive violence or that incites racial or religious hatred. However, several recent incidents demonstrate how closely the Government can monitor Internet use (see Section 1.f.).

Under the Public Entertainment Act (PEA), a permit is required for any form of public speech or entertainment. Two cases in late 1998 and early 1999 sparked discussion on whether laws that regulate freedom of speech should be changed. Chee Soon Juan, secretary-general of the opposition Singapore Democratic Party (SDP) gave two public speeches to crowds of approximately 200 persons without first obtaining a permit; one on December 29, 1998, and the other on January 5. In his speeches, Chee attacked the Government for lack of accountability in its stewardship of public funds, and called for greater freedom of speech. He was tried and convicted in both cases for violating the PEA. In the first case Chee served 7 days in prison after refusing to pay an $840 (S$1,400) fine, and in the second case he served an additional 12 days in prison after refusing to pay a $1,140 (S$1,900) fine. Chee claimed that on several previous occasions, his party applied for public speaking permits under the PEA that were denied or approved so late that the event had to be canceled. As a consequence, he said, he believed that he had no alternative but to speak without a permit. In the second instance, Chee appealed the fine, whose level would have, by law, made him ineligible to stand for election for 5 years. The Chief Justice of the Supreme Court dismissed the appeal but nonetheless lowered the fine below the election-barring limit. In February after Chee's second conviction, the SDP released a statement on his behalf that argued that Chee's right to free speech provided for in the Constitution had been violated by an unconstitutional and undemocratic law implemented by the ruling regime to deny the opposition from the opportunity to reach out effectively to the citizenry (see Section 3). In the second trial, Chee was tried with Wong Hong Toy, another SDP member; Wong was convicted of abetting Chee by carrying a speaker, adjusting the volume of the speaker during the speech, and adjusting a microphone.

Government leaders from time to time have used defamation suits or the threat of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits has fostered caution about political speech among the public and a culture of self-censorship within the news media, and has demonstrated vividly the perils of engaging in opposition politics.

In November 1998, a group of 10 plaintiffs, including a PAP M.P., won a defamation suit against the WP, based on an editorial in the party newspaper that accused organizers of a Tamil language promotion of "prostituting" themselves for political gain. The defendants, who included party secretary general J.B. Jeyaretnam and the writer of the editorial, as well as the party itself, lost their May appeal. When the defendants did not pay, the plaintiffs threatened to dissolve the WP on grounds of insolvency, and threatened bankruptcy proceedings against the other two defendants, which also would have deprived Jeyaretnam of his parliamentary seat. These bankruptcy proceedings later were suspended (see Section 3).

There were no new defamation cases filed directly by government figures during the year. However, four cases decided since 1995 continued to have a strong influence on public perceptions of how freely citizens could speak and publish, particularly on political matters. These included a record 1995 defamation judgment of $678,000 (S$950,000) against the International Herald Tribune (IHT) in a case brought by Senior Minister Lee Kuan Yew, Prime Minister Goh Chok Tong, and Lee's son, Deputy Prime Minister Lee Hsien Loong, for a 1994 article that allegedly suggested that the younger Lee was appointed to his post on account of his father. Also in 1995, a then-visiting academic, Dr. Christopher Lingle, the IHT, and the IHT's Singapore printer were fined for contempt of court and, in a related civil libel suit, agreed to pay damages for an IHT article that was interpreted as critical of the country's judiciary. More recently, two defamation suits instituted by the Prime Minister and other political leaders in 1997 against two Workers' Party members—Tang Liang Hong and J.B. Jeyaretnam—led to the award of substantial damages to the plaintiffs for statements made by the defendants during the 1997 election

campaign (see Section 3). The Prime Minister began, but later suspended, bankruptcy proceedings against Jeyaretnam during the year.

Following the two convictions of Chee Soon Juan, members of an independent political discussion group proposed, in a newspaper opinion piece, the creation of "Hyde Park-like" free speech areas in the country. Senior Minister Lee Kuan Yew indicated in an interview that such free speech areas might be possible, but the Prime Minister later explicitly ruled them out for the time being. He contended that, given regional and internal ethnic and religious sensitivities, the country was not ready for such a development.

During the year, the print media included an extensive and more open discussion of the issue of free speech and of a free press. This included reporting of public figures' comments on the subject, press opinion pieces, and letters to the editor, which included the Prime Minister's response to opinion pieces that contained criticism of the Government. This discussion was prompted partly by the arrests of Chee Soon Juan for speaking without a permit. However, while the media gave Chee's two speeches fairly prominent coverage, local media reported the events more or less factually, emphasizing Chee's challenge of the law but giving the substance of his speech or his replies to government attacks on the right to free speech only passing mention. None of the local press made any specific editorial comment. The Government also solicited the views of citizens on free speech issues through a set of committees established to explore policy alternatives; however, the Government controlled the committees' agendas and membership.

All public institutions of higher education and think tanks are linked closely to the Government. Although faculty members technically are not government employees, in practice, they are subject to potential government influence. Academics speak and publish widely, and engage in debate on social and political issues. However, they are aware that public comments outside the classroom or academic publications that venture into the "out of bounds" areas—criticism of political leaders or sensitive social and economic policies, or comments that might disturb ethnic or religious harmony or that appear to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of think tanks rarely deviate substantially from government views.

During the year, the Prime Minister appeared to encourage greater political involvement among university students by urging them to establish political "associations"; however, such associations are to be formed only with the understanding that they can not become alternative parties.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution grants citizens the right of peaceful assembly but permits Parliament to impose restrictions "as it considers necessary or expedient" in the interest of security, and the Government restricts this right in practice. Assemblies of more than five persons in public, including political meetings and rallies, must have police permission. Spontaneous public gatherings or demonstrations virtually are unknown. The Government closely monitors political gatherings regardless of the number of persons present. Persons who wish to speak at a public function, excluding functions provided by or under the auspices of the Government, must obtain a public entertainment license from the police. Opposition politicians routinely experienced delays before being notified of the decision on their applications, although the Government claims that the delays come only because the applications were submitted late (see Section 3). In one trial during the year, the police officer charged with approving applications admitted that he routinely sent all opposition speech permit applications to the Ministry for Home Affairs. Following his convictions for speaking in public without a permit, opposition politician Chee Soon Juan applied for a permit but was refused (see Sections 2.a. and 3).

In May there were two small, peaceful demonstrations by Chinese students in front of a foreign embassy. The police, who arrived promptly on the scene for both demonstrations, allowed the demonstrators to remain despite the fact that the demonstrations violated the law. Such noninterference in an unlawful demonstration virtually was unprecedented.

The Constitution provides for freedom of association but permits Parliament to impose restrictions that "it considers necessary or expedient" in the interest of security, and the Government restricts this right in practice. Most associations, societies, clubs, religious groups, and other organizations with more than 10 members must be registered with the Government under the Societies Act. The Government denies registration to groups it believes likely to be used for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order (see Section 2.c.). The Government has absolute discretion in applying this broad and vague language to register or dissolve societies. It prohibits organized political activities, except by organizations registered as political parties. This prohibition limits opposition activities,

and, along with other factors, restricts the scope of unofficial political expression and action (see Section 3). The prohibition has less of an effect on the PAP, which, because of its long domination of the Government and its overwhelming parliamentary majority, can ostensibly use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than can opposition political parties.

Furthermore, the recent development of government-organized and predominantly government-funded community development councils (CDC's) to promote community development and cohesion, and to provide welfare and other assistance services, strengthens the PAP, which monopolizes these CDC's even in opposition-held constituencies.

There are relatively few nongovernmental organizations (NGO's), apart from ostensibly nonpolitical organizations such as religious groups, ethnic-affiliated organizations, and providers of welfare services. The dominant role of the Government in almost every facet of life and the limiting effect of the law on the formation of publicly active organizations are, in large part, responsible for this situation. However, during the year, a group of NGO's formed what they called "the Working Committee" as an umbrella group through which various NGO's can share information and cooperate to promote the development of civil society.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respects this right in practice; however, the Government bans some religious groups.

There is no state religion. However, all religious groups are subject to government scrutiny and must be registered legally under the Societies Act. The 1990 Maintenance of Religious Harmony Act (MRHA) made illegal what the Government deems to be the inappropriate involvement of religious groups and officials in political affairs. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from it. According to the Government, all citizens are free to practice their religion as long as the manner of carrying out religious activities does not breach laws relating to public order, public health, or morality.

The Government plays an active, but limited, role in religious affairs. It does not tolerate speech or actions, including ostensibly religious speech or actions, that affect racial and religious harmony, and sometimes issues restraining orders barring persons from taking part in such activities. The Presidential Council for Religious Harmony must review such orders, and make recommendations to the President on whether to confirm, cancel, or alter a restraining order. The Government also seeks to assure that citizens, the great majority of whom live in publicly subsidized housing, have ready access to religious organizations traditionally associated with their ethnic groups by assisting religious institutions to find space in these public complexes. The Government maintains a semiofficial relationship with the Muslim community through the Islamic Religious Council (MUIS) established under the Administration of Muslim Law Act. The MUIS advises the Government on the Muslim community's concerns and has some regulatory functions over Muslim religious matters. The Government facilitates financial assistance to build and maintain mosques.

Under the Societies Act, the Government has barred meetings of Jehovah's Witnesses and the Unification Church. The Government deregistered and banned Jehovah's Witnesses in 1972 on the grounds that its roughly 2,000 members refuse to perform military service (which is obligatory for all male citizens), salute the flag, or swear oaths of allegiance to the State. The Government regards such refusal as prejudicial to public welfare and order. While the Government has not outlawed the profession or propagation of the beliefs of Jehovah's Witnesses, and does not arrest members merely for being believers, the result of deregistration has been to make meetings of Jehovah's Witnesses illegal. The Government also has banned all written materials published by the International Bible Students Association and the Watch Tower Bible and Tract Society, both publishing arms of Jehovah's Witnesses. In practice this has led to confiscation of Bibles published by the group, even though the Bible itself has not been outlawed.

In 1998 two members of Jehovah's Witnesses were convicted of possession of unlawful written materials. One of the two, who had a similar conviction in the past, was jailed for 1 week. The second person was fined $1,320 (S$2,190). Also in 1998, a member of Jehovah's Witnesses lost his lawsuit against a government school for wrongful dismissal in 1994, allegedly because he refused to sing the national anthem or salute the flag. In March the chief justice dismissed his appeal, stating that the application was frivolous and groundless. In 1996 a number of members of Jehovah's Witnesses were found guilty of holding a meeting of a "banned society" and publications in their possession were confiscated.

The Holy Spirit Association for the Unification of World Christianity, also known as the Unification Church, was dissolved in 1982 by the Minister for Home Affairs. Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, are permitted to work and to publish and distribute religious texts. However, while the Government does not prohibit evangelical activities in practice, it discourages activities that might upset the balance of intercommunal relations.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution grants citizens the right to move freely throughout the country; however, while the Government generally respects this right in practice, it limits it in a few respects. For example, citizens' choice of where to live may be limited by the Government's policy of assuring ethnic balance in publicly subsidized housing, in which the great majority of citizens live (see Section 1.f.). The Government requires all citizens and permanent residents over the age of 12 to register and to carry identification cards. The Government may refuse to issue a passport and has done so in the case of former ISA detainees. Under the ISA, a detainee's movement may be restricted, although this provision normally is a part of the process of relaxing the conditions of detention and has been used very seldom in recent years.

The right of voluntary repatriation is extended to holders of national passports. The Government actively encourages citizens living overseas to return home or, at least, to maintain active ties with the country. A provision of law for the possible loss of citizenship by Singaporeans who reside outside the country for more than 10 years consecutively seldom is used.

Male citizens who still have national service reserve obligations (normally until age 40 for enlisted men, and age 50 for officers) must advise the Ministry of Defense if they plan to travel overseas for less than 6 months, and must receive an exit permit for trips over 6 months. Beginning at age 11, boys' passports are restricted to 6 months. Males who are eligible for national service must obtain an exit permit for travel abroad of more than 6 months, with the exception of travel to peninsular Malaysia on a restricted passport.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the Government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the State's internal security. In addition the law requires them to submit to interview by the Internal Security Department and to any restrictive conditions imposed on them.

Faced with the potential for significantly increased numbers of migrants seeking to enter the country illegally from countries affected by the regional economic crisis, the Government in 1998 announced that none of these migrants would be regarded as refugees and that all would be prosecuted under the law, and, if found guilty, would be punished and repatriated. The Government took active steps to intercept those seeking to enter the country illegally by boat or across the two causeways linking the country with Malaysia. Approximately 65,000 illegal immigrants were arrested in 1998, a 23 percent rise over 1997. The law does not include provision for granting refugee/asylee status in accordance with the 1951 U.N. Convention relating to the status of refugees and its 1967 Protocol. The Government does not offer first asylum. There were no reports that persons were returned forcibly to a country where they feared persecution. The Government neither accepted the Comprehensive Plan of Action for Indochinese seeking refugee status nor offered first asylum to refugees. Prior to 1991, the Government permitted Indochinese asylum seekers to disembark if a resettlement country promised to remove them within 90 days and if the rescuing vessel was in Singapore on a scheduled port of call. In 1991 the Government halted disembarkation on the grounds that resettlement countries had not honored their commitment for removal. Five Vietnamese asylum seekers have been allowed to remain in the country. The authorities permit persons of other nationalities who make claims for asylum to have their status determined by the U.N. High Commissioner for Refugees (UNHCR) for possible resettlement elsewhere.

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

The Constitution provides citizens with the right to change their government peacefully through democratic means, opposition parties are free to contest elections, and the voting and vote-counting systems are fair, accurate, and free from tampering. However, the PAP, which has held power continuously and overwhelmingly for over 3 decades, uses the Government's extensive powers to place formidable obstacles in the path of political opponents. The PAP has maintained its political dominance in part by developing genuine voter support through honest, effective

administration and its strong record in bringing economic prosperity to the country, and, in part, by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. It attempts to intimidate the members of the opposition through the threat of libel suits and the subsequent loss of their political future, since large judgments in libel suits can lead to bankruptcy, and under the law bankrupt persons are ineligible to sit in Parliament. The Government also intimidates the opposition through the threat of potential loss of employment or professional licenses. Opposition politicians report that potential employers are reluctant to hire them or their supporters. As a result of these and other factors, opposition parties have been unable to challenge seriously the PAP's domination of the political system since the late 1960's.

Singapore has a parliamentary system in which the majority party in Parliament has the authority to constitute the Government, which is headed by a Prime Minister. Parliamentary elections may be called at any time but must be held no later than 5 years from the date a new parliament first sits. During the year, the PAP held 80 of 83 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. One seat, won by the PAP in the 1997 election, was vacated during the year by the incumbent's resignation and was not filled. The WP holds one "nonconstituency" seat based on a constitutional amendment that assures at least three opposition members in Parliament even if fewer than three actually are elected. In addition, the Government nominates and the President appoints "prominent citizens" to serve as nominated members of parliament (NMP's) for 2-year terms. Nine NMP's currently sit in Parliament. Nonconstituency members' and NMP's voting rights are restricted.

The country's economic success and generally honest, effective government under the PAP has helped the PAP maintain a solid base of voter support. The party has an extensive grassroots system and a carefully selected, highly disciplined membership, including Members of Parliament (M.P.'s) who maintain close contact with their constituents, which is responsive to constituent needs and delivers effective government services. However, the PAP, which virtually is synonymous with the Government, is not averse to using the threat to withdraw benefits as a way of assuring popular support. For example, during the 1997 election campaign, the Prime Minister and other senior government officials pointedly warned voters that precincts that elected opposition candidates would have the lowest priority in government plans to upgrade public housing facilities. This heightened concerns among some observers about voters' genuine freedom of choice.

The PAP also maintains its grip on power by other means, including patronage; strong political influence over the press and the courts; restrictions on opposition political activities; and complete control of the political process. Often these means are fully in keeping with the law and the normal prerogatives of government, but the overall effect (and, many argue, ultimate purpose) is to disadvantage and weaken the political opposition. The Government altered the boundaries of election districts in 1996, 3 months before the 1997 elections. In recent years, it has changed most single-seat constituencies into group representational constituencies (GRC's) of three, four, five, or six parliamentary seats, where the party with a plurality wins all the seats. According to the Constitution, the purpose of this change is to ensure ethnic minority representation in Parliament since each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. However, this change has made it more difficult for opposition parties, all of which have very limited memberships, to fill multimember candidate lists, especially when one member must be an ethnic minority. The PAP does not suffer from this disadvantage.

Although political parties legally are free to organize, they operate under the same limitations that apply to all organizations, and the authorities impose strict regulations on their constitutions, fundraising, and accountability. Government regulations hinder attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition government influence extends in varying degrees to academic, community service, and other NGO's.

A 1998 amendment to the Films Act that banned political videos and films put opposition parties at a disadvantage. The ban, ostensibly to prevent the sensationalist or emotional effect that videos or films could have on political issues, applied to the PAP as well as opposition parties. Nonetheless, it had the effect of denying opposition parties, which already receive far less coverage than does the PAP in the government-influenced press and media, a potential outlet for their political messages (see Section 2.a.).

The threat of civil libel or slander suits, which government leaders have used consistently against political opponents and critics, continues to have a stifling effect on the full expression of political opinion and to disadvantage the formal political

opposition. The Penal Code also provides for criminal defamation offenses; however, there are no reports that it is used politically.

In the wake of the 1997 elections, a group of senior PAP leaders—Prime Minister Goh, Senior Minister Lee, and nine other current or former M.P.'s—sued defeated WP candidate Tang Liang Hong for defamation. Most of the suits arose from responses Tang had made to the PAP leaders' claim, made during and after the election, that he was an "anti-Christian, anti-English-educated, Chinese-language chauvinist." Immediately after the election, Tang fled the country, citing death threats, and had not returned at year's end. In 1997 the High Court ordered Tang to pay the PAP leaders a record $5.77 million (S$9.58 million) in damages. Revenue authorities also charged Tang with tax evasion.

Also in 1997, the same PAP leaders who had sued Tang also filed defamation claims against Tang's WP colleague, party secretary general and nonconstituency M.P. J.B. Jeyaretnam. The plaintiffs claimed that Jeyaretnam defamed them by implying that they were guilty of a serious crime when he told an election rally that Tang had filed police reports against "Goh Chok Tong and his people." In the first of these cases to be decided, that of the Prime Minister, the High Court in 1997 awarded the Prime Minister 10 percent of the requested damages and 60 percent of all legal costs. The Prime Minister appealed the judgment and, in 1998, the Appeals Court raised the damages to half of the requested amount and full legal costs. During the year, Goh began bankruptcy proceedings against Jeyaretnam that would have dissolved the WP and deprived Jeyaretnam of his parliamentary seat, but suspended them while Jeyaretnam was making payments. The remaining defamation suits against Jeyaretnam still were pending at year's end (see Sections 1.e., 2.a., and 4).

The Government also sometimes uses parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders. For example in 1995, Parliament censured Chee Soon Juan, secretary general of the Singapore Democratic Party (SDP), for allegedly endorsing attacks on the judiciary by failing to contradict criticisms made by others on a panel of which he was a member. The SDP also was censured. The Government did not attribute any statement directly attacking the judiciary or endorsing the views of the other panelists to Chee or the SDP. Rather, government parliamentary leaders said that the failure of Chee and other SDP leaders to contradict the attacks constituted positive assent by "clever omission." In 1996 Parliament levied fines on Chee and three other SDP members for alleged perjury, contempt of parliament, and other offenses for providing incorrect statistics to a special parliamentary committee examining government health care subsidies. Chee and his colleagues claimed that they had submitted some incorrect figures to the committee in error but that they had not intended to mislead anyone.

Government entities also have used libel or slander suits, and dismissal from positions in government-related entities, to intimidate prominent opposition politicians. For example, in 1993 Chee was dismissed from his teaching position at the National University of Singapore for alleged irregularities involving the use of research funds. In the context of this case, his department chairman, who also was a PAP M.P., successfully sued Chee for defamation.

The Government also has put significant obstacles in the way of opposition political figures' candidacy for the presidency, a largely ceremonial position that nonetheless has significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. In the first election of a president, in 1993, the requirements that candidates demonstrate suitable character and experience in managing the financial affairs of a large institution, among other qualifications, were used to rule out two WP aspirants. The fact that many of the country's large institutions are government run or government linked strongly limits the chance that an opposition political figure could satisfy this particular criterion. On August 18, S.R. Nathan was declared the duly elected President. Nathan was the only one of four potential candidates who met all of the Government's strict requirements; once the others were disqualified, the law allowed for the actual voting to be cancelled and permitted the election of Nathan to be declared.

Opposition political figures claim that such impediments are the root cause of the weakness of the opposition parties. The PAP claims that the lack of an effective opposition is due to disorganization, lack of leadership, and lack of persuasive alternative policies.

During the year, Chee Soon Juan attacked the Public Entertainments Act as a "sham" that allowed the ruling party to abuse its power and discriminate against opposition politicians. At Chee's trial for violating the PEA, the judge did not permit testimony that the SDP had filed about 10 applications for licenses during the period 1988 through 1995, of which about half were rejected (see Sections 1.e. and 2.a).

There is no legal bar to the participation of women in political life; however, women are underrepresented in government and politics. Women hold 4 of the 83 elected parliamentary seats and 2 of the 9 NMP seats. There are no female ministers. The highest ranking woman in government is a senior minister of state, who in July publicly called for greater participation of women in the upper echelons of government. The Prime Minister and Deputy Prime Minister supported her call for greater female participation in government.

There is no restriction in law or practice against minorities voting or participating in politics; they actively participate in the political process and are well represented throughout the Government, except in some sensitive military positions. Malays make up about 15 percent of the general population and hold about the same percentage of regularly elected seats in Parliament. Indians make up about 7 percent of the general population and hold about 10 percent of the regularly elected seats in Parliament. Minority representation in Parliament is, in part, the result of a legal requirement that candidate slates in every multi-seat constituency must have at least one minority representative.

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

There are no NGO's that actively and openly monitor alleged human rights violations. This situation is consistent with the general lack of NGO's and the Government's dominance of society. While the Government does not formally prohibit them, efforts by independent organizations to investigate and evaluate government human rights policies would face the same obstacles as those faced by political parties.

In the past, the Government denied that international organizations had any competence to look into human rights matters in the country and, for years, barred Amnesty International (AI) from visiting the country. During the year, a member of the International Commission of Jurists (ICJ) observed the appeal of Chee Soon Juan and another SDP member of their conviction for giving a speech without a permit (see Sections 1.e., 2.a., and 3). In 1997 the Government allowed observers from both AI and the ICJ to observe the proceedings in the defamation suits brought against WP Secretary General J.B. Jeyaretnam (see Section 3). The ICJ'S and AI'S criticisms of these cases were reported fully in the local press, and the Government responded vigorously in the press, alleging bias and citing alleged factual errors.

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

The Constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government carries out these provisions in practice. The Constitution contains no explicit provision providing equal rights for women and minorities. Mindful of the country's history of intercommunal tension, the Government takes affirmative measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities are available to all citizens regardless of race, religion, or sex.

Women.—There is no evidence of any widespread practice of violence or abuse against women. The Penal Code and the Women's Charter protect women against domestic violence and sexual or physical harassment. A battered wife can obtain court orders barring the spouse from the home until the court is satisfied that he has ceased his aggressive behavior. The Penal Code prescribes mandatory caning and a minimum imprisonment of 2 years for conviction on a charge of "outraging modesty" that causes the victim fear of death or injury. The press gives fairly prominent coverage to instances of abuse or violence against women. There are several organizations that provide assistance to abused women. The Association of Women for Action and Research (AWARE) has a hotline that offers counseling and legal advice. The Family Protection Unit documents physical and psychological abuse, and provides counseling and legal services to abused women. In July the Council of Women's Organizations established a crisis center for abused persons. The Star shelter accepts children, women, and men, and can accommodate up to 30 persons.

In 1998 2,730 persons applied for court orders to protect themselves against violent family members, compared with 2,019 in 1997, and 1,306 in 1996. The great majority of those applying were women. Some of the increase is attributable to a 1997 amendment to the Women's Charter Act that broadened the definition of violence to include intimidation, continual harassment, or restraint against one's will.

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

Women enjoy the same legal rights as men in most areas, including civil liberties, employment, commercial activity, and education. The Women's Charter, enacted in 1961, gives women, among other rights, the right to own property, conduct trade,

and receive divorce settlements. Muslim women enjoy most of the rights and protections of the Women's Charter. For the most part, Muslim marriage law falls under the administration of the Muslim Law Act, which empowers the Shari'a court to oversee such matters. Those laws allow Muslim men to practice polygyny. Both men and women have the right to unilateral divorce; however, women face significant difficulties in initiating unilateral divorce proceedings, which often prevents them from trying. However, the Association of Muslim Professionals (AMP) reported in October that 57 percent of the calls that its help line received were from women who wanted to initiate divorce proceedings.

Women constitute 42 percent of the labor force and are well represented in many professions but hold few leadership positions in the private sector. They still hold the preponderance of low-wage jobs such as clerks and secretaries. The average salary of women is only 75 percent of that of men in comparable jobs (compared to 68 percent 10 years ago). In 1962 the Government instituted the principle of equal pay for equal work in the civil service and abolished separate salary scales in 1965.

Some areas of discrimination remain. Children born overseas to female citizens are not granted citizenship automatically, while those of male citizens are. Female civil service employees who are married do not receive health benefits for their spouses and dependents as do male government employees. However, for the first time, beginning on January 2, female citizens were able to sponsor their noncitizen husbands for citizenship.

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Access to public education and medical care is equal for all children in society. Although school is not compulsory, virtually 100 percent of children are enrolled through grade 6 and the dropout rate for secondary school is low. The Children and Young Persons Act establishes protective services for orphaned, abused, disabled, or refractory children, and creates a juvenile court system. The Ministry of Community Development works closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operate most of the homes for children, while the Government funds up to 50 percent of all child costs, which include normal living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs.

There is no societal pattern of abuse of children.

People with Disabilities.—The Government implemented a comprehensive code on barrier-free accessibility in 1990, which established standards for facilities for the physically disabled in all new buildings and mandated the progressive upgrading of older structures. Although there is no legislation that addresses the issue of equal opportunities for the disabled in education or employment, the National Council of Social Services, in conjunction with various voluntary associations, provides an extensive job training and placement program for the disabled. Informal provisions in education have permitted university matriculation for visually impaired, deaf, and physically disabled students. The Government allows a $2,400 (S$4,000) tax deduction for families with a disabled person. Press coverage of the activities and achievements of the disabled is extensive.

National/Racial/Ethnic Minorities.—Ethnic Malays constitute approximately 15 percent of the total population. The Constitution acknowledges them as "the indigenous people of Singapore" and charges the Government to support and promote their political, educational, religious, economic, social, cultural, and language interests. Ethnic Malays have not reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remain underrepresented at the uppermost rungs of the corporate ladder, and, some have claimed, in certain sectors of government and the military, a reflection of their historically lower education and economic position, but also a result of employment discrimination. During the year, there was great debate over the fact that advertisements often specify ethnicity and gender requirements or require fluent Mandarin speakers. The Government responded by issuing "guidelines" that called for eliminating language referring to age, gender, or ethnicity; restrictive language that referred to attributes relevant to a job, such as "Chinese speaker" or "physically strong" remains acceptable. These guidelines generally are obeyed.

A January revision in the Chinese language curriculum in the country's schools, which expanded opportunities for higher Chinese language ignited a longstanding debate over the perceived objective of creating a "Chinese elite." The Government has taken steps to encourage greater educational achievement among Malay students as a key to economic advancement.

The Presidential Council on Minority Rights examines all pending bills to ensure that they are not disadvantageous to a particular group. It also reports to the Gov-

ernment on matters affecting any racial or religious community and investigates complaints.

Section 6. Worker rights

a. *The Right of Association.*—The Constitution provides all citizens with the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association is delimited by the Societies Act and by labor and education laws and regulations. Under these laws, any group consisting of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions, such as prohibitions on the unionization of uniformed employees. According to government statistics the national labor force comprises about 1.9 million employees, approximately 260,000 of whom are represented by 82 employee unions. Seventy-three of these unions (which represent 256,000 workers), are affiliated with the National Trades Union Congress (NTUC), an umbrella organization that has a close relationship with the Government.

The NTUC unabashedly acknowledges that its interests are closely linked with those of the ruling PAP, a relationship often described by both as "symbiotic." For example, the NTUC secretary general (SG), Lim Boon Heng, a PAP M.P., is Minister without Portfolio and was formerly Second Minister for Trade and Industry. His predecessor, Ong Teng Cheong, the country's first elected President (1993–99) was simultaneously NTUC SG and Deputy Prime Minister. It is common for young PAP M.P.'s to be given leadership positions in the NTUC or a member union. NTUC policy prohibits union members who actively support opposition parties from holding office in affiliated unions. While the NTUC is financially independent of the PAP, with income generated by NTUC-owned businesses, the NTUC and the PAP share the same ideology and work closely with management in support of nonconfrontational labor relations.

Workers, other than those in essential services, have the legal right to strike but rarely do so. No strikes have occurred since 1986. Most disagreements are resolved through informal consultations with the Ministry of Manpower. If conciliation fails, the disputing parties usually submit their case to the Industrial Arbitration Court, which has representatives from labor, management, and the Government. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the Government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy. In addition the widely held view that labor conflict would undermine the country's economic competitiveness and attractiveness to investors, and a cultural aversion to confrontation help to maintain a harmonious labor situation. The economic downturn from mid-1997 to early-1999 did not alter significantly the tripartite consensus that labor peace is essential to the country's economic well being.

The NTUC is free to associate regionally and internationally.

b. *The Right to Organize and Bargain Collectively.*—Collective bargaining is a normal part of labor-management relations in the industrial sector. Agreements between management and labor are renewed every 2 to 3 years, although wage increases are negotiated annually. Yearly guidelines on raises and bonus pay issued by the National Wages Council (NWC), a group composed of labor, management, and government representatives, serve as the starting point for bargaining agreements. In mid-1999, in response to the economic downturn, the NWC announced a proposal in which a portion of future wage increases would be considered "variable," allowing companies to eliminate that portion of pay on 30 days notice if financial problems necessitated it. The Industrial Relations Act makes it an offense to discriminate against anyone who is or proposes to become a member or an officer of a trade union. Labor laws and regulations are enforced uniformly.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including forced and bonded labor by children, and generally enforces this provision effectively. Under sections of the Destitute Persons Act, any indigent person may be required to reside in a welfare home and engage in suitable work. The International Labor Organization (ILO) has criticized the coercive terms of this act, which includes penal sanctions, as not in compliance with the ILO Convention on Forced Labor. The Government maintains that the act is social legislation that provides for the shelter, care, and protection of destitute persons, and that work programs are designed to reintegrate individuals into society.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Government enforces the Employment Act, which prohibits the employment of children

under the age of 12. Although schooling is not compulsory, virtually 100 percent of school age children attend school (see Section 5). Restrictions on the employment of children between the ages of 12 and 16 are rigorous and enforced fully. Children under the age of 14 are prohibited from employment in any industrial undertakings. A child who is 12 years old or above may be engaged in "light work suited to his capacity." A medical officer must certify suitability for such light work. Employers must notify the Commissioner of Labor within 30 days of hiring a child between the ages of 14 and 16 and must attach medical certification of fitness for employment. The incidence of children taking up permanent employment is low, and abuses are almost nonexistent. The Government prohibits forced and bonded labor by children and enforces this provision effectively (see Section 6.c.).

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with any machinery in motion, on live electrical apparatus lacking effective insulation, or in any underground job. The Minister of Manpower effectively enforces these laws and regulations.

e. *Acceptable Conditions of Work.*—There are no laws or regulations on minimum wages or unemployment compensation. The labor market offers good working conditions and relatively high wages, which provide a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week.

Because of a domestic labor shortage, approximately 500,000 foreign workers are employed legally, constituting about 24 percent of the total work force. There are no reliable estimates of the number of foreigners working illegally. Most foreign workers are unskilled laborers and household servants from other Asian countries. Foreign workers face no legal wage discrimination. However, they are concentrated in low-wage, low-skill jobs and often are required to work long hours. Most foreign construction workers live on-site in substandard conditions. Although the great majority of the more than 100,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) work under clearly outlined contracts, their low wages, their dependence on their employers for food and lodging, and the fact that they often live and work relatively isolated from the rest of society make them vulnerable to mistreatment and abuse. In 1998 Parliament passed an amendment to the Penal Code, in response to a reported increase in cases of maid abuse, which raised the punishment for confining or sexually or physically abusing a maid. The authorities have fined or imprisoned employers who have abused domestics, often with great publicity. During the year, newspapers ran several stories on maids who had misused the law, filing wrongful abuse charges.

Most maids work 6 days per week from very early morning until late in the evening. Many contracts allow only 1 day off per month. Contracts often stipulate that, even when she is ostensibly not working, a maid must remain on the premises except for official duties or on her day off. According to Ministry of Manpower Statistics, wages average around $250 per month (not including free room and board). Maids must often put aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage workers stipulate the cancellation of such permits if workers apply to marry or marry a citizen or permanent resident.

Although many lower paid foreign workers not covered under the Employment Act are ineligible for the limited free legal assistance that is available to citizens, the Ministry of Manpower also offers mediation services for all employees, foreign or local. The Government allows complainants to seek legal redress.

The Ministry of Manpower effectively enforces laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, have been implemented to reduce the frequency of job-related accidents. While a worker has the right under the Employment Act to remove himself from a dangerous work situation, his right to continued employment depends upon an investigation of the circumstances by the Ministry of Manpower.

f. *Trafficking in Persons.*—The three major laws that govern trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the Penal Code. The laws make trafficking in women and children—whether or not it is related to prostitution—punishable by up to 5 years' imprisonment, a $10,000 (S$16,600) fine, and caning. The Penal Code covers trafficking and wrongful constraint of men.

There is evidence that the country is a destination for trafficking in women for the purpose of prostitution, primarily from Thailand and Malaysia. Police reportedly

conduct raids about once a month in an effort to maintain some control over the situation.

One local NGO offers sex workers counseling services; it is not empowered to provide protection.

SOLOMON ISLANDS

Solomon Islands, with a population of approximately 450,000, is an archipelago stretching over 840 miles in the South Pacific. Its government is a modified parliamentary system consisting of a single-chamber legislative assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. The Prime Minister, elected by a majority vote of Parliament, selects his own Cabinet. Political legitimacy derives from direct election by secret ballot. There have been five general elections since independence in 1978, most recently in August 1997. The judiciary is independent.

A police force of approximately 900 persons under civilian control is responsible for law enforcement and border security.

About 75 percent of the population engage to some extent in subsistence farming and fishing and have little involvement in the cash economy. Commercial activities include some plantation production of copra, cocoa, and palm oil, one fish cannery, a gold mine on Guadalcanal, and small resort and diving enterprises. During the year, the Government successfully realized economic reform goals by repaying debt and reducing the size of the public service. However, ethnic conflict on Guadalcanal closed the nation's largest palm oil plantation, seriously disrupted economic activity in and around the city of Honiara, and disrupted tourism. The Government estimates that it will lose about $10 million in revenue as a result of the plantation closure and will have to spend an unbudgeted $10 million to protect and resettle displaced persons.

Basic individual rights are provided for in the Constitution, generally respected by authorities, and defended by an independent judiciary; however, some rights were suspended during a state of emergency. There was one instance of extrajudicial killing by police. During the year, ethnic violence perpetrated by some indigenous residents of Guadalcanal against immigrants from Malaita (both constituent parts of the country) led to several deaths, kidnapings, and the flight of nearly 23,000 persons from Guadalcanal. To deal with this crisis, the Parliament enacted a 4-month state of emergency on June 17, which extended the arrest and search powers of the police and resulted in infringements on citizens' rights and also included limits on press reporting and freedom of association. The police commissioner denied a demonstration permit to a labor group. Violence and discrimination against women continued to be problems.

Guadalcanal militants committed a number of abuses.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—In confrontations with armed Guadalcanal militants, police shot and killed at least two persons and perhaps as many as six. In one of the cases, a police shooting in January, New Zealand police invited to investigate the incident by the Government found that the police officer who fired the shot acted outside his orders. He was tried and found guilty of manslaughter.

The violence began in January when Guadalcanal militants began attacking homesteads and workplaces of persons originally from the island of Malaita. There is considerable confusion, but it is estimated that the militants killed 12 persons (see Section 1.b.).

b. *Disappearance.*—There were no reports of politically motivated disappearances due to the actions of government officials. Guadalcanal militants admitted to kidnaping a prison officer, and 17 other persons were reported missing on Gualdalcanal. Some of the missing may have been killed; others are believed to be held by militants.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—These practices are prohibited by law, and authorities generally respect these provisions in practice. Complaints of excessive use of force by police when making arrests, as well as other complaints about police behavior, are handled by an internal police department investigations office or by the courts. In 1998 the police opened a public complaints office in the capital. There were no reports of excessive use of

force by the police during the year, with the exception of the police officer found guilty of manslaughter for killing a Guadalcanal militant (see Section 1.a.).

Conditions in the country's two prisons meet minimum international standards. Following the outbreak of militant attacks, the rural prison in Gualdalcanal was closed, and the prisoners were moved to the prison in Honiara for their safety. Although the prison buildings are old, they are clean, the plumbing appears to work, and the prisoners appear healthy. Due to the influx of prisoners from the minimum-security prison and additional arrests due to the ethnic strife, the prison population is now greater than the capacity of the prison. Several cells built for four persons now hold six, and a number of prisoners sleep dormitory style on the floor of the covered inner courtyard of one of the prison buildings. The female wing of the prison is being used for male prisoners, and the sole female prisoner is housed in the warden's conference room, next to the jail reception area. A new prison complex, slated for completion in 1997, was to have provided separate facilities for short-, medium-, and long-term prisoners, as well as for juvenile offenders. It remains uncompleted due to a lack of funds. A government-appointed Committee on the Prerogative of Mercy, composed of church and social leaders, recommends pardons for rehabilitated prisoners, and at year's end the Government at the Committee's recommendation pardoned 11 prisoners serving life sentences.

The Government permits prison visits by human rights monitors. An International Committee of the Red Cross (ICRC) team in Honiara monitors the prisons regularly, and an Amnesty International team visited the prison in late September.

d. Arbitrary Arrest, Detention, or Exile.—In general there were no reports of politically motivated arrests or detentions; however, the emergency order allowed police to arrest persons for association with militant groups on Guadalcanal.

Exile is not practiced.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is independent in practice.

The judicial system consists of a High Court and magistrates' courts. Accused persons are entitled to counsel. However, during the year, the public solicitor, who is charged with providing counsel to persons who cannot afford a private attorney, reported that due to limited resources, his office could accept only those cases in which persons faced serious charges or those involving the protection of children. The law provides for a judicial determination of the legality of arrests. Officials found to have violated civil liberties are subject to fines and jail sentences.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In addition to legal provisions, the traditional culture provides strong protection against these types of abuses; however, during the emergency order police were allowed to search without warrant, and vehicles were searched routinely for weapons. A constitutionally provided ombudsman, with the power of subpoena, can investigate complaints of official abuse, mistreatment, or unfair treatment. The Ombudsman's Office did not report any incidents involving interference with these rights. While the Ombudsman's Office has potentially far-ranging powers, it is limited by a shortage of investigators and other resources.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Government generally respects the constitutional provisions for freedom of speech and of the press. Although the emergency order prohibited the publication of anything that might incite further violence or ethnic hatred, press sources confirm that factual reporting was not stopped. No censor was established, although the Government exercised its powers under the order to prevent the publication of a classified government document. The national radio station stopped rebroadcasting items on the ethnic unrest from foreign sources. However, foreign journalists continued to work freely in the country.

The media comprise the Solomon Islands Broadcasting Corporation (SIBC), a statutory body that comes directly under the Prime Minister's office and whose radio broadcasts are heard throughout the country; a privately owned FM radio station; and three privately owned weekly or semiweekly newspapers. Given the high rate of illiteracy, the SIBC is more influential than the print media. The Department of Information in the Prime Minister's office publishes a monthly newspaper, which is strongly progovernment. At least two nongovernmental organizations (NGO's) publish periodic news journals; their environmental reporting frequently is critical of the Government's logging policy and foreign logging companies' practices. A private company transmits one Australian television channel to the country. The system incorporates occasional government press conferences in its program.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of association; however, under the emergency order, the Government

banned membership in Guadalcanal militant groups. Demonstrators must obtain permits. In March the police commissioner denied a permit to a labor group that, he said, had not used normal consultative means to attain the purposes for which its member intended to demonstrate.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government places no restrictions on the movement of citizens within or out of the country. However, the militants are demanding that the people indigenous to each island be given authority to determine who may or may not enter their island. Native-born citizens may not be deprived of citizenship on any grounds.

The Red Cross estimates that nearly 23,000 Malaitans fled their homes on Guadalcanal for Malaita during the year. The Government, assisted by national and international organizations, provided the refugees with temporary shelter in Honiara, transport, and some resettlement assistance. An uncounted number of Guadalcanal villagers also abandoned their homes to hide in the bush for extended periods, due to fear of militant and police activity or retribution from dispossessed Malaitans.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted domestic legislation or procedures for making formal refugee determinations. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and the Red Cross in determining refugee status, and has not returned persons to a country where they fear persecution.

The Government provided first asylum to persons from Papua New Guinea's Bougainville Island, who fled the conflict that started there in 1989. Following the 1998 peace settlement, many have returned home. According to the UNHCR, there are less than 50 persons from Bougainville in the country who meet the criteria for refugee status. In September the Solomon Islands Red Cross reported that Bougainvillians sheltering in the country, who were not considered refugees, had been returning to Bougainville during the year. Most of those who remained were employed professionals, and none were in Red Cross care shelters.

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

Citizens have the right to change their government through periodic free elections. Since independence in 1978, there have been five parliamentary elections, most recently in August 1997, and several elections for provincial and local councils. On four occasions, changes of government resulted from either parliamentary votes of no confidence or the resignation of the Prime Minister. Suffrage is universal for those 18 years of age and over.

Traditional male dominance has limited the role of women in government. Although 14 women ran for Parliament in the 1997 elections, only 1, an incumbent, was elected.

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

There are no restrictions on the formation of local organizations to monitor and report on human rights. The Solomon Islands Development Trust has both development and human rights objectives. The ICRC has an office in Honiara, and an Amnesty International team visited the country in mid-September.

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

The Constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability—shall be treated in a discriminatory manner in respect of access to public places. The Constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remain the victims of discrimination in this tradition-based society. Unemployment is high, and there are limited job opportunities for the disabled.

Women.—While actual statistics are scarce, incidents of wife beating and wife abuse appear to be common. In the rare cases that are reported, charges often are dropped by the women before the court appearance or are settled out of court. The magistrates' courts deal with physical abuse of women as with any other assault, although prosecutions are rare. During the year, the Police Department continued a series of lectures on domestic violence and child abuse for police officers and for

the community. Police officers are now ordered to treat all such incidents like any other criminal offense.

The law accords women equal legal rights. However, in this traditional society men are dominant, and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs inhibits the entry of women into the work force. The majority of women are illiterate; this is attributed in large part to cultural barriers. The National Council of Women and other NGO's have attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The Government's Women Development Division also addresses women's issues.

Children.—Within the limits of its resources, the Government is committed to the welfare and protection of the rights of children. There is no compulsory education, and, according to some estimates, only 60 percent of school-age children have access to primary education; the percentages of those attending secondary and tertiary institutions are much smaller. Children are respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services. As a result, virtually no children are homeless or abandoned. Although some cases of child abuse are reported, there is no societal pattern of abuse. The Constitution grants children the same general rights and protection as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect.

People with Disabilities.—There is no law or national policy on the disabled, and no legislation mandates access for the disabled. Their protection and care are left to the traditional extended family and nongovernmental organizations. With high unemployment countrywide and few jobs available in the formal sector, most disabled persons, particularly those in rural areas, do not find work outside the family structure. The Solomon Islands Red Cross continued to conduct private fund-raising efforts to build a new national center for disabled children.

National/Racial/Ethnic Minorities.—The country is composed of over 27 islands with approximately 70 language groups. In the precolonial era, these groups existed in a state of endemic warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, many persons from the poor, heavily populated island of Malaita have settled on Guadalcanal where the resentment they engendered culminated in violence this year (see Sections 1.a. and 1.b.).

Section 6. Worker Rights

a. *The Right of Association.*—The Constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights. Only about 10 to 15 percent of the population participate in the formal sector of the economy. Approximately 60 to 70 percent of wage earners are organized (90 percent of employees in the public sector and about 50 percent of those in the private sector).

The law permits strikes. Disputes are usually referred quickly to the Trade Disputes Panel (TDP) for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment means that employers have ample replacement workers if disputes are not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

Unions are free to affiliate internationally, and the largest trade union, the Solomon Islands' National Union of Workers, is affiliated with the World Federation of Trade Unions, the South Pacific Oceanic Council of Trade Unions, and the Commonwealth Trade Union Congress.

b. *The Right to Organize and Bargain Collectively.*—The Trade Disputes Act of 1981 provides for the rights to organize and to bargain collectively, and unions exercise these rights frequently.

Wages and conditions of employment are determined by collective bargaining. If a dispute between labor and management cannot be settled between the two sides, it is referred to the TDP for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law protects workers against antiunion activity, and there are no areas where union activity is officially discouraged.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor, including forced and bonded labor by children, and, except as part of a court sentence or order, this prohibition is observed.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law forbids child labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The Labor Division of the Ministry of Commerce, Trade, and Industry is responsible for enforcing child labor laws. Given low wages and high unemployment, there is little incentive to employ child labor.

Forced and bonded labor by children is prohibited constitutionally and is not known to occur (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum wage rate is $0.31 per hour (1.50 Solomon Islands dollars) for all workers except those in the fishing and agricultural sectors, who receive $0.25 (1.25 Solomon Islands dollars). The legal minimum wage is not sufficient to support an urban family living entirely on the cash economy. However, most families are not dependent solely on wages for their livelihoods.

The Labor Act of 1969, as amended, and the Employment Act of 1981, as well as other laws, regulate premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for premium pay for overtime and holiday work and for maternity leave.

Malaria is endemic in the country and affects the health of many employees. Agricultural workers have a high risk of contracting malaria. Ethnic tensions on Guadalcanal, the most economically developed island in the country, resulted in the disruption of economic activity and some employment opportunities. In June Solomon Islands Plantation Ltd. closed its facilities following attacks on its workers. About 2,000 employees were evacuated. Militants have prevented the return of the work force, 60 percent of whom are Malaitan.

Both an active labor movement and an independent judiciary ensure widespread enforcement of labor laws in major state and private enterprises. The Commissioner of Labor, the Public Prosecutor, and the police are responsible for enforcing labor laws. However, they usually react to complaints rather than routinely monitoring adherence to the law. The extent to which the law is enforced in smaller establishments and in the subsistence sector is unclear. Safety and health laws appear to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site.

f. *Trafficking in Persons.*—The Constitution does not prohibit trafficking in persons; however, there were no reports that persons were trafficked in, to, or from the country.

THAILAND

Thailand is a democratically governed constitutional monarchy that until 1992 had a history of military coups and powerful bureaucratic influences on political life. Since 1992 there have been four national multiparty elections, which transferred power to successor governments through peaceful, democratic processes. The King exerts strong informal influence, but has never used his constitutionally mandated power to veto legislation or dissolve the elected House of Representatives. There is a bicameral Parliament. The coalition Government, led by Prime Minister Chuan Leekpai's Democrat Party, was formed in November 1997, following the resignation of Prime Minister Chavalit Yongchaiyudh. The judiciary is independent, but is subject to corruption.

The security forces have wide-ranging legal powers, derived primarily from past militarily controlled administrations. Since 1992 the armed forces have become increasingly professional and increasingly subject to civilian control. Their influence in politics has been diminishing. The Royal Thai Police have primary responsibility for internal security and law enforcement. Elements of both the armed forces and the police have a reputation for corruption. Some members of the security forces committed serious human rights abuses.

Thailand is a newly industrializing country with a strong tradition of private enterprise, although state enterprises play a significant role in some sectors. A financial crisis that began in July 1997 led to a severe contraction in economic growth through early 1999. The economy returned to moderate positive growth in April,

reaching 4 percent for all of 1999. Annual per capita income, which peaked at $3,000 in 1996, was about $2,000, largely due to the depreciation of the baht. Although the manufacturing and services sectors accounted for approximately half the gross domestic product, between 50 and 60 percent the population is rural and agrarian. Government efforts to close the gap between urban and rural living standards have met with only mixed success. Government regulations generally provide protection for individual economic interests, including property rights. However, lack of transparency in bureaucratic decisionmaking and a gap between regulation and enforcement sometimes leads to uneven commercial treatment for some firms and institutions, and some areas of the Government remain subject to corruption.

The Government generally respected the human rights of its citizens; however, some significant problems remain in several areas. Police officers killed a number of criminal suspects while attempting to apprehend them. The Government investigated some members of the security forces who were accused of extrajudicial killings; however, it remained reluctant to prosecute vigorously those who committed such abuses, resulting in a climate of impunity. Police occasionally beat suspects, at times to coerce confessions; authorities investigated an incident in which 3 prisoners were beaten to death during an escape attempt. An ingrained culture of corruption persists in many parts of the civilian bureaucracy and in the security forces. Routine demands for bribes undermine the rule of law and permit the continuation of various illegal activities, such as income tax evasion, gambling, trafficking, goods smuggling, and prostitution. Enforcement of a broad range of laws and regulations by police continues to be noticeably lax.

Conditions in prison and immigration detention facilities are poor due to severe overcrowding, and lengthy pretrial detention and the prolonged detention of some aliens remain problems. The judiciary suffers from corruption, and at times security forces infringed on citizen's privacy rights. The media practiced some self-censorship, and there were some restrictions on freedom of movement.

At times the Government hindered the activity of human rights groups. Although the enactment of the 1997 Constitution resulted in increased legal protections for women and the disabled, some inequities in the law remain. Violence against women, societal discrimination against women, trafficking in women and children, and forced prostitution are problems. Societal discrimination against indigenous people, and religious and ethnic minorities persists. Forced labor, and illegal child labor also remain problems.

The 1997 Constitution contains provisions designed to combat corruption and increase government accountability, transparency, and public participation in the political process. The Government has adopted implementing legislation to bring government practice in line with these reforms over the last 2 years. In November, as mandated by the Constitution, new legislation established a permanent National Commission on Human Rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing.*—There were no reports of politically motivated killings by government agents; however, legal organizations, reputable nongovernmental organizations (NGO's), and the press continued to provide credible reports that some police officers used unwarranted lethal force in apprehending criminal suspects. Armed narcotics traffickers, in particular, continue to confront police officers, resulting in the use of deadly force by officers during some narcotics-related arrests. Police killed several criminal suspects during the year. The Law Society of Thailand also stepped up its monitoring of extrajudicial killings in May after police killed five suspected car thieves during arrest attempts in that month.

The police carried out internal investigations into some cases of alleged extrajudicial killing; however, the authorities prosecuted few police or military officers accused of such abuses. A highly publicized case involved police officers in Pak Kret in Nonthaburi Province who in June shot and killed a man suspected of car theft. Police ordered an internal investigation after witnesses claimed that the suspect had been abducted the previous day. There was physical evidence that suggested that the suspect may have been handcuffed before he was shot. In August police arrested the two senior police officers on the Pak Kret arrest team on charges of abduction and murder. The officers were released on bail, and the case has not yet been brought to trial. In a case of death in official custody, in June three would-be escapees from Udon Thani provincial prison who reportedly killed a prison guard during their escape attempt were intercepted and beaten to death by a group that included guards and other prison inmates who were not restrained. Civil authorities forwarded the case to the Udon Thani provincial court, which started legal pro-

ceedings to determine whether the killings were justified; these proceedings were still underway as of September. The Department of Corrections also initiated an internal investigation.

The Government investigated some extrajudicial killings; however, it prosecuted few police or military officers accused of such abuses. A senior prosecutor stated that 99 percent of all cases in which government officials have been accused of extrajudicial killings were dropped on the basis of insufficient evidence. Through September none of the 43 cases in which government officials were accused of extrajudicial killing during the year had been brought to court. Senior prosecutors and legal associations claim that most cases eventually are dismissed because regulations outlined in the Criminal Code require public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution. Initial inquiries are carried out by police officers, often from the same units responsible for the killing. Well-informed sources report that police investigators routinely determined that police took no wrongful action. Routine exoneration of police officers contributes to a climate of impunity that is a significant factor in preventing any major change in police behavior. It also discourages relatives of victims from pressing for prosecution. Families rarely take advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest. If pursued by the family, the case is handled by the same office—in some instances by the same prosecutor—who already has ruled that no criminal action occurred. There is no information available to determine how many cases are settled out of court. However, in cases in which suits are filed, the official charged often compensates the family of the deceased, and the lawsuit is waived. Some lawsuits filed during the year remained under consideration at year's end.

In January 1998, prison guards shot and killed four inmates attempting to escape from the Bangkok remand prison. The Corrections Act allows prison guards to fire on a group of three or more prisoners who are armed, harm officials, or refuse to surrender. However, local legal associations claimed that the guards responded with excessive force. A Department of Corrections investigation found that the guards had acted legally and appropriately, but at year's end, a new investigation that could lead that could lead to criminal proceedings was ongoing.

The Government continued to prosecute two cases of suspected extrajudicial killing from 1996. In October a provincial court ruled that three police officers had killed six suspected drug dealers in their custody in Suphan Buri in 1996. The case had been passed to the Attorney General, who will determine whether to proceed with murder charges, or whether the killings were in self-defense. In the case of the 1996 killing during arrest of farmer activist Joon Bhoonkhuntod, the Chaiyaphum provincial court decided to pursue criminal charges against the police officer involved; his trial was still in progress at year's end.

The 1996 case of the suspected political killing of environmental protester Thong-in-Kaew-wattha is still under consideration by the courts.

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

There were no developments in the 1994 disappearance of environmental activist Suchada Khamfubutra. Police no longer are pursuing this case actively. The results of a government investigation into the 1991 disappearance of Labor Congress of Thailand president Thanong Po-an conducted by the House Justice and Human Rights Standing Committee have never been released to the public.

In June the Government released the eight-page executive summary of a Defense Ministry report on the military forces' suppression of political demonstrations in May 1992, but the release of this long-anticipated document provided no new information on the whereabouts of the remaining 38 prodemocracy protesters still listed as missing. Most, if not all, are presumed by family members and NGO's to be dead. In August the Supreme Court dismissed a long-running civil case brought against then-commanding General Suchinda Kraprayun and members of the military and police forces, upholding two lower court rulings that found that the defendants were protected by a 1992 amnesty decree.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Criminal Code forbid torture and cruel, inhuman, or degrading treatment or punishment; however, NGO's and legal organizations continue to report that some members of the police occasionally beat suspects in order to coerce confessions. Authorities also investigated police officers accused of raping and extorting sex from female suspects in detention.

Authorities continued to prosecute the case of a 14-year-old female prisoner who was raped in custody in Bang Pu Police Station in Samut Prakan in 1998. The case was in litigation in the Samut Prakan provincial court as of year's end. The police sergeant charged with the assault was released on bail.

In June the authorities began construction of additional jail cells in 40 of the 76 provinces in order to separate suspects charged with engaging in prostitution from other detainees. The separate cells are mandated by a provision in the 1996 Prostitution Prevention and Suppression Act, which legislators enacted in response to claims that several female suspects had been abused sexually in detention.

In July a parliamentary committee investigated the case of a narcotics offender serving detention in place of a fine in a local jail in Pathum Thani; the detainee allegedly suffered deep cuts to his wrists that exposed the bones as a result of being kept in handcuffs by authorities for 7 days.

A soldier reportedly shot a refugee (see Section 2.d.).

Some corrupt police and soldiers are involved in trafficking in women and children (see Section 6.f.).

Prison conditions are poor but in general they do not threaten the life or health of inmates. Prisons are severely overcrowded. Sleeping accommodations and access to medical care remain areas of concern that require continued attention to meet minimum international standards. Medical care in prisons is inadequate. To care for a total prison population of 207,328 inmates, the Corrections Department employs only 14 full-time doctors and seven full-time dentists. It also reestablished 9 of the 11 part-time medical officer positions that it had eliminated in 1998.

Prison authorities sometimes used solitary confinement to punish difficult prisoners. They also used heavy leg irons without apparent cause. Credible sources continued to report that prisoners captured in escape attempts were beaten severely, and in one case guards and fellow inmates killed three would-be escapees (see Section 1.a.).

Conditions in Bangkok's Suan Phlu Immigration Detention Center (IDC) were poor, and conditions in provincial detention centers were significantly worse. Some detainees transferred to Bangkok arrived in a debilitated state. Immigration detention facilities are not administered by the Department of Corrections and are not subject to many of the regulations that govern the regular prison system. The immigration detention population dropped to 1,113 in September as a result of a 1998 Interior Ministry policy that allows illegal immigrants arrested in border areas to be deported without first being sent to an immigration detention center. Most long-term detainees had been held for several years because they could not afford repatriation. They now have been deported, but some foreigners still face delays of up to 6 months. Despite the drop in population, overcrowding and shortages of food and water remain significant problems.

Access to prisons is not restricted, and the Government permits visits by human rights monitors and the Thai International Red Cross.

d. *Arbitrary Arrest, Detention, or Exile.*—With few exceptions, including crimes in progress, the law requires that police officers making an arrest have warrants, and authorities respect this provision in practice. Under the new Constitution, persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. Detainees have a right to have a lawyer present during questioning and the police generally respected this right in practice during the year. Foreign prisoners often are forced to sign confessions and stand trial without benefit of a translator.

Police also are required to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest. However, lawyers report that the police rarely bring their cases to court within this period since the Criminal Procedure Code allows an extension period of up to 3 days. Police also can seek court permission to hold suspects for additional periods (up to a maximum of 82 days) to carry out investigations. In addition laws and regulations place any offense for which the maximum penalty is less than 3 years under the jurisdiction of the district courts, which have special procedures; in these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. There is a functioning bail system.

The only legal basis for detention by the police without specific charges for long periods (up to 480 days) is the Anti-Communist Activities Act, which authorities did not invoke during the year. The Government continued to consider legislation to abrogate this law (see Section 2.a.).

As of mid-September, there were 207,328 prison inmates. Approximately 67,000 were charged with narcotics violations. Approximately 29 percent of the total prison population were pretrial detainees. Pretrial detainees usually are not segregated from the general prison population. According to one lawyers' association, pretrial detainees are held an average of 60 days.

Exile is not used as a means of political control.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary generally is regarded as independent, it is subject to corruption and has a reputation for venality.

The civilian judicial system has three levels of courts: Courts of first instance; courts of appeal; and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law. There is no right to appeal military court decisions. The Constitutional Court, charged with interpreting the Constitution, began operating in 1998; the Court provides a mechanism to implement the charter fully. The Constitution requires that courts must be independent of the Ministry of Justice. However, they officially remained with the Ministry at year's end. Islamic (Shari'a) courts provide due process and hear only civil cases concerning members of the Muslim minority.

The Constitution provides for the presumption of innocence. Access to courts or administrative bodies to seek redress is provided for and respected.

There is no trial by jury. Trials for misdemeanors are decided by a single judge, and more serious cases require two or more judges. While most trials are public, the court may order a trial closed. This is done most often in cases touching on national security or the royal family. Career civil service judges preside over the courts. Judicial appointments and structures are not subject to parliamentary review.

Defendants tried in ordinary criminal courts enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provides free legal advice to the poor, but indigent defendants are not provided with counsel at public expense automatically. Most free legal aid comes from private groups, including the Thai Lawyers Association and the Thai Women Lawyers Association.

There are no known political prisoners aside from one Muslim mullah, Sorayut Sakunnanasantisat, who is serving a lengthy criminal sentence of 12 years' imprisonment for leading a 1990 political protest in Pattani. He was convicted in 1994 of offenses against the monarchy and violating national security.

f. *Arbitrary Interference with Privacy, Family, Home or Correspondence.*—With few exceptions, including crimes in progress, the law requires police to obtain a warrant prior to conducting a search; however, at times security forces infringed on citizens' privacy rights. Under the new Constitution, warrants must be issued by a court, rather than by the police. However, the procedures for issuing warrants are not standardized, primarily because various laws such as the Criminal Procedure Code and internal government regulations, including those that apply to the police department, have not been amended to comply with the new Constitution. Lawyers' associations reported that police at times endorsed blank search warrants or used legitimate warrants to conduct intrusive searches outside the stated evidentiary domain. NGO's concerned with the welfare of tribal people also reported that police and military units carried out several warrantless searches of villages for narcotics in Chiang Rai province during the year. This type of operation is permitted under both the Constitution and the Narcotics Prevention and Suppression Act of 1976 in cases where there is reasonable suspicion and an urgent search is deemed necessary. However, some academic groups claimed that the searches were arbitrary and violated the villagers' civil rights. The Anti-Communist Activities Act also allows officials engaged in "Communist suppression operations" to conduct searches without warrants, but these powers have been invoked rarely in recent years and were not invoked during the year (see Section 1.d.).

Security services monitor persons who espouse extremist or highly controversial views, including foreign visitors.

NGO's concerned with the welfare of women report that hospital and district officials sometimes changed the identification of unwed expectant mothers from "Miss" to "Mrs.," although it is illegal to do so, and despite the fact that these women possess no marriage or divorce certificates. Lacking these documents, the women encounter severe difficulties in obtaining official documents needed for some business and government transactions. They also report that female government officials face disciplinary action for failing to register their marriages or for having children out of wedlock.

Section 2. Respect For Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for, and citizens generally enjoy, a large measure of freedom of speech and of the press, and the Government generally respects these rights in practice. However, the Government may restrict these rights to preserve national security, maintain public order, preserve the rights of others, and protect public morals. In practice this rarely has been done. Laws prohibiting criticism of the royal family (lese majeste), threats to national security, or speech likely to incite disturbances or insult Buddhism remain in place under the Constitution.

The Constitution makes it unlawful for the Government to censor, ban, license, or restrict print or broadcast media, except by specific legislation in times of crisis. There were no reported attempts to intimidate journalists who reported adverse economic news. While newspapers and periodicals practice some self-censorship, especially with regard to the monarchy and national security problems, media criticism of political parties, public figures and the Government is common and vigorous. Journalists generally are free to comment on governmental activities without fear of official reprisal, although allegations of intimidation of the press involving a secretary to a deputy prime minister remain unresolved. In July the secretary, accompanied by seven unidentified men who reportedly were armed, allegedly entered the offices of the Thai Post newspaper, made threatening remarks to newspaper staff there, and demanded the retraction of an article that criticized the deputy prime minister. In late July, the secretary acknowledged that he made threats to Thai Post staff, but the involvement of the deputy prime minister implicated in the incident remains unclear. The Thai Post did not retract the article.

Under the 1941 Printing and Advertisement Act, the Royal Thai Police Special Branch issues warnings to publications for various violations such as disturbing the peace, interfering with public safety, or offending public morals. It issued 14 warnings through November, compared with 9 warnings in 1998. The 1941 Act permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. No such closures occurred during the year. Legislation was proposed during the year to revoke the Act. In October the Cabinet forwarded this proposed legislation to the Office of the Juridical Council for further action.

Domestic publications continued to present a wide range of political and social commentary. Unless critical of the royal family or the monarchy, foreign and domestic books normally are not censored and circulate freely. Police have the authority to ban the importation of publications but generally do not exercise it. Legislation to abolish the 1952 Anti-Communist Activities Act created to counter the threat of Communism through media restriction passed the House of Representatives, but at year's end it remained pending due to differences with a Senate proposal related to the time of abolition. The act provides for censorship and monitoring of television and radio, as well as investigations into the contents of books, newspapers, and advertisements, and prohibitions on their publication, distribution, and dissemination (also see Section 1.d.). Revolutionary Order Number 43, which prohibited the public from possessing publications deemed detrimental to national security, including a list of books written by Communists, was abolished in late 1998.

Radio and television stations enjoy the same constitutional protections of freedom of expression and speech as the print media. All radio and television stations are licensed by the Government, and most are operated under the direct or indirect oversight of the Government or the armed forces. Radio and television station profits are retained by organizations that control frequencies such as government ministries, universities, and the military services. The military services seek to retain 40 to 50 radio and television frequencies for national security purposes, despite civilian government assurance that the military services may use all broadcasting frequencies in the event of a national emergency without the need to own them.

Radio stations must renew their licenses every year, and their signals are broadcast via government transmitters. They are required by law to broadcast government-produced newscasts twice daily, 30 minutes each in the morning and evening.

There is one cable television network. It enjoys almost complete autonomy under the indirect oversight of the Mass Communications Authority of Thailand. In addition a wholly independent ultra-high frequency television station managed by a private consortium including the outspoken Nation Multimedia Group began operating in 1996.

Programmers are generally free to determine the content and nature of television broadcasts. However, as with the print media, self-censorship exists. Stations occasionally censor or "black out" portions of programming deemed politically sensitive or pornographic. A government internal censorship board exists in the Prime Minister's office, but it rarely restricts television or radio broadcasts.

An antipornography law allows police to restrict or confiscate printed publications and other materials deemed obscene; the interpretation generally is limited to hardcore pornographic material.

Under the 1930 Film Act, theater owners and broadcasters must submit films that they plan to show to the film censorship board for review. The board can require that portions of the film be removed, or it can ban the film. Reasons for censoring films include violating moral and cultural norms and disturbing the public order and national security. Theater owners and broadcasters frequently censor films themselves before submitting them to the board. The Film Censorship Board

reported that it bans 3 to 4 films of an average of 300 films submitted yearly. It banned one foreign film that it said presented a distorted view of the monarchy.

Activity on the Internet remains unregulated.—The Constitution provides for the right to engage in academic pursuits, and academic freedom is respected. The Ministry of Education edits public school textbooks. In October it disapproved a published history textbook that it considered biased regarding the 1973 overthrow of the then-government.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. Permits are not required for private meetings or gatherings unless held on public property or organized by foreign nationals; these are granted routinely. However, in May an interagency government committee rejected an application for a meeting permit for a proposed international trade union conference on democracy in Burma for national security reasons. The Government stated that the organizers had no mandate as labor organizations to hold a conference on a human rights problem, and that the meeting would damage Thai-Burmese relations because the organizers' proposed speaker list was "not balanced."

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Private associations must register with the Government; such registration is approved routinely.

c. *Freedom of Religion.*—Freedom of religion is protected by law, and the Government generally respects this right in practice. The Constitution requires that the monarch be a Buddhist. The state religion is in effect Therevada Buddhism; however, it is not designated as such.

When the Constitution was being drafted in 1997, the Constitutional Drafting Assembly rejected a proposal to name Therevada Buddhism the official religion on the grounds that it would create social division and be "offensive" to other religious communities in the country.

The Government plays an active role in religious affairs. The Religious Affairs Department (RAD), which is located in the Ministry of Education, registers religious organizations. In order to be registered, a religious organization must first be accepted into an officially recognized ecclesiastical group.

In practice unregistered religious organizations operate freely. However, There was at least one report that unregistered groups had been subjected to extortion by local officials.

Under the provisions of the Religious Organizations Act of 1969, the Department of Religious Affairs recognizes a new religion if a national census shows that it has at least 5,000 adherents, has a uniquely recognizable theology, and is not politically active. However, since 1984 the Government has maintained a policy of not recognizing any new religious faiths. This has restricted the activities of some groups that have not been accepted into one of the existing religious governing bodies on doctrinal or other grounds.

Two branches of the Government recently investigated religious groups alleged to be engaged in cult activities. In January the House Standing Committee on Religion, Arts, and Cultural Affairs moved to consider a petition filed by a senator requesting that the activities of the Hope of Thai People Foundation be investigated. Complaints had been filed at the Religious Affairs Department by parents who claimed that their children had isolated themselves from friends and family after joining the foundation.

The Constitution requires the Government "to patronize and protect Buddhism and other religions." The State subsidizes the activities of the three largest religious communities (Buddhist, Islamic, and Christian). Since mid-1998, the Government has provided more than $38 million to support Buddhist and Muslim institutes of higher education; to fund religious education programs in public and private schools; to provide daily allowances for monks and Muslim clerics that hold administrative and senior ecclesiastical posts; and to subsidize travel and health care for monks and Muslim clerics. This figure also includes an annual budget for the renovation and repair of Buddhist temples and Muslim mosques, the maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani.

The Government permitted foreign missionary groups to work freely throughout the country, although it also maintained policies that favored proselytizing by citizens.

The number of foreign missionaries officially registered with the Government is limited to a quota that originally was established by the RAD in 1982; this quota has not changed since that date. There were no reports that foreign missionaries were deported or harassed for working without registration, although the activities of Muslim professors and clerics were subjected disproportionately to scrutiny on na-

tional security grounds because of continued government concern about the potential resurgence of Muslim separatist activities in the south.

Laws prohibiting speech likely to insult Buddhism remain in place under the 1997 Constitution. The police, who have legal authority under the Printing and Advertisement Act of 1941 to issue written warnings or orders suspending the publication or distribution of printed materials considered offensive to public morals, did not use it to restrict the publication or distribution of religious literature during the period covered by this report. The act requires all theater owners and broadcasters to submit films scheduled for screening to a government film censorship board for review. The Government also sought to revoke the act during the year (see Section 2.a.).

National identity cards produced by the Ministry of Interior since April 12 for the first time included designation of the religious affiliation of the holder. The change was implemented in response to the demands of parliamentarians who wanted easier identification of individuals requiring Muslim burial. Individuals who fail or choose not to indicate religious affiliation in their applications can be issued cards without religious information.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of citizens to change their residence or workplace, and authorities generally respect this right in practice; however, there were some exceptions. Longstanding restrictions on the travel and domicile of certain Vietnamese resident aliens who immigrated to Thailand in 1945 and 1946 and Chinese who immigrated between 1953 and 1961 remain in place. In addition other long-term noncitizen residents, including several hundred tribal people, are required to seek permission from local authorities or the army for foreign or domestic travel. In practice authorities rarely enforce these restrictive measures, and registered resident aliens are able to move freely within the country.

The Government did not extend work permits for approximately 100,000 alien workers when their temporary employment permits expired in August. The Government issued revised labor regulations to allow a maximum of 86,895 illegal Burmese, Cambodian, and Laotian workers already in the country to register for a period of 90 days to obtain work permits for manual labor jobs in 18 sectors. Aliens who took advantage of this regulation would be allowed to work in 37 of the 76 provinces and move freely until August 2000, after which the Government reserves the right to deport them formally. During the year, the Government deported about 108,000 migrant workers and families. However, NGO's reported that a large number of those deported returned during the year.

The Government continued to provide asylum to small numbers of Vietnamese and Lao asylum seekers pending their resettlement in other countries, as well as to persons unable to meet the refugee definition pending arrangements to return them to their countries of origin. Along the border with Burma, the Government generally followed its policy of providing first asylum to new arrivals, but continued to condition entry on "flight from fighting," rather than on broad grounds of persecution on the basis of race, religion, ethnic group, social class, or political opinion. Consequently, there were several thousand asylum seekers from Burma, mostly of the Karen ethnic group, who resided in Thailand but were not acknowledged officially as refugees, and were not permitted to receive assistance and protection in designated refugee camps. A significant number of ethnic Shan also reside near the Thai-Burma border. Authorities do not acknowledge that members of the Shan ethnic minority have displaced person status.

There were no reports that security personnel or civilian authorities forcibly repatriated any asylum seekers to Burma during the year. Nor were there reports that officials forcibly returned persons to a country where they feared persecution. However, the Armed Forces Supreme Command is investigating one incident in September in which a soldier shot and wounded a refugee when a dispute broke out during the transfer of a camp population to a new camp located farther inland at Umpien; NGO's involved in the care of refugees and the authorities consider the new camp to be in a safer location.

There is no legislation regarding the treatment of refugees. However, the Government continued to permit the United Nations High Commissioner for Refugees (UNHCR) to exercise its mandate with regard to small numbers of Vietnamese and Lao asylum seekers, most of whom were screened out and awaiting return to their countries of origin, as well as more than 30,000 Cambodians who had crossed into Surin, Sa Kaew, and Trat provinces since 1997 to escape factional fighting in Cambodia. All Cambodian refugees returned safely to their home country by the end of March. The Government also upheld its 1998 decision to allow the UNHCR to play a formal role in monitoring and providing protection to about 113,000 refugees from Burma, mostly ethnic minorities, in more than a dozen sites near the border with Burma. The UNHCR's previous mandate had been limited to a few hundred ethnic

Burman students at the Burmese Center, formerly known as the Burmese Student Safe Area, located in Ratchaburi province. The Government continued to restrict access to the Center to those persons from Burma to whom the UNHCR had accorded refugee status. In February it admitted 890 persons recognized under the UNHCR's mandate who had been awaiting entry, some for more than 2 years.

The Government accelerated the pace of resettlement of Burmese students following the peaceful resolution of the October 1 takeover of the Embassy of Burma in Bangkok by Burmese dissidents. In November the Interior Ministry approved a list of 1,700 persons submitted by the UNHCR for admittance to the Burmese Center. Approximately one-half this number had been admitted by year's end. The Government requested expedited third country resettlement.

The Government also continued to allow NGO's to provide food, medical services, housing, and other services to Burmese refugees near the border. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as "persons of concern" by the UNHCR.

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

The Constitution provides for the right of citizens to choose or change their government peacefully through free and fair elections based on universal suffrage. Citizens last exercised this right in an election in 1996 that generally was viewed as free, but was marred by widespread vote buying, a recurrent problem. The Constitution prohibits Buddhist monks and nuns from voting or seeking public office. It also created an independent Election Commission, which was appointed in November 1997 to supervise elections. Voting is compulsory. Eligible voters who fail to exercise their voting responsibilities, except those excused on reasonable grounds, are subject to the loss of certain rights, including the right to be a candidate in future elections.

The Constitution and the 1998 Election Law allow eligible voters who are living outside their home districts to register to vote at their temporary residences, provided that they have resided there for more than 90 days. Voters who have lived in their temporary abodes less than 90 days, or who fail to register there, must return to their home districts at election time to vote. The Constitution and the Election Law also allow citizens living overseas to vote by absentee ballot.

While there are no legal restrictions on their political participation, women generally are underrepresented in national politics, especially at senior levels. There was essentially no change in the number of women assigned or elected to positions of leadership. Women make up less than 10 percent of the Senate, the House of Representatives, and civil service. There are 21 women in the 377-member House of Representatives, and 21 in the 253-member Senate. The number of women in the 52-member Cabinet increased from 2 to 3 after a cabinet reshuffle in July.

No laws prohibit the participation of ethnic minorities, but few hold positions of authority in national politics. Members of ethnic minorities in the north often lack documentation of citizenship, effectively barring their participation in the political process (see Section 5). Muslims from the south hold significant elected posts in the Government, although they continue to be underrepresented in local and provincial government positions, which are appointed by the central Government. Muslims make up 4 percent of Parliament. There are 8 Muslim Members of the Senate, and 17 Muslim Members of Parliament, including House Speaker Wan Muhamad Noor Matha and Foreign Minister Surin Pitsuwan.

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

A wide variety of local, domestic, and international human rights organizations work on controversial problems without government restriction, investigating and publishing their findings on human rights cases freely. Government officials generally were cooperative and responsive to their views; however, at times the Government hindered the activity of a few human rights groups.

Very few NGO's are accorded tax-exempt status, and this sometimes hampers the ability of domestic human rights organizations to secure adequate funding. A coalition of academics and NGO representatives continued to lobby the Treasury Ministry to change its tax policies during the year. In May the Government refused to grant a permit for a labor organization to hold a conference on democracy in Burma, citing reasons of national security (see Section 2.b.).

The 1997 Constitution mandates the establishment of a permanent 11-member National Commission on Human Rights, The National Assembly enacted enabling legislation in November; the Commission is scheduled to become active in early 2000. The Commission would be a government, rather than an independent, body, with a mandate to prepare an annual evaluation of the human rights situation for

the National Assembly, propose policies and recommendations for amending laws to the National Assembly, promote measures to educate citizens on human rights, and investigate cases of human rights abuse.

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

The Constitution provides for equal treatment under the law without respect to race, sex, religion, disability, language, or social status. In practice some discrimination exists, and government enforcement of equal protection statutes is uneven.

Women.—Domestic abuse continues to be a serious problem affecting the welfare of many women; reliable reports indicate that domestic abuse occurs across all social classes. Specific laws concerning domestic violence have not been enacted. Spousal and child abuse are covered by assault provisions in the Criminal Code, but rules of evidence often make prosecuting such cases difficult. Police do not enforce laws against such violence vigorously, and domestic violence often goes unreported because many victims and authorities continue to regard domestic abuse as a private, not a legal, matter. NGO's supported programs designed to aid victims, including emergency hot lines, temporary shelters, and counseling services. In addition a weekly public service television program designed to increase public awareness of domestic violence issues began during the year. The Government also established seven "one-stop" crisis centers in state-run hospitals to handle abused women and children.

Under the Criminal Code, rape is illegal. However, a husband cannot be prosecuted for spousal rape. In 1998 the Government proposed changes to the Criminal Code that would redefine the term rape to include marital rape. The Cabinet approved the proposed legislation in May but had not forwarded it to the National Assembly for scrutiny by year's end.

According to credible sources, rape and domestic assault cases are underreported, in part because law enforcement agencies are widely perceived to be incapable of bringing perpetrators to justice. Since 1994 police have sought to ameliorate this perception and encourage women to report sexual crimes through the use of teams of female police officers that operate in three Bangkok police stations with a total of 13 female investigators. In July the police took preliminary steps to expand this program to the nine metropolitan districts in the capital and three provinces and recruited 21 additional female officers.

Prostitution, although illegal, flourishes, is ingrained deeply, and often is protected by local officials with a commercial interest in its continuation (see Section 6.f.). Thailand is a source, transit place, and destination for the trafficking in women and children. Government and NGO estimates of the number of women and children engaged in prostitution vary widely. Many NGO's and government departments use a figure of 200,000 persons, which is considered a credible estimate. This figure includes children under age 18 and foreigners. Some women are forced into prostitution, but the number of such cases is difficult to determine. The majority of prostitutes are not kept under physical constraint, but a large number labor in debt bondage (see Section 6.c. and 6.f.). The 1996 Prostitution Prevention and Suppression Act makes prostitution illegal and states that customers who patronize child prostitutes are punishable by law. Parents who allow a child to enter the trade are also punishable. Prosecutions remained low. NGO's and government agencies continued to provide shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry during the year.

The 1998 Labor Protection Law made sexual harassment illegal for the first time, but covers only persons working in the private sector. NGO's claim that the term is vague and that this ambiguity makes it difficult for women to pursue cases through the legal system. No sexual harassment cases were prosecuted under the Labor Protection Act during the year. One sexual harassment case brought by a female civil servant working in a state-owned enterprise was prosecuted under the Penal Code.

The Constitution has six gender-related articles designed to provide women with equal rights and protections, but some inequalities in the law remain. A man may sue for divorce on the grounds that his wife committed adultery, but a women faces the additional legal burden of proving that her husband has acknowledged publicly another women as his wife. In an action that elicited strong public debate, the Government considered adopting legislation to amend the 1962 Individual Names Act, a law that authorities seldom enforce which requires a woman to adopt her husband's surname at marriage.

Women generally have access to higher education, and more than half of university graduates each year are women. However, police and military academies do not accept female students. Women represent 44 percent of the labor force and hold an

increasing share of professional positions. Women are able to own and manage businesses freely, and government regulations require employers to pay equal wages and benefits for equal work regardless of gender. However, there is a significant gap between the average salaries earned by men and women because women are concentrated in lower paying jobs. In practice, women also receive lower pay for equal work in virtually all sectors of the economy.

The Women and Constitution Network, a league of 35 women's organizations, lobbied for legal reforms to address legal inequities in the treatment of women. It continued to play an important role in securing the inclusion of gender equality clauses in legislation creating new government organizations mandated by the 1997 Constitution, including an article that specifies that one-third of the members of the new National Human Rights Commission be women.

Children.—The Government took steps to promote the rights and welfare of children. The Constitution provides for the right of access to free public education through grade 12, and in March the Government raised compulsory education requirements from 6 to 9 years. The Government's 1997 Social Welfare Plan for Underprivileged People doubled the budget for children's programs for 1997–2001, compared with the previous 5-year plan.

Child labor remains a problem, and some international organizations, government-funded research organizations, and members of the news media continued to report an increase in the number of children leaving school due to the economic downturn (see Section 6.d.). According to the U.N. Development Program, 88 percent of children of primary school age were enrolled in schools, but only 44.7 percent of children of secondary school age enrolled in the first year of secondary education.

Child prostitution, including forced prostitution and trafficking of children, is a serious problem (see Sections 6.c. and 6.f.). The Government estimates that there are as many as 20,000 prostitutes under the age of 18.

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment provide for harsher penalties when the victim is a child. However, as with domestic abuse, police are reluctant to investigate abuse cases, and rules of evidence make prosecution of child abuse cases difficult. In July the Government enacted legislation designed to allow children to give evidence on videotape and in private surroundings in the presence of a psychologist, psychiatrist, or other social worker; the legislation requires a 1-year training period and is to become effective in September 2000.

People With Disabilities.—The Government has enacted legislation designed to ensure access to public facilities and to prohibit employment and education discrimination against the disabled; however, it has not enforced these laws effectively. Government sources estimate that only 8 percent of the estimated 4.8 million persons with physical disabilities receive formal schooling due to the inaccessibility of most public school buildings and, in some cases, educators who have discouraged children with disabilities from enrolling. To remedy this situation, the Government worked to equip 4,000 primary schools with the facilities needed to admit disabled children during the year. Nationwide, there are also 8 government-operated and 10 NGO-operated training centers for the disabled. However, with little education, very few disabled adults are able to find employment. Many of those who do report being subjected to wage discrimination. The law requires that private firms hire 1 disabled person for every 200 other workers or contribute to a fund that benefits the disabled, but this provision has not been enforced since it came into effect in 1994. Some state enterprises maintain discriminatory hiring policies.

The Constitution mandates access to public buildings for the disabled, but laws implementing the provisions have not yet been enacted. A 1998 cabinet resolution directed state agencies to modify facilities for disabled access, but most government agencies have not done so; however, in December a regulation was promulgated that makes compliance mandatory. Disabled persons who register with the Government are entitled to free medical examinations, wheelchairs, and crutches.

Indigenous People.—The Government classifies hill tribe groups as either indigenous or migrant. Members of indigenous groups enjoy the rights of other citizens, while members of migrant groups generally are considered illegal aliens; they possess extremely limited civil and political rights. Hill tribe members who settled in the country before a 1991 countrywide hill tribe survey are eligible for citizenship. However, eligible members frequently face lengthy delays in regularizing their status. This is partly due to the difficulty in determining the legal status of hill tribe members. Less than one-half the estimated 700,000 to 800,000 members of hill tribes reportedly possess documentation that either identifies them as citizens or certifies their eligibility for future citizenship. A significant remaining number enjoy legal resident status, but many in this category still faced employment discrimination and official harassment of various kinds, including threats of arrest or deporta-

tion. Those residing in national parks or wildlife sanctuaries sometimes are subject to eviction. Those that lack documentation sometimes are denied adequate education and health care. As noncitizens they also are barred from participating in the political process. Undocumented members of hill tribe cannot own land and are not protected by labor laws, including minimum wage requirements.

Credible sources reported that societal discrimination, arising from widely-held beliefs that hill tribe members are involved in narcotics trafficking and forms of environmental degradation, worsened. Hill tribes occasionally were subjected to indiscriminate searches of villages for narcotics (see Section 1.f.). Popular dissatisfaction with the Government's handling of problems affecting hill tribe members was the focus of large gatherings in Chiang Mai in May. The Tribal Assembly of Thailand, an organization representing 7 tribes and 170 tribal villages, lobbied the Government for greater transparency in decisions affecting hill tribes, including procedures addressing citizenship, allocation and management of natural resources, and community relocations. The Government responded by offering public hearings on draft forest legislation and new forums where tribal members can participate in decisions affecting natural resource allocation and protection of their civil and political rights. The Government also agreed to form a joint committee to review forestry laws and a joint panel to oversee the citizenship process for hill people. As of September, the Government had created one committee (to consider the citizenship process), but took no action on public hearings or forest law.

Religious Minorities.—There were no reports of violence against members of religious minorities, but some societal discrimination remains. The police investigated a suspected case of intradenominational conflict in which a prominent Buddhist theologian's home was attacked with a fire bomb in Nonthaburi in March. Muslims, who represent up to 10 percent of the country's population nationwide, and constitute the majority in four of the five southernmost provinces that border Malaysia, experienced some discrimination. The Government continued to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities.

National/Racial/Ethnic Minorities.—The Sino-Thai population is well integrated and does not face discrimination. However, about 50,000 former Chinese soldiers and dependents of a Kuomintang army that fled China after the Communist takeover, and approximately 45,000 Vietnamese immigrants who reside in five northeastern provinces, live under a set of laws and regulations that restrict their movement, residence, education, and occupations (see Section 2.d.). Despite a strong desire for Thai citizenship, fewer than 100 Vietnamese and 3,000 to 4,000 Chinese have been naturalized in the last 34 years. Children who were born in Thailand of these legal permanent resident immigrants may request citizenship through district offices. These requests are granted routinely. Approximately 10,000 Vietnamese children born in Thailand have acquired citizenship in this manner, as have 8,000 Chinese children born in the country.

In March the Government removed amendments to the 1941 Land Act that it considered unconstitutional. These amendments had barred Thai citizens with foreign spouses, and their children, from buying or inheriting real property.

Section 6. Worker Rights

a. *The Right of Association.*—The 1975 Labor Relations Act grants freedom of association to private sector workers. Workers have the right to form and join unions of their choosing without prior authorization; to decide on the constitutions and rules of these associations and unions; to express their views without government or employer interference; to confederate with other unions; to receive protection from discrimination, dissolution, suspension, or termination by any outside authority because of union activities; and to have employee representation in direct negotiations with employers. However, no law explicitly protects workers from discrimination who have participated in organizing new unions that have not been registered officially. Union leaders report that employers often discriminate against workers seeking to organize unions. During the year employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of new unions.

Workers in the public sector do not have the right to form unions. For state enterprises, the law allows workers in each state enterprise to form a single "association" after at least 30 percent of the enterprise's employees submit a petition to the Ministry of Labor to register such an association. These associations submit employee grievances to management and propose changes in benefits and working conditions but may not negotiate wages.

Associations do not have the right to confederate or to join private sector federations. However, unofficial contacts between public and private sector unions continue, and the Government has not interfered with these relationships.

The law denies all state enterprise workers the right to strike. In the private sector a proposed strike must be approved by the majority of the union members in a secret ballot and be registered beforehand with the Ministry of Labor to be considered legal.

The Government has the authority to restrict private sector strikes that would "affect national security or cause severe negative repercussions for the population at large," although it seldom invokes this provision and did not do so during the year. Labor law also forbids strikes in "essential services," defined much more broadly than in the ILO criteria for such services. No strikes were disapproved during the year.

The Government did not enforce these legal restrictions vigorously. During the year, the Government reiterated its commitment to passing a new version of the State Enterprise Labor Relations Act (SELRA) that was suspended in 1991; SELRA would restore the rights enjoyed by state enterprise unions prior to their abolition. In 1998 the Government reintroduced legislation that the National Assembly had passed earlier that year but that subsequently was ruled unconstitutional by the Constitutional Court because of a drafting technicality. In August the House rejected antiunion amendments that the Senate attempted to attach to the revised bill. According to the law, the House can act to pass the new legislation after a 180-day waiting period. The bill is scheduled for consideration in February 2000.

Less than 2 percent of the total work force, but nearly 11 percent of industrial workers, are unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, and efforts by the Government to diminish union cohesiveness often are cited as the reasons for low rates of labor organization.

While violence against labor leaders is rare, the 1991 disappearance of outspoken labor leader Thanong Po-an remains unsolved (see Section 1.b.).

There is a legacy of corrupt private sector union leaders who were exploited by the military forces, politicians, or employers for their own purposes, but public unions generally operate independently of the Government and other organizations.

Unions are free to associate internationally with other trade organizations, and they maintain a wide variety of such affiliations.

b. *The Right to Organize and Bargain Collectively.*—The 1975 Labor Relations Act recognizes the right of private sector workers to organize and bargain collectively and defines the mechanisms for such negotiations and for government-assisted conciliation and arbitration in cases under dispute. In practice, genuine collective bargaining occurs only in a small fraction of workplaces and in most instances continues to be characterized by a lack of sophistication on the part of employee groups and autocratic attitudes on the part of employers. Wage increases for most workers come as a result of increases in the minimum wage, rather than as a result of collective bargaining. A new process of setting minimum wages locally through provincial tripartite committees may further limit union influence; many of these provincial committees have excluded labor representatives and have placed factory managers on the wage committees to represent worker interests.

The Government sets wages for both civil servants and state enterprise employees. A system of labor courts created in 1980 exercises judicial review over most aspects of labor law for the private sector. Workers also may seek redress for their grievances through the Tripartite Labor Relations Committee. Redress of grievances for state enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders dismissed unjustly usually are awarded only monetary compensation.

No separate labor legislation applies in export processing zones, where wages and working conditions are often better than national norms because of the preponderance of Western and Japan-based multinational firms.

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced or compulsory labor except in the case of national emergency, war, or martial law; however, while these provisions generally are enforced in the formal business sector, forced labor remains a problem. The Constitution does not specifically prohibit forced or bonded labor by children, and limited instances of such practices occur. There are reports of sweatshops in the informal sector where employers restrain workers from leaving the premises. There are no estimates of how many such workshops exist, but the growing number of illegal aliens from Burma, Cambodia, and Laos increases the opportunities for such abuse. Trafficking in women and children for the purpose of forced prostitution also remains a problem (see Section 6.f.).

d. *Status of Child Labor Practices and Minimum Age for Employment.*—In 1998 the Government raised the legal minimum age for employment to 15 years. The law permits the employment of children between the ages of 15 and 18 only in "light work," where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is restricted. The employment of children at night (from 10 p.m. to 6 a.m.), or in places where alcohol is served, is prohibited by law. An analysis based on population and school enrollment data showed that from 850,000 to 1,480,000 children work, mostly on family farms. An estimated 240,000 to 410,000 (2 to 4 percent of children between the ages of 6 and 14) work in urban employment and are at particular risk of labor abuse. Most children employed in urban areas work in the service sector, primarily at gasoline stations and restaurants. Child labor is not evident in larger foreign-owned or Thai export oriented factories. However, no comprehensive survey of child labor in smaller enterprises exists, since NGO's do not have access to shop house factories. The Ministry of Labor has increased the number of inspectors responsible for investigating child labor problems, although not all officers are engaged in full-time inspection work. Enforcement of child labor laws is not rigorous, and inspectors usually respond only to specific public complaints or exposes in newspapers. Their inclination when dealing with violators is to negotiate promises of better future behavior, rather than to seek prosecution and punishment. The Constitution does not specifically prohibit forced or bonded labor by children, and limited instances of such practices occur (see Section 6.c.). The Government has attempted to address the problem of child labor by extending compulsory education from 6 to 9 years (see Section 5).

e. *Acceptable Conditions of Work.*—The minimum wage ranges from $3.42 to $4.26 (130 to 162 baht) per day, depending on the cost of living in various provinces. This wage is not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions, the minimum wage provides the basis for a marginally adequate overall standard of living. However, nationwide, more than half of workers receive less than the minimum wage, especially in rural provinces.

Unskilled migrant workers, as well as illegal aliens, often work for wages that are significantly lower than the minimum wage. The minimum wage does not apply to undocumented hill tribe members, who also are not protected by other labor laws. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum wage laws is mixed.

In 1998 the Government mandated a uniform maximum workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, may work a maximum of 35 hours per week. The petrochemical industry is excluded from these regulations.

Working conditions vary widely. The rate of injury from industrial accidents has remained relatively constant over the last 10 years at 4.5 percent of the total work force. However, NGO's claim that in the last 8 years, the average rate of work-related deaths was high at 25 per 1,000 workers. Occupational diseases rarely are diagnosed or compensated, and few doctors or clinics specializing in occupational diseases exist. In medium-sized and large factories, government health and safety standards often are applied, but enforcement of safety standards is lax. In the large informal sector, health and safety protections are substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers with prohibitions on working night shifts, overtime, or holidays, as well as for those working with dangerous machinery or on boats.

Foreign migrant workers are subject to deportation (see Section 2.d.). The Ministry of Labor and Social Welfare promulgates health and safety regulations regarding conditions of work. Labor inspectors are responsible for enforcement of health and safety regulations; the strictest penalty is 6 months' imprisonment. Provisions in the Labor Protection Law include the establishment of welfare committees, which include worker representatives, in factories employing over 50 persons. These committees are to set and review health and safety conditions in each factory. There is no law affording job protection to employees who remove themselves from dangerous work situations.

There were no new developments in the criminal lawsuit brought against factory owners and management in the case of the May 1993 Kader Toy Factory fire near Bangkok.

f. *Trafficking in Persons.*—The law prohibits trafficking in women and children; however, Thailand is a source, a transit place, and a destination for trafficking in women and children for the purpose of prostitution (see Section 5). Government and NGO estimates of the number of women and children engaged in prostitution vary

widely. Many NGO's and government departments use a figure of 200,000 persons, which is considered a credible estimate. This figure includes children under age 18 and foreigners.

Some women are forced into prostitution, but the number of such persons is difficult to determine. Coerced prostitution often involves women from hill tribes and neighboring countries. Because foreign women frequently cannot speak Thai and are considered illegal immigrants, these women are particularly vulnerable to physical abuse, confinement, and exploitation. Some women are lured with promises of jobs as waitresses or domestic helpers, but then forced to work as prostitutes. Those women who are illegal immigrants have no rights to legal counsel or health care if arrested (see Section 2.d.). Nor do the amnesty provisions under UNHCR auspices apply. Government agencies, diplomatic observers, and domestic NGO's reported that many Burmese, Lao, Cambodian, and Chinese women continued to be trafficked, and in some cases abducted for prostitution. Vietnamese and Russian citizens also reportedly were trafficked to Thailand in smaller numbers. According to domestic NGO's, girls between the ages of 12 and 18 continued to be trafficked from Burma, southern China, and Laos to work in the commercial sex industry.

The majority of prostitutes are not kept under physical constraint, but a large number labor in debt bondage. Brothel procurers often advance parents a substantial sum against their daughter's future earnings, often without the consent of the young woman involved. The women are then obligated to work in a brothel to repay the loan.

The Prostitution Prevention and Suppression Act of 1996 made prostitution illegal and states that customers who patronize child prostitutes are punishable by law. Parents who allow a child to enter the trade are also punishable. The 1997 Prevention and Suppression of Trafficking in Women and Children Act increased the penalties for trafficking in women and children for the purposes of prostitution or slave labor, and provided for wide powers of search and assistance to victims. The authorities utilized these powers during the year, but the number of prosecutions remained low. A new money laundering law became effective in August that includes provisions designed to enable authorities to confiscate the assets of persons convicted of trafficking or engaging in the business of prostitution. NGO's and government agencies continued to provide shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry during the year. However, there continue to be credible reports that some corrupt police, soldiers, and government officials are involved in trafficking schemes. In April the Government reassigned some senior immigration officials based in two airports; they were found to be complicit in trafficking schemes, but no systematic plan to address the problem has been formulated.

The Government and NGO's estimate that there are as many as 20,000 prostitutes under the age of 18. In 1996 the Government enacted a stronger law against trafficking in, patronizing, or profiting from child prostitutes. Since the promulgation of the 1996 act, government sources confirm that 355 persons individuals have been arrested for violating this law. As of September, 14 of these persons had been convicted and sentenced. Some NGO's reported that there was a small decline in the trade in children for commercial sex; however, there are no comprehensive surveys to determine the accuracy of these claims, and it is uncertain whether the new laws are contributing to the reported decline.

TONGA

The Kingdom of Tonga consists of 169 small islands scattered over a wide area of the South Pacific. Most of the approximately 105,000 inhabitants are Polynesian. Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. The judiciary is independent.

The security apparatus is composed of the Tonga Defense Services (TDS) and a police force. The 430-man TDS force is responsible to and controlled by the Minister of Defense.

The economy is based primarily on the cultivation of tropical and semitropical crops. Demand for imported manufactured goods and products has led to a substantial trade deficit. This deficit has been offset largely by remittances from Tongans employed abroad, overseas aid, and, to a lesser degree, tourism. Remittances through the formal banking system are diminishing.

The principal human rights abuse remains severe restrictions on the right of citizens to change their government. A relatively small group of commoners vocally challenges the Constitution, arguing for a more representative and accountable gov-

ernment. To discourage dissent the Police Minister filed lawsuits against government critics. Some women suffer from domestic violence, and discrimination limits the opportunities available to women.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and inhuman or degrading punishment or other such treatment, and there were no reports of such practices. Prison conditions are Spartan but in accordance with local living standards. Church representatives and family members are permitted to visit prisoners. No nongovernmental organizations (NGO's) attempt human rights monitoring visits to prisons, and the permissibility of such visits has not arisen.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution proscribes arbitrary arrest or detention and provides for the right to judicial determination of the legality of arrest; these provisions are observed in practice. There is no preventive detention, although there are no statutory limits to the length of time a suspect may be held prior to being charged. The law does not limit access by counsel and family members to detained persons.

There is no forced exile, internal or external.

e. *Denial of Fair Public Trial.*—The judiciary, whose top judges have been expatriates, is independent of the King and the executive branch.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates' courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. In addition, the Court of Appeals, as the appellate court of last resort, is the highest court. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason.

The law provides for the right to a fair public trial, and the Government honors it in practice. A court may not summon anyone without providing the person a written indictment stating the offenses the person is accused of committing. Defendants are entitled to counsel, and lawyers have free access to defendants.

There were no reports of political prisoners. Some observers allege that Parliament's 1996 conviction and imprisonment of a parliamentarian and two journalists for contempt were politically motivated.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—By law and in practice, no one may enter or search the home of another or remove any item unless in possession of a warrant issued by a magistrate. Neither the State nor political organizations intrude arbitrarily into a person's private life.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights.

There are two weekly newspapers (one of which is government owned) and one privately owned national magazine. A Christian network owns the one television station, which has plans to expand from one to at least three channels. The Government owns one AM and one FM radio station. Three FM stations (one purely religious) are run privately. While there is generally little editorializing in the government-owned media, opposition opinion appears regularly alongside government statements and letters. A privately owned newspaper, Kele'a, openly criticizes the Government without interference. However, infringements on freedom of the press occur. The Minister of Police, apparently to inhibit dissent, has filed civil suits in Magistrates Court against people who allegedly angered public servants. While such suits often are dismissed on appeal, they can be costly for the defendants. In July 1998, the Government refused entry to a New Zealand journalist who wished to cover the King's birthday celebration, because his reporting had displeased authorities in the past.

Academic freedom is respected.

b. *Freedom of Peaceful Assembly and Association.*—The law provides for these rights, and the Government respects them in practice.

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

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

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person in recent memory has applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum.

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

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominate political life. They assert authority largely through control of substantial landholdings and their dominant numbers in the Legislative Assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch's endorsement, the King sometimes permits "the system" to work its will without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. Currently, the Cabinet is made up of nine ministers and two governors; it includes both nobles and commoners, who serve at the King's pleasure.

The unicameral legislature, the Legislative Assembly, consists of the Cabinet, nine nobles elected by their peers, and nine people's representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. Elections were held in March to select the people's representatives to Parliament.

Cabinet members and nobles usually vote as a bloc; however, recent votes related to impeachment charges against a commoner member of the Cabinet demonstrated that nobles and people's representatives can override the Cabinet's wishes at times.

In recent years, a number of people both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability. Very few challenge retention of the monarchy; the King is greatly respected. A prodemocracy movement continues, although it currently lacks formal structure due to differences of views among its leaders. All nine current people's representatives advocate various degrees of democratic reform. Proposals for constitutional revision tend to center on the popular election of all parliamentarians, with the parliamentarians then selecting their speaker.

Women are severely underrepresented in government. There are no female Members of Parliament, although there have been in the past.

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

There are no known barriers to the formation of local NGO's that concern themselves with human rights. Some local NGO's include among their interests human rights problems, although none currently undertakes investigations of alleged violations. No outside organizations are known to have made requests to investigate alleged human rights violations, but some publicly criticized the Government's refusal to grant a New Zealand journalist a visa in 1998 (see Section 2.a.).

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

Social, cultural, and economic facilities are available to all citizens regardless of race or religion. However, members of the hereditary nobility have substantial advantages. These include control over most of the land and a generally privileged status. Nonetheless, it is possible for commoners to rise to cabinet positions in government and to accumulate great wealth and status in the private sector.

Women.—Domestic violence seldom is publicized, but it is a problem. Incidents of wife beating generally are addressed in traditional ways within families or by village elders. Such abuse is seldom reported to the police. Abused wives sometimes return to their families if mediation fails.

The country is male dominated, and women generally occupy a subordinate role. For a woman to rise to a position of leadership, she usually needs to have the support of the nobility or to possess exceptional talent. The King's mother reigned for many years, and a royal princess is one of the country's most prominent businesspersons. Some female commoners hold senior leadership positions in business.

Some village women, with help from NGO's, are leading local development projects.

The Government has a women's unit in the Prime Minister's office. Although some NGO's initially viewed this unit with suspicion, it appears to be functioning

cooperatively with them. Many young, educated women still consider the unit to be ineffective. A government-sponsored National Council of Women is making positive contributions.

Children.—The Government is committed to children's human rights and welfare and provides commensurate funding for children's welfare within the context of the total resources available to the State. Child abuse, if it occurs, is rare and has not become a source of concern in a society where the extended family participates in child rearing.

Education has been compulsory since 1882. Although it is sometimes criticized as being of poor quality, education is provided for all children through Form 6 (high school). Compliance rates are good.

People with Disabilities.—No mandated provisions for accessibility to buildings and services for the disabled exist. There were no known complaints of discrimination in employment, education, or provision of other state services. The education of children with special needs has been a longstanding priority of the Queen.

Section 6. Worker Rights

a. *The Right of Association.*—Workers have the right to form unions under the 1964 Trade Union Act, but to date no unions have been formed, presumably because of the small size of the wage economy and the lack of a perceived need for unions.

b. *The Right to Organize and Bargain Collectively.*—Since no unions have been formed, collective bargaining is not practiced. There is no legislation permitting and protecting collective bargaining or the right to organize. Labor laws and regulations are enforced in all sectors of the economy, including in the two small export enhancement zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced labor including forced and bonded labor by children, and it is not practiced.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—Child labor is not used in the wage economy, although there is no legislation prohibiting it. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

Education has been compulsory since 1882 and is provided for all children through Form 6 (high school).

e. *Acceptable Conditions of Work.*—There is no minimum wage law, although there are government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industry, limit the workweek to 40 hours. The Ministry of Labor enforces laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in agriculture and on the outer islands is limited by isolation.

Industrial accidents are rare, since few industries exist that would expose workers to significant danger. Due to these factors, little or no work has been done on industrial safety standards.

f. *Trafficking in Persons.*—The law does not specifically address trafficking; however, there were no reports that persons were trafficked in, to, or from the country.

TUVALU

Tuvalu, with a population of approximately 10,000 primarily Polynesian persons, occupies a land area of a little more than 10 square miles on 9 atolls in the central South Pacific. Independent since 1978, its Constitution provides for a Westminster-style parliamentary democracy. The Head of State is the British Queen, represented by the Governor General, who must be a Tuvaluan citizen. The judiciary is independent.

A 32-member police constabulary, the only security force, is responsible to and effectively controlled by civilian authority.

The primarily subsistence economy relies mainly on coconuts, taro, and fishing. With donor assistance, Tuvalu has developed a well-managed trust fund, which is supplemented by significant annual payments for use of its international telephone-dialing prefix. An agreement was completed in 1998 with a Canadian telecommunications company for use of the country's Internet address. However, anticipated revenues of up to $50 million have not materialized. Remittances from Tuvaluans working abroad as well as the sale of postage stamps and of fishing licenses to foreign vessels provide additional foreign exchange. The country's isolation and meager natural resources limit the prospects for economic development.

Society is egalitarian, democratic, and respectful of human rights. However, social behavior, as determined by custom and tradition, is considered as important as the

law and is ensured by village elders. There were no specific reports of human rights abuses. However, in the traditional culture of the islands, women occupy a subordinate role, with limits on their job opportunities. Recently there has been a substantial effort to accord women equality in employment and decisionmaking.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and inhuman or degrading punishment, and there were no reported instances of such practices. Local hereditary elders exercise considerable traditional authority—including the seldom-invoked right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law.

Prison facilities consist of several holding cells at the back of the police station. There have been no serious crimes within the memory of local officials. It is rare for a prisoner to spend as long as a week in a cell; more commonly, a person is incarcerated overnight because of drunkenness. While prison conditions are somewhat Spartan as regards to food and sanitation, complaints seem to be minimal or nonexistent.

Since there are no local human rights groups, the question of prison monitoring by them has not arisen. Visits by church groups and family members are permitted.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes these prohibitions.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and it is free of governmental interference.

The judicial system consists of the higher courts: The Privy Council, the Court of Appeal, and the High Court; and the lower courts: The senior and resident magistrates, the island courts, and the land courts. The Chief Justice, who is also Chief Justice of Nauru, sits on the High Court about once a year.

The right to a fair public trial is ensured by law and observed in practice. The Constitution provides that accused persons must be informed of the nature of the offenses with which they are charged and be provided the time and facilities required to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is provided by law. Procedural safeguards are based on English common law. An independent people's lawyer is required by statute. The services of this public defender are available to all citizens without charge.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, government authorities generally respect such prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides these rights, and the Government respects these provisions and academic freedom in practice.

The one radio station is under government control.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and there are no significant restrictions in practice.

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

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens are free to travel within the country and abroad. The Government does not restrict repatriation.

The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person in recent memory has applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum.

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

The people freely and directly elect a 12-member unicameral Parliament whose normal term is 4 years. Each of Tuvalu's nine atolls is administered by a six-person council, also elected by universal suffrage to 4-year terms. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the Members of Parliament, and up to four other ministers, appointed and removed from office by the Governor General with the advice of the Prime Minister. The Prime Minister may appoint or dismiss the Governor General on behalf of the British monarch. The Prime Minister may be removed from office by a parliamentary vote of no confidence. A change in government occurred in April following the passage of a motion of no-confidence in the Government. Former Education Minister Ionatana heads the new Government. There are no formal political parties.

For cultural reasons, women are underrepresented in politics. At present there are no female Members of Parliament.

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

There have been no allegations of human rights violations by the Government and no known requests for investigations. While no known barriers block their establishment, there are no local nongovernmental organizations concerned with human rights.

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

The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin, and the Government generally respects these prohibitions. However, the traditional culture has limited women's job opportunities.

Women.—Violence against women is rare. If wife beating occurs, it is infrequent and has not become a source of societal concern.

Women increasingly hold positions in the health and education sectors and also are more active politically.

Children.—The Government is committed to children's human rights and welfare and provides commensurate funding for children's welfare within the context of its total available resources. Education is compulsory for children from 6 through 13 years of age. There are no reports of child abuse.

People with Disabilities.—Although there are no mandated accessibility provisions for the disabled, there are no known reports of discrimination in employment, education, or provision of other state services.

Section 6. Worker Rights

a. *The Right of Association.*—Workers are free to organize unions and choose their own labor representatives, but most of the population lacks permanent employment and is engaged in subsistence activity. The law provides for the right to strike, but no strike has ever been recorded.

In the public sector, civil servants, teachers, and nurses—who total less than 1,000 employees—are grouped into associations that do not have the status of unions. The only registered trade union, the Tuvalu Seamen's Union, has about 600 members, who work on foreign merchant vessels. Unions may affiliate with international bodies. The Seamen's Union is a member of the International Transportation Workers' Federation.

b. *The Right to Organize and Bargain Collectively.*—The 1978 Industrial Relations Code provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, the practice in the private sector is for wages to be set by employers. For both the private and public sectors, the legal procedures for resolving labor disputes are seldom used; instead, the two sides normally engage in nonconfrontational deliberations in the local multipurpose meeting hall.

Tuvalu is not a member of the International Labor Organization.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The 1978 Employment Law prohibits forced or compulsory labor, including by children, and there have been no reports of either being practiced.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Employment Law prohibits children under the age of 14 from working. Education is compulsory for children from 6 through 13 years of age. The law also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 years are not allowed to enter into formal contracts, including work contracts. Children rarely are employed outside the traditional economy. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

e. *Acceptable Conditions of Work.*—The minimum wage, set administratively by the Government, is sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The present biweekly minimum wage in the

public (government) sector is $81.25 ($A130). This rate applies regardless of sex and age. In most cases, the private sector adopts the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. The workday by law is set at 8 hours. The majority of workers are outside the wage economy. The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. Specific provisions of the law provide for the protection of female workers. The Ministry of Labor, Works, and Communications is responsible for the enforcement of these regulations, but it is able to provide only minimum enforcement.

f. *Trafficking in Persons.*—The law does not specifically mention trafficking; however, there were no reports that persons were trafficked in, to, or from the country.

VANUATU

Vanuatu, a small South Pacific island nation of approximately 183,000 persons that was administered jointly by Britain and France prior to its independence in 1980, has a parliamentary form of government with a 52-member Parliament, a Prime Minister, and a President. The latter's powers are largely ceremonial, except when acting on the advice of the Council of Ministers. Political legitimacy is based on majority rule. The courts normally are independent of executive interference.

The civilian authorities control the small police force and its paramilitary wing, the Vanuatu Mobile Force (VMF). Under current regulations, the police commissioner commands the entire force, including the VMF.

Subsistence and small-scale agricultural production and fishing support more than 80 percent of the population. Nonsubsistance agricultural products include copra, cocoa, and beef cattle. The service sector—government, tourism, and an offshore financial center—provides most formal employment and represents the largest component of the country's gross domestic product.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Poor prison conditions, an extremely slow judicial process, and violence and discrimination against women were the major human rights problems.

RESPECT FOR HUMAN RIGHTS

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

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

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Constitutional provisions against torture and cruel, inhuman, or degrading treatment usually are observed in practice and enforced by the courts.

In November the presiding magistrate dismissed the case against 18 police officers charged with intentional assault of rioters in Port Vila in January 1998. The public prosecutor has appealed to the Supreme Court to reinstate the case.

Prison conditions are poor. As a result of criticism of prison conditions following the 1998 riots, the Government closed the main prison in Port Vila, moved the male prisoners there to a smaller, somewhat better constructed building, and arranged for the incarceration of female prisoners in one apartment in the unmarried policewomen's barracks. The prison on Tanna Island was painted and cleaned by a church youth group using materials donated by local companies. As of the beginning of September, there were 45 male prisoners in the country (which is the average prison population under normal conditions); there were no female prisoners. The prison buildings in Port Vila and Luganville are in poor condition. Apart from the dilapidated state of the prison buildings, prisoners appear to be treated humanely.

The Government permits prison visits by human rights monitors.

d. *Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and there were no reports of such arrests. Arrest is by warrant.

The constitutional provision that suspects must be informed of the charges against them and given a speedy hearing before a judge is observed in practice.

The Government does not use forced exile.

e. *Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the courts are normally free of military or executive interference. However, in 1996 the Government dismissed the foreign Chief Justice prior to the end of his appointment. In 1998 the Acting Chief Justice, who argued that his prede-

cessor's dismissal constituted unconstitutional interference with the judiciary, sponsored a "joint declaration" of judges and magistrates on "the basic principles on the independence of the judiciary" to remind the executive branch of the principle of judicial independence. There were no reports of interference with the judiciary by the present Government.

Magistrates' courts deal with most routine legal matters. There is also a Supreme Court, and above the Supreme Court an Appeals Court with three judges, two of whom are appointed by the President and chosen from among Supreme Court judges in other South Pacific nations as required.

The judicial system is based on British law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to an appellate court.

Judges, prosecutors, and the police all complain about large backlogs of cases in the courts due to a lack of resources. For example most of the members of the VMF accused of kidnaping public officials in the course of a mutiny in 1996 still are awaiting trial. Procedures were changed during the year to allow the public prosecutor to present new cases to the magistrates more frequently, but the limited number of qualified judges and prosecutors remains a serious problem.

There were no reports of political prisoners.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—There were no reports of arbitrary interference with privacy, family, home, or correspondence.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government respected these provisions in practice during most of the year. In September reporters for the government-owned radio station were dismissed, and the editor of the station was threatened with dismissal, in connection with stories about the then-ruling coalition. The reporters eventually were reinstated.

The Government controls much of the country's media, including a weekly newspaper, one AM and one FM radio station, and a limited-service television station confined to the capital, Port Vila, which provides English and French news service three times a week. There is one independent newspaper published semiweekly and another weekly newspaper published by a political party.

Throughout the year, both the government-owned and the independent press reported criticisms of political leaders freely and apparently without hindrance. Some individual politicians and their supporters are sensitive to public criticism and sometimes threatened the media, but without any apparent effect on press freedom. Such incidents in April and September resulted only in further embarrassing press coverage for the critics. Correspondents for international media also are allowed to report without interference.

The Government respects academic freedom. Vanuatu has three institutions of higher education—a teachers college, an agricultural school, and an annex of the University of the South Pacific.

b. *Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government respects these rights in practice. Permits must be obtained to hold public demonstrations and rallies; they are granted routinely.

The Government does not restrict the formation of political parties or other groups.

c. *Freedom of Religion.*—The law provides for freedom of religion, and the Government respected it in practice. Missionaries of various Christian denominations work without restriction. The 1995 Religious Bodies Act, which requires religious organizations to register with the Government, was never signed by the President and was never enforced, although some churches registered under the act voluntarily. Although the act has not been repealed by Parliament, and technically remains in force, it remains dormant and its constitutionality is in question.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation*.—All citizens are free to travel internally and to leave and return to the country without restrictions.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen.

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

The Constitution provides for parliamentary elections every 4 years, through which citizens can freely change their government. Parliamentary majorities have been unstable, with legislators spending much time and energy accumulating support for votes of confidence. The last national elections were held in March 1998. In November 1999, Barak Sope of the Melanesian Progressive Party assembled a parliamentary majority, and formed the Government.

Outside observers consider the 1998 elections to have been generally free and fair. A total of 216 candidates contested 52 seats. Voter turnout was 63.6 percent.

Women are underrepresented in government and politics. Traditional attitudes, in which men are dominant and women frequently are limited to customary family roles, hamper women from taking a more active role in economic and political life. Six women, including the sole sitting female member, ran for parliament in 1998; none were elected.

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

There are no restrictions on the formation of local human rights organizations. The Vanuatu Human Rights Education Association no longer functions. However, other nongovernmental organizations (NGO's), such as the National Council of Women and the Family Health Association, include human rights education as part of their programs.

Angered over her vigorous investigations of corruption allegations, in 1997 Parliament repealed the 1995 Ombudsman's Act, and, in June 1998, the Supreme Court upheld the repeal, and the President signed the legislation. A new Ombudsman's Act was passed by Parliament in November 1998; among other provisions it requires that members of the Ombudsman's staff be appointed by the Public Service Commission rather than by the Ombudsman and that persons interviewed by the Ombudsman may have legal representation present at the interview.

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

The Constitution provides fundamental rights and freedoms for "all persons . . . without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language, or sex." Despite constitutional and legal protections, women remain victims of discrimination in this tradition-based society. Due to high rates of unemployment, few jobs are available for the disabled.

Women.—Violence against women, particularly wife beating, is common, although no accurate statistics exist. Courts occasionally prosecute offenders using common law assault as a basis for prosecution, since there are no specific laws against wife beating. However, most cases of violence against women, including rape, go unreported because women, particularly in rural areas, are ignorant of their rights or fear further abuse. In addition police are frequently reluctant to intervene in what are considered to be domestic matters.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. During the year, in the course of a downsizing in the public service, a disproportionate number of women's positions were abolished. Policies to guide the Department of Home Affairs in protecting and furthering the rights of women currently are being drafted under the Government's reform program.

The majority of women enter into marriage through "bride-price payment," a practice that encourages men to view women as property. Women also are inhibited by tradition from owning land, and at least one women's advocate believes this limitation serves to underpin their secondary status. Many female leaders view village chiefs as a major obstacle to attaining social, political, and economic rights for women. Women interested in running for public office get encouragement and help from an NGO, Vanuatu Women in Politics (VANWIP). Four of the six women who ran for Parliament in the 1998 election ran under the VANWIP banner.

Children.—Although the Government has made education a priority, access to education is limited and school attendance is not compulsory. Children are protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, play an active role in a child's development. As a result, virtually no children are homeless or abandoned. NGO's and law enforcement agencies report increased complaints of incest and rape of children, although no statistics are available.

People with Disabilities.—There is no known governmental or national policy on the disabled and no legislation mandating access for them. Their protection and care is left to the traditional extended family and to voluntary NGO's.

National/Racial/Ethnic Minorities.—Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally are concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes that inhabit it, and it cannot be sold, although it sometimes is leased to others. However, within the limits of this system of land tenure, there were no reports of discrimination against noncitizens. There is no evidence to suggest a pattern of ethnic discrimination in the provision of the limited basic services that the Government provides.

Section 6. Worker Rights

a. *The Right of Association.*—The law provides workers with the right to organize unions.

Approximately 29,000 persons participate in the formal economy as wage earners. There are five trade unions. The unions are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). The trade unions are independent of the Government.

The high percentage of the population still engaged in subsistence agriculture and fishing deters extensive union activity. In addition membership in the Vanuatu Public Servants Union fell dramatically following the Government's wholesale dismissal of hundreds of full-time public servants during a protracted general strike in 1994. The Supreme Court in 1994 ruled that the union had not complied with its own rules when it undertook the general strike and declared the strike illegal. Combined union membership in the private and public sectors reportedly has fallen from more than 4,000 to less than 1,000 in the aftermath of the 1994 strike.

The law prohibits retribution if a strike is legal. In the case of private-sector employees, violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, the Public Service Commission would handle violations.

In 1995 Parliament passed a law requiring unions to give 30 days' notice of intent to strike, with a list of the names of intending strikers.

There was no significant strike activity during the year.

Unions may not affiliate with international labor federations without government permission. The VCTU is a member of the International Confederation of Free Trade Unions.

b. *The Right to Organize and Bargain Collectively.*—Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a 3-member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrate's court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reach agreement on wages without having to refer the matter to arbitration. Complaints of antiunion discrimination are referred to the Commissioner of Labor. While the law does not require union recognition, once a union is recognized, it does prohibit antiunion discrimination.

There are no export processing zones.

c. *Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including forced and bonded labor by children, and there were no reports that either adults or children were subject to forced, bonded, or compulsory labor.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assist their parents. There were no reports of forced or bonded labor by children, which is prohibited by law (see Section 6.c.). The employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, that is, restrictions on employment in the shipping industry and on nighttime employment. The Labor Department effectively enforces these laws.

e. *Acceptable Conditions of Work.*—A legislated minimum wage is effectively enforced by the Labor Department. Since 1995 it has been a flat rate of approximately $143 (16,000 vatu) per month for both urban and rural workers. The minimum wage does not support an urban family living entirely on the cash economy. Most families are not dependent solely on wages for their livelihoods.

Various laws regulate benefits such as sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek, with at least

one 24-hour rest period weekly. An Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the 1987 safety and health legislation is inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department is hard pressed to enforce the act fully. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

f. *Trafficking in Persons.*—The Constitution does not prohibit trafficking in persons specifically; however, there were no reports that persons were trafficked in, to, or from the country.

VIETNAM

The Socialist Republic of Vietnam is a one-party state ruled and controlled by the Vietnamese Communist Party (VCP). The VCP'S constitutionally mandated leading role and the occupancy of all senior government positions by party members ensure the primacy of party Politburo guidelines, and enable the party to set the broad parameters of national policy. During the year, the Party continued to reduce gradually its formal involvement in government operations and allowed the Government to exercise significant discretion in implementing policy. The National Assembly remains subject to party direction; however, the Government made progress in strengthening the capacity of the National Assembly and in reforming the bureaucracy. The National Assembly, chosen in elections in which most candidates are approved by the party (not all delegates are party members), played an increasingly independent role as a forum for local and provincial concerns and as a critic of local and national corruption and inefficiency. The Assembly was more active in revising legislation, screening ministerial and other senior candidate appointments, and dismissing senior officers. The judiciary remains subservient to the VCP.

The military services, including the border defense force, are responsible for defense against external threats. The military forces are assuming a less prominent role as the ultimate guarantor of internal security, which is primarily the responsibility of the Ministry of Public Security. However, in some remote areas, the military forces are the primary government agency, providing infrastructure and all public safety functions, including maintaining public order in the event of civil unrest. The Government continued to restrict significantly civil liberties on grounds of national security. The Government's Ministry of Public Security controls the police, a special national security investigative agency, and other units that maintain internal security. The Ministry of Public Security enforces laws and regulations that significantly restrict individual liberties and violate other human rights. The Ministry of Public Security maintains a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities. However, this system has become less obvious and pervasive in its intrusion into citizens' daily lives. Members of the security forces committed human rights abuses.

Vietnam is a very poor country undergoing transition from a centrally planned to a market-oriented economy. Estimated annual gross domestic product (GDP) per capita is $330, up between 4 and 5 percent from 1998 according to government statistics. The Asian financial crisis caused a significant slowdown; trade and foreign investment declined markedly. Agriculture, primarily wet rice cultivation, employs 70 percent of the labor force, but accounts for a shrinking part (24 percent) of total output. Industry and construction contribute 34 percent, while services account for 42 percent. Disbursed official development assistance in 1998 was $939 million, roughly 4 percent of GDP. Particularly in Ho Chi Minh City and Hanoi, economic reforms have raised the standard of living and reduced party and governmental control over, and intrusion into, citizens' daily lives. Reforms have created a popular expectation in urban areas of continued social, legal, educational, and physical improvements. For many large rural populations close to larger cities, this is also true. Many citizens in isolated rural areas, especially members of ethnic minorities in the northern uplands, central highlands, and the north central coastal regions, live in extreme poverty. Gains from agricultural reform in recent years have improved the lot of many farmers, but the rural poverty level is approximately 30 percent.

The Government's human rights record remained poor; although there was some measurable improvement in a few areas, the situation worsened in others, and serious problems remain. The Government continued to repress basic political and some religious freedoms and to commit numerous abuses. Although the VCP continued its efforts to reform procedures and internal debate and to allow a mechanism for citi-

zens to petition the Government with complaints, the Government continued to deny citizens the right to change their government. Prison conditions remain harsh. There were credible reports that security officials beat detainees. The Government arbitrarily arrested and detained citizens, including detention for peaceful expression of political and religious views. For example, geophysicist Nguyen Thanh Giang was detained for 2 months for writing letters calling for pluralism and respect for human rights. The Government denied citizens the right to fair and expeditious trials and continued to hold a number of political prisoners. The Government restricts significantly citizens' privacy rights, although the trend toward reduced government interference in the daily lives of most citizens continued. The Government significantly restricts freedom of speech, the press, assembly, and association. The Government continued its longstanding policy of not tolerating most types of public dissent, although it made exceptions in some instances. For example, a number of persons circulated letters that were highly critical of senior leaders and called for political reform; these authors were subjected to close surveillance by public security forces. The Government allowed citizens somewhat greater freedom of expression and assembly to express grievances, including by delegates in the National Assembly, citizens in local forums with delegates, and small groups of protesters outside government offices. The Government prohibited independent political, labor, and social organizations; such organizations exist only under government control. The Government restricts freedom of religion and significantly restricts the operation of religious organizations other than those entities approved by the State. However, in some respects, conditions for religious freedom improved during the year. For example, a Hoa Hao organization was recognized for the first time officially. In July a festival gathering of up to 500,000 Hoa Hao in An Giang province took place and in August, an estimated 200,000 Roman Catholics attended the annual La Vang pilgrimage. The Government imposes some limits on freedom of movement. Societal discrimination and violence against women remained problems. Trafficking in women and children for the purpose of prostitution within the country and abroad continued to grow, and there were reports of the increased trafficking of women to China for forced marriages. The Government made efforts to combat these problems. Discrimination against ethnic minorities and child labor are problems. There were some reports of forced child labor and that certain prisons employed forced labor, sometimes as part of commercial ventures. The Government restricts worker rights.

RESPECT FOR HUMAN RIGHTS

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

a. *Political and Other Extrajudicial Killing*.—There were no known politically motivated killings. Little information was available on the extent of deaths in police custody or on official investigations into such incidents.

There were no reports of deaths of inmates due to prison conditions during the year.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*.—The law prohibits physical abuse; however, police beat persons, including suspects during arrests, and also beat street children in their attempts to get them off the streets. There were no known reports of torture of detainees. Little information is available on the extent of police brutality during interrogations.

Prison conditions are harsh. Conditions generally did not threaten the lives of prisoners, although anecdotal evidence suggests that the death rate among male prisoners was higher than among female prisoners. Overcrowding, insufficient diet, and poor sanitation remained serious problems. Conditions in pretrial detention reportedly were particularly harsh, and there were credible reports that authorities sometimes denied inmates access to sunlight, exercise, and reading material. Most prisoners had access to basic health care and, for those with money, to supplemental food and medicine. However, some political prisoners were denied visitation rights, and there were reports that some prisons employed the use of forced labor, sometimes as part of commercial ventures (see Section 6.c.). Prisoners sentenced to hard labor complained that their diet and medical care were insufficient to sustain health, especially in remote, disease-ridden areas. Several political prisoners with serious medical conditions were held under harsh conditions in remote prisons, with limited access to medical care. For example, Do Van Thac, sentenced to 14 (reduced to 12) years' imprisonment on charges of attempting to overthrow the Government, remained imprisoned in remote Nam Ha province, despite reports that he had suffered a stroke and had heart disease.

The Government did not permit independent monitoring of its prison and detention system.

d. *Arbitrary arrest, Detention, or Exile*.—The Government continued to arrest and detain citizens arbitrarily, including arrest and detention for the peaceful expression of their political and religious views. The 1990 Criminal Procedures Code provides for various rights of detainees, including time limits on pretrial detention and the right of the accused to have a lawyer present during interrogation; however, in practice the authorities often ignored these legal safeguards. Moreover, a 1997 directive on administrative detention gives security officials broad powers to monitor citizens closely and control where they live and work for up to 2 years if they are believed to be threatening "national security."

The Government continued to utilize its l997 decree on "administrative detention," which gives authorities extremely broad powers to place persons under surveillance, and to monitor citizens closely. However, the regulations define administrative detention as an administrative penalty imposed on persons who break the law and violate national security, as determined by the definition of crimes in the Criminal Code, but whose offenses are not yet at the level that warrants "criminal responsibility." Persons under administrative detention must live and work in a designated locality and remain subject to the management and education of the local authorities and population. These measures are used against suspected political dissidents. The time span of administrative detention ranges from 6 months to 2 years; the regulations apply also to persons under 18 years of age. The Ministry of Public Security is the lead agency in implementing the decree.

The Supreme People's Procuracy approves the issuance of arrest warrants, but law enforcement officials appear able to arrest and incarcerate persons without presenting arrest warrants. Once arrested, detainees often are held for lengthy periods without formal charges or trial. In general time spent in pretrial detention counts toward time served upon conviction and sentencing.

Geophysicist Nguyen Thanh Giang was detained for 2 months during the period from March to May for circulating letters calling for pluralism and respect for human rights. After his release, he was informed by police in writing that he could not leave Hanoi without permission. Protestant pastors Tran Dinh "Paul" Ai and Lo Van Hen were detained and questioned by police in Hanoi after a religious training course that they were leading was raided by local police in May. Ai was forced to remain in a government-run hotel, at his own expense, and appear for daily questioning by police for more than 2 weeks regarding his religious activities, and Hen, a member of the Black Tai ethnic minority, was returned to Dien Bien Phu for further questioning by police. Both were released in May after paying fines for participating in an illegal religious meeting (see Section 2.c.). In December Ai and his family obtained Vietnamese passports and traveled abroad on a religious worker visa.

There were credible reports that during the year more than 25 Hmong Protestants were detained illegally in Lai Chau province. Of these, 15 were released by year's end. Among those who remained in detention were: Sinh Phay Pao, Va Sinh Giay, Vang Sua Giang, and Phang A Dong (see Section 2.c.).

Persons arrested for the peaceful expression of views opposed to official policy were subject to charge under any one of several provisions in the criminal code that outlaw acts against the state.

No official statistics are available on the percentage of the prison population that consists of pretrial detainees or the average period of time that such detainees have been held.

It is difficult to determine the exact number of political detainees, in part because the Government usually does not publicize such arrests and because the Government does not consider these persons to be detained for political reasons.

The Government continued to isolate certain political and religious dissidents by placing restrictions on the movements of some dissidents and by pressuring the supporters and family members of others. For the past 5 years, Thich Huyen Quang, the Supreme Patriarch of the Unified Buddhist Church of Vietnam (UBCV), has been at a pagoda in Quang Ngai province under conditions resembling administrative detention. From 1981 until 1994, he was held at another pagoda in that province. In March he was visited by senior UBCV leader Thich Quang Do for the first time in 18 years, but after 3 days of meetings both were held for questioning by police, and Thich Quang Do was escorted by police to his pagoda in Ho Chi Minh City. Thich Huyen Quang has confirmed that he must request permission before leaving the pagoda and is not allowed to lead prayers or participate in worship activities as a monk. He is able to receive visits from sympathetic monks, sometimes several per week; UBCV monk Thich Khong Thanh visited in November. After meeting with him, visitors are questioned by police. Thich Huyen Quang has called for the Government to recognize the UBCV. He is receiving good medical care. In December, because of heavy flooding in the province, police temporarily evacuated

him from the pagoda, then returned him there 2 days later, after the waters receded.

Family members of Nguyen Dan Que in Ho Chi Minh City were questioned by police, their telephone service was suspended periodically, and the family's Internet account also was suspended following the publication abroad in May of several of his writings critical of the Government.

Cao Daists Le Kim Bien and Pham Cong Hien in Kien Giang province were sentenced during the year to 2 years' imprisonment. They had been detained since October 1998. They had requested to meet with visiting United Nations Special Rapporteur Amor.

An ethnic Hre church leader, Dinh Troi, remained in detention in Quang Ngai province at year's end; two of his church colleagues, Dinh Bim and Dinh Hay, were released in July and September, respectively.

In 1998 the Government released two dozen political and religious prisoners. Prior to their release, long-time political prisoners Doan Viet Hoat and Nguyen Dan Que were told by public security officials that they would have to leave the country in order to be released. Hoat agreed and left the country. Que refused to leave the country, but was released from prison despite his refusal. He now lives in Ho Chi Minh City.

e. *Denial of Fair Public Trial*.—Although the Constitution provides for the independence of judges and jurors, in practice the Party controls the courts closely at all levels, selecting judges primarily for their political reliability. Credible reports indicate that party officials, including top leaders, instruct courts how to rule on politically important cases. The National Assembly votes for candidates that are presented by the President for Supreme People's Court president and Supreme People's procurator. The President appoints all other judges.

The court system consists of the Supreme People's Court in Hanoi, provincial courts, district courts, and military tribunals. The Supreme People's Court can review cases from the lower courts or tribunals. Separately, economic courts handle commercial disputes. Administrative courts deal with complaints by citizens about official abuse and corruption. The economic and administrative courts have addressed few cases since their creation in 1994 and 1995, respectively. Local mass organizations, such as those under the Fatherland Front, are empowered to deal with minor breaches of law or disputes.

The Supreme People's Procuracy has unchecked power to bring charges against the accused and serves as prosecutor during trials. A judging council, made up of a judge and one or more people's jurors (lay judges), determines guilt or innocence and also passes sentence on the convicted. The relevant people's council appoints people's jurors, who are required to have high moral standards but need not have legal training.

The Government continued its effort to develop the legal system as part of expanding the rule of law. In May the National Assembly passed a new enterprise law that broadened the legal framework supporting private businesses. A 1998 commercial code helps regulate business transactions. Many judges and other court officials lacked adequate legal training, and the Government conducted training programs to address this problem. A number of foreign governments and the U.N. Development Program provided assistance to the Government to strengthen rule of law and develop a more effective judiciary. However, the lack of openness in the judicial process and the continuing lack of independence of the judiciary undermined the Government's efforts to develop a fair, effective judicial system.

Trials generally are open to the public, although judicial authorities sometimes closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trial and to have a lawyer. The defendant or the defense lawyer have the right to cross-examine witnesses. However, in political cases, there are credible reports that defendants are not allowed access to government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Little information is available on the extent to which defendants and their lawyers have time to prepare for trials. Those convicted have the right to appeal. On December 27, Nguyen Thi Thuy, a Protestant house church leader in Phu Tho province was sentenced to 1 year in prison for "interfering with an officer doing his duty." Thuy had been arrested in October when police raided a house church meeting that she was hosting. Church sources stated that her defense lawyer provided only a superficial defense at the trial.

The Government continued to imprison persons for the peaceful expression of dissenting religious and political views. There are no reliable estimates of the number of political prisoners, in part because the Government usually does not publicize such arrests and frequently conducts closed trials and sentencing sessions. In 1998 Amnesty international listed more than 40 prisoners held for political reasons, but

suggested that the total may be higher. Other sources put the figure at from 100 to 150 persons. The Government claims that it does not hold any political prisoners and that persons described as political prisoners were convicted of violating national security laws.

Among those believed to be imprisoned at year's end for peaceful political activities are: Do Van Hung, Do Van Thac, Nguyen Dinh Huy, Nguyen Ngoc Tan, Pham Hong Tho, Pham Quang Tin, and Vo Van Pham. Among those believed to be held at year's end for religious offenses are: UBCV monks Thich Thien Minh and Thich Hue Dang, and Thich Thanh Quang, held in administrative detention; Catholic priests Reverends Mai Duc Choung (Mai Huu Nghi), Pham Minh Tri, Nguyen Van De, Pham Ngoc Lien, Nguyen Thien Phung, and Nguyen Minh Quan; Cao Dai provincial leaders Le Kim Bien, Pham Cong Hien, Lam Thai The, Do Hoang Giam, and Van Hoa Vui; Hoa Hao leader Le Minh Triet (Tu Triet); about 10 Hmong Protestant Christians in Lai Chau and Ha Giang provinces, including Sung Phai Dia, Vu Gian Thao, Vang Gia Chua, Sung Va Tung, Sung Seo Chinh, Sinh Phay Pao, and Va Sinh Giay. Credible reports from multiple sources suggest that at the beginning of the year, there were more than 25 Hmong Protestants imprisoned in Ha Giang province after being charged either with "teaching religion illegally" or "abusing the rights of a citizen to cause social unrest." By year's end, Vietnamese church leaders reported that 15 Hmong Protestants had been released, including Ly A Giang, Giang A To, Giang A Cat, Cha A Cua, Thao A Chinh, Ma Truong Chinh, and Giang A Vang (see Section 2.c.).

No current information is available concerning imprisoned dissidents Nguyen Van Thuan and Le Duc Vaong who were arrested in 1998.

As part of a national day amnesty on September 2, the Government commuted the prison sentences of 1,712 prisoners and released them early for good behavior. However, unlike 1998, there apparently were no political or religious prisoners included in this amnesty.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence*.—The Constitution provides for the right to privacy of home and correspondence; however, the Government restricts this right significantly. It operates a nationwide system of surveillance and control through household registration and block wardens who use informants to keep track of individuals' activities. The authorities continued to monitor citizens, but with less vigor and efficiency than in the past, as they focused on persons with what they regarded as dissident views, whom they suspected of involvement in unauthorized political or religious activities. Citizens formally are required to register with police when they leave home, remain in another location overnight, or when they change their residence (see Section 2.d.). However, these requirements rarely are enforced, since many citizens move around the country to seek work or to visit family and friends without being monitored closely. However, there were reports that some families have been unable to obtain household registration or residence permits, causing serious legal and administrative problems. In urban areas, most citizens were free to maintain contact and work with foreigners, but police questioned some individual citizens and families of citizens with extensive or close relations with foreigners. The Government also exerts control over citizens who work for foreign organizations by requiring that citizens be vetted and hired through a government service bureau. However, many foreign organizations hire their own personnel and only "register" them with the service bureau.

The Government opened and censored targeted persons' mail, confiscated packages, and monitored telephone, electronic mail, and facsimile transmissions. The Party exerted little pressure on citizens to belong to one or more mass organizations, which exist for villages, city districts, schools, workers (trade unions), youth, veterans, and women. Membership in the VCP remains an aid to advancement in the Government or in state companies and is vital for promotion to senior levels of the Government. At the same time, diversification of the economy has made membership in mass organizations and the VCP less essential to financial and social advancement.

The Government continued to implement a family planning policy that urges all families to have no more than two children; this policy emphasizes exhortation rather than coercion. In principle the Government can deny promotions and salary increases to government employees with more than two children, and local regulations permit fines based on the cost of extra social services incurred by a larger family. In practice these penalties rarely are enforced. For others, there are no penalties for those with more than two children, but local regulations permit fines based on the cost of extra social services incurred by the larger family or reductions in state subsidies for those services. These penalties are not applied uniformly or universally.

Foreign language periodicals are widely available in cities, and the Government only rarely censors articles about the country that are available for sale.

The Government allows access to the Internet and owns and controls the country's only Internet access provider, Vietnam Data Communications. Four Internet service providers compete for subscribers. (A fifth provider, Vietel, owned by the military services, is inactive.) There are roughly 28,000 Internet subscribers and an increasing number of cyber cafes in major cities. The Government appeared to limit access to those persons who are allowed to have Internet accounts. However, in their homes and in certain settings such as universities, students have widespread access to the Internet. The Government uses firewalls to block access to some sites operated by Vietnamese exile groups abroad. Vietnam Data Communications is authorized by the Government to monitor the sites that subscribers access. Ho Chi Minh City police interrupted and periodically suspended Nguyen Dan Que's Internet service after he circulated articles critical of the Government (see Section 1.d.). By law access to satellite television was limited to top officials, foreigners, luxury hotels, and the press. The law was not enforced uniformly, and some persons in urban and rural areas have access via home satellite equipment.

The Government generally did not limit access to international radio; however, it jammed Radio Free Asia.

In July Binh Phuoc provincial authorities demolished three Protestant churches. However, following the intervention of the central Government, the provincial official responsible for the destruction of these churches was removed from office. There were no further church demolitions (see Section 2.c.).

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press*.—The Constitution provides for freedom of speech and of the press; however, the Government severely limits these freedoms, especially concerning political and religious subjects. Reporters and editors practiced self-censorship concerning sensitive subjects. A new press law, passed by the National Assembly in May, provides for monetary damages to be paid by journalists to individuals or organizations who are harmed by reporting, regardless of whether the reports are true or false. The media continued to publish articles that criticized party and government actions; however, the freedom to criticize the Communist Party and its leadership continued to be restricted.

Both the Constitution and the criminal code include broad national security and antidefamation provisions that the Government used to limit such freedoms strictly. The Party and Government tolerate public discussion and permit somewhat more criticism than in the past. In December the Government established a mechanism for citizens to petition the Government with complaints. Citizens could and did complain openly about inefficient government, administrative procedures, corruption, and economic policy. However, the Government imposed limits in these areas as well.

The Government requires journalists to obtain approval from the Ministry of Culture and Information before providing any information to foreign journalists.

Retired General and war hero Tran Do was expelled from the Communist Party in January after he refused to cease circulating writings critical of the Party and the Government. In July Tran Do submitted an application to publish an independent newspaper, but the authorities refused to grant him permission to do so. Foreign diplomats are not allowed to visit Tran Do.

The Government continued to prohibit free speech that strayed outside narrow limits to question the role of the Party, criticize individual government leaders, promote pluralism or multiparty democracy, or questioned the regime's policies on sensitive matters such as human rights. The few persons who spoke out on these matters, such as Nguyen Dan Que and Thich Quang Do, were subjected to questioning and close monitoring by security officials. There continued to be an ambiguous line between what constituted private speech about sensitive matters, which the authorities would tolerate, and public speech in those areas, which they would not. Several authors whose works attracted official censure in past years continued to be denied permission to publish, to speak publicly, or to travel abroad. Security forces harassed novelist Duong Thu Huong, and authorities would not issue her a passport. Some persons who express dissident opinions on religious or political issues are not allowed to travel abroad (see Section 2.d.).

The Party, the Government, and party-controlled mass organizations controlled all print and electronic media. The Government exercises oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship in the domestic media. With apparent party approval, several newspapers published reports on high-level government corruption and mismanagement as well as some-

times-heated debate on economic policy. The Government occasionally censors articles about the country in foreign periodicals that are sold in the country. The Government generally did not limit access to international radio, except to Radio Free Asia, which it jammed (see Section l.f.).

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi. Two Western foreign correspondents were forced to curtail their assignments in Vietnam. The first, based in Hanoi for several years for a wire service, was forced to leave after his bureau chief was informed by the Press Center that the length of his visa was being shortened because of the critical nature of his reporting. The second was required to leave before his temporary assignment was completed. The number of foreign staff allowed each foreign media organization is limited, and most Vietnamese staff who work for foreign media are provided by the Foreign Ministry. All foreign correspondents are required to base themselves in Hanoi. The Press Center monitors journalists' activities and decides on a case-by-case basis whether to approve their interview, photograph, film, or travel requests, all of which must be submitted 5 days in advance. Foreign Ministry officials no longer accompany foreign journalists on all interviews. The Government censored television footage and delayed export of footage by several days.

The Government allowed artists some latitude in choosing the themes of their works. Many artists received permission to exhibit their works abroad, receiving exit permits to attend the exhibits and export permits to send their works out of the country. Artists are not allowed to exhibit works of art that censors regard as criticizing or ridiculing the Government or the Party. Authorities required a foreign-produced film, parts of which had been filmed in Vietnam, to be censored in two places before allowing it to be shown publicly in the country. However, the Government permitted a more open flow of information within the country and into the country from abroad, including the university system. Foreign academic professionals temporarily working at universities stated that they were able to discuss nonpolitical issues widely and freely in the classroom. Government monitors regularly attended, without official notification, classes taught by foreigners and citizens. Academic publications usually reflected the views of the Party and the Government and exhibited greater freedom for differing views on nonpolitical subjects than for political ones.

b. *Freedom of Peaceful Assembly and Association.*—The right of assembly is restricted in law and practice. Persons who wish to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. However, persons routinely gather in informal groups without government interference. During the year there were a number of small protests (of from 10 to 25 persons) outside government and party office buildings and the National Assembly Hall. These protests usually focused on local grievances, and the authorities generally allowed them to run their course without interference. Similarly, a group of up to 50 protesters demonstrated peacefully in public in Hanoi and Ho Chi Minh City including once demonstrating in front of a Western diplomatic mission in Ho Chi Minh City. However, the Government does not permit demonstrations that could be seen as having a political purpose. Although it was more tolerant than in the past of occasional demonstrations by citizens about specific grievances against local officials, the Government did not tolerate extended demonstrations. The Government allowed large gatherings of Roman Catholic and Hoa Hao religious believers for preapproved festivals (see Section 2.c.).

The Government restricts freedom of association. With a few exceptions, the Government prohibits the establishment of private, independent organizations, insisting that persons work within established, party-controlled organizations, often under the aegis of the Fatherland Front. Citizens are prohibited from establishing independent organizations such as political parties, labor unions, and religious or veterans' organizations. Such organizations exist only under government control.

c. *Freedom of Religion*.—Both the Constitution and government decrees provide for freedom of worship; however, the Government continued to restrict significantly those organized activities of religious groups that it defined as being at variance with state laws and policies. The Government generally allowed persons to practice individual worship in the religion of their choice, and participation in religious activities throughout the country continued to grow significantly. However, government regulations control religious hierarchies and organized religious activities, in part because the Communist Party fears that organized religion may weaken its authority and influence by serving as political, social, and spiritual alternatives to the authority of the central Government.

The Government requires religious groups to be registered and uses this process to control and monitor church organizations. Officially recognized religious organizations are able to operate openly, and they must consult with the Government about

their religious operations, although not about their religious tenets of faith. In general religious organizations are confined to dealing specifically with spiritual and organizational matters. The Government holds conferences to discuss and publicize its religion decrees.

Religious organizations must obtain government permission to hold training seminars, conventions, and celebrations outside the regular religious calendar, to build or remodel places of worship, to engage in charitable activities or operate religious schools, and to train, ordain, promote, or transfer clergy. Many of these restrictive powers lie principally with provincial or city people's committees, and local treatment of religious persons varied widely. In some areas such as Ho Chi Minh City, local officials allowed religious persons wide latitude in practicing their faith, including allowing some educational and humanitarian activities. However, in other areas such as the northwest provinces, local officials allowed believers little discretion in the practice of their faith. In general religious groups faced difficulty in obtaining teaching materials, expanding training facilities, publishing religious materials, and expanding the clergy in training in response to increased demand from congregations.

The Government officially recognizes Buddhist, Roman Catholic, Protestant, Cao Dai, Hoa Hao, and Muslim religious organizations. However, some Buddhists, Protestants, Cao Dai, and Hoa Hao believers do not recognize or participate in the government-approved associations and thus are not considered legal by the authorities.

Among the country's religious communities, Buddhism is the dominant religious belief. Many believers practice an amalgam of Mahayana Buddhism, Taoism, and Confucian traditions that sometimes is called Vietnam's "triple religion." Three-fourths of the population of approximately 80 million persons are at least nominally Buddhist, visit pagodas on festival days, and have a world view that is shaped in part by Buddhism. One prominent Buddhist official estimated that 30 percent of Buddhists are devout and practice their faith regularly. The Government's Office of Religious Affairs uses a much lower estimate of 7 million practicing Buddhists. Mahayana Buddhists, most of whom are part of the ethnic Kinh majority, are found throughout the country, especially in the populous areas of the northern and southern delta regions. There are proportionately fewer Buddhists in certain highlands and central lowlands areas, although migration of Kinh to highland areas is changing the distribution somewhat.

A Khmer minority in the south practices Theravada Buddhism. Numbering from perhaps 700,000 to 1 million persons, they live almost exclusively in the Mekong delta.

The Government requires all Buddhist monks to work under a party-controlled umbrella organization, the Central Buddhist Church of Vietnam. The Government opposed efforts by the non-government-sanctioned Unified Buddhist Church of Vietnam (UBCV) to operate independently, and tension between the Government and the UBCV continued. Several prominent UBCV monks, including Thich Quang Do, were released in wide-ranging government amnesties in September and October 1998.

The Government continued to isolate certain political and religious dissidents by placing restrictions on the movements of some dissidents and by pressuring the supporters and family members of others. For the past 5 years, Thich Huyen Quang, the Supreme Patriarch of the Unified Buddhist Church of Vietnam (UBCV), has been at a pagoda in Quang Ngai province under conditions resembling administrative detention. From 1981 until 1994, he was held at another pagoda in that province. In March he was visited by senior UBCV leader Thich Quang Do for the first time in 18 years, but after 3 days of meetings both were held for questioning by police, and Thich Quang Do was escorted by police to his pagoda in Ho Chi Minh City. Thich Huyen Quang has confirmed that he must request permission before leaving the pagoda and is not allowed to lead prayers or participate in worship activities as a monk. He is able to receive visits from sympathetic monks, sometimes several per week; UBCV monk Thich Khong Thanh visited in November. After meeting with him, visitors are questioned by police. Thich Huyen Quang has called for the Government to recognize the UBCV. He is receiving good medical care. In December, because of heavy flooding in the province, police temporarily evacuated him from the pagoda, then returned him there 2 days later, after the waters receded.

In September Thich Quang Do complained that fellow UBCV monk Thich Khong Tanh was summoned by police for questioning in Ho Chi Minh City.

There are an estimated 6 to 7 million Roman Catholics in the country (about 8 percent of the population). The largest concentrations are in southern provinces around Ho Chi Minh City, with other large groups in the northern and central

coastal lowlands. In recent years, the Government eased its efforts to control the Roman Catholic hierarchy by relaxing the requirements that all clergy belong to the government-controlled Catholic Patriotic Association. Few clergy actually belonged to this association.

Authorities allowed the Vatican's ordination of a new archbishop in Ho Chi Minh City in 1998, as well as the ordination of five bishops in other dioceses in 1998 and 1999. A high-level Vatican envoy visited the country in March. A number of bishops traveled to Rome for a synod of Asian bishops. Up to 200,000 Catholics gathered in August at an annual Marian celebration in La Vang in the central part of the country and celebrated their faith freely there.

The local Catholic Church hierarchy remained frustrated by the Government's restrictions but has learned to accommodate itself to them for many years. A number of clergy reported a modest easing of government control over church activities in certain dioceses. The Government relaxed its outright prohibition on the Catholic Church's involvement in religious education and charitable activities but still restricted such activity.

The degree of government control of church activities varied greatly among localities. In some areas, especially in the south, churches and religious groups operated kindergartens and engaged in a variety of humanitarian projects. At least six priests belonging to the Congregation of the Mother Co-redemptrix reportedly remain imprisoned.

The Government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but still restricted, freedom for travel outside these areas, particularly in many ethnic areas. The Government discourages priests from entering Son La and Lai Chau provinces. Upon return from international travel during the year, citizens, including clergy, officially were required to surrender their passports; this law is enforced unevenly. Some persons who express dissident opinions on religious or political issues are not allowed to travel abroad (see Section 2.d.). Seminaries throughout the country have approximately 500 students enrolled. The Government limits the Church to operating 6 major seminaries and to recruit new seminarians only every 2 years. All students must be approved by the Government, both upon entering the seminary and prior to their ordination as priests. The Church believes that the number of graduating students is insufficient to support the growing Catholic population.

There are approximately 600,000 Protestants in the country (less than 1 percent of the population), with more than half these persons belonging to a large number of unregistered evangelical "house churches" that operate in members" homes or in rural villages, many of them in ethnic minority areas. Perhaps 150,000 of the followers of house churches are Pentecostals, who celebrate "gifts of the spirit" through charismatic and ecstatic rites of worship.

The network of Tin Lanh (Good News) churches, originally founded by the Christian and Missionary Alliance early in the 20th century, generally operated with greater freedom than did the house churches. The roughly 300 Tin Lanh churches in the country are concentrated in the major cities, including Ho Chi Minh City, Danang, Hanoi, and in lowland areas. Some 15 Tin Lanh churches in the northern provinces are the only officially recognized Protestant churches.

Reports from believers indicated that Protestant church attendance grew substantially, especially among the house churches, despite continued government restrictions on proselytizing activities. The Government restricts Protestant congregations from cooperating on joint religious observances or other activities, although in some localities there was greater freedom to do so. There is some ecumenical networking among Protestants, particularly in Ho Chi Minh City.

Based on believers' estimates, two-thirds of Protestants are members of ethnic minorities, including ethnic Hmong (some 120,000 followers) in the northwest provinces and some 200,000 members of ethnic minority groups of the central highlands (Ede, Jarai, Bahnar, and Koho, among others). The house churches in ethnic minority areas have been growing rapidly in recent years, sparked in part by radio broadcasts in ethnic minority languages from the Philippines. This growth has led to tensions with local officials in some provinces. There have been crackdowns on leaders of these churches, particularly among the Hmong in the northwest. The secretive nature of the house churches, particularly among ethnic minorities, has contributed to greater repression against these groups. Provincial officials in certain northwest provinces do not allow churches or pagodas to operate and have arrested and imprisoned believers for practicing their faith nonviolently in accordance with the provisions of the Constitution.

The authorities in the northwest provinces severely restrict the religious freedom of evangelical Protestants, including ethnic Hmong and ethnic Tai. Credible reports from multiple sources stated that at the beginning of the year, there were more

than 25 Hmong Protestants imprisoned primarily in Lai Chau province for "teaching religion illegally" or "abusing the rights of a citizen to cause social unrest."

Following protests by church leaders and international attention to the detentions, Protestant church leaders reported that 15 of the detainees had been released by year's end. Among the remaining detainees were four Hmong Protestant leaders: Sinh Phay Pao, Va Sinh Giay, Vang Sua Giang, and Phang A Dong. These persons had been arrested in Ha Giang province late in the year. Phang A Dong was charged with illegally traveling to China without a visa or passport.

The Government's repression of the Hmong is complicated by several factors which include religious practices. Some Hmong citizens fought against the Government in the past, and they live in sensitive border regions with China and Laos, which together lead the Government to question their loyalty. Among the Hmong there are two distinct religious groups: One group's members follow a traditional form of Christianity, and another group's beliefs are characterized by an element that is cultic in nature. The latter group's eschatological world view includes a predicted cataclysmic event in 2000. However, the Government does not differentiate between the two groups; their beliefs exacerbate the authorities' anxiety about the Hmong.

In December Nguyen Thi Thuy, a Protestant house church leader in Phu Tho province, was sentenced to 1 year's imprisonment for "interfering with an officer doing his duty." Thuy was arrested during a police raid on her home, where she was leading a Bible study group.

An ethnic Hre church leader, Dinh Troi, remained in detention in Quang Ngai province at year's end; two of his church colleagues, Dinh Bim and Dinh Hay, were released in July and September, respectively.

In July Binh Phuoc provincial authorities demolished three Protestant churches. Their congregations, composed of ethnic Mnong and Stieng Christians, protested to the central government authorities and the international community. Church officials reported that the central authorities intervened to prevent the further razing of churches. In December the provincial official responsible was removed from office. Binh Phuoc province Christians reported that they were able to celebrate Christmas openly and peacefully.

The Government's Office of Religious Affairs estimates that there are 1.1 million Cao Dai followers (just over 1 percent of the population). Some nongovernmental organization (NGO) sources estimate that there may be from 2 to 3 million followers. Cao Dai groups are most active in Tay Ninh province, where the Cao Dai holy see is located, and in Ho Chi Minh City, the Mekong delta, and Hanoi. There are separate sects within the Cao Dai religion, which is syncretistic, combining elements of many faiths. Its basic belief system is influenced strongly by Mahayana Buddhism, although it recognizes a diverse array of persons who have conveyed divine revelation, including Siddhartha, Jesus, Lao-Tse, Confucius, and Moses.

A government-controlled management committee has been established with full powers to control the affairs of the Cao Dai faith, thereby managing the church's operations, its hierarchy, and its clergy. Independent church officials oppose the edicts of this committee as not being faithful to Cao Dai principles and traditions. Despite the Government's statement in 1997 that it had recognized the Cao Dai church legally and encouraged Cao Dai believers to expand their groups and practice their faith, many top-level clerical positions remain vacant, and some believers were detained arbitrarily. In October 1998, the authorities detained two Cao Daists in Kien Giang province, Le Kim Bien and Pham Cong Hien, who sought to meet with U.N. Special Rapporteur on Religious Intolerance Abdelfattah Amor. They were sentenced to 2 years' imprisonment. Three Cao Daists, Lam Thai The, Do Hoang Giam, and Van Hoa Vui, arrested several years ago, remain imprisoned in Xuan Loc prison in Dong Nai province. Ly Cong Cuong, a Cao Daist arrested in 1983 in An Giang province, was released in July.

Hoa Hao, considered by its followers to be a "reform" branch of Buddhism, was founded in the southern part of the country in 1939. Hoa Hao is a privatistic faith that does not have a priesthood and rejects many of the ceremonial aspects of mainstream Buddhism. Hoa Hao followers are concentrated in the Mekong delta, particularly in provinces such as An Giang, where the Hoa Hao were dominant as a political and religious force before 1975. According to the Office on Religious Affairs, there are 1.3 million Hoa Hao believers; church-affiliated expatriate groups suggest that there may be 2 million to 3 million. A government-organized group of 160 Hoa Hao held a congress in May in An Giang. The congress established an 11-member committee to oversee the administrative affairs of the religion. Establishment of the committee constituted official governmental recognition of the religion for the first time in 25 years.

The Hoa Hao have faced restrictions on their religious and political activities since 1975 because of their previous armed opposition to the Communist forces. Since 1975 all administrative offices, places of worship, and social and cultural institutions connected to the faith have been closed, thereby limiting public religious functions. Believers continue to practice their religion at home. The lack of access to public gathering places has contributed to the Hoa Hao community's isolation and fragmentation. In July, following official recognition of a Hoa Hao religious organization, up to 500,000 Hoa Hao believers gathered for a religious festival in An Giang province in the largest Hoa Hao gathering since 1975. The authorities continue to restrict the distribution of the sacred scriptures of the Hoa Hao, and believers say that a number of church leaders continue to be detained. One prominent Hoa Hao activist, Tran Huu Duyen, was released in the September 1998 prisoner amnesty.

Mosques serving the country's small Muslim population, estimated at 100,000 persons, operate in Hanoi, Ho Chi Minh City, and several provinces in the southern part of the country. The Muslim community comprises ethnic Vietnamese, ethnic Cham in the southern coastal provinces and western Mekong delta, and migrants originally from Malaysia, Indonesia, and India. Most practice Sunni Islam.

The Muslim Association of Vietnam was banned in 1975 but authorized again in 1992. It is the only official Muslim organization. Association leaders say that they are able to practice their faith, including daily prayer, fasting during the month of Ramadan, and the pilgrimage to Mecca, Saudi Arabia. The Government no longer has a policy of restricting exit permits to prevent Muslims from making the Hajj. About 1 dozen Muslims made the Hajj to Mecca during 1998.

There are a variety of smaller religious communities. An estimated 8,000 Hindus are concentrated in the south, including some ethnic Chams on the south central coast who practice Hinduism.

There are several hundred members of the Church of Jesus Christ of Latter-Day Saints (Mormons) who are spread throughout the country, primarily in the Ho Chi Minh City and Hanoi areas.

The prominent position of Buddhism does not affect religious freedom for others adversely, including those who wish not to practice a religion. The secular government does not favor a particular religion. Of the country's 80 million citizens, 14 million or more reportedly do not appear to practice any organized religion. Some sources define strictly those considered to be practicing Buddhists, excluding those whose activities are limited to visiting pagodas on ceremonial holidays; using this definition, the number of nonreligious persons would be much higher—perhaps up to 50 million persons.

In some respects, conditions for religious freedom improved. In many areas, Buddhists, Catholics, and Protestants reported an increase in religious activity and observance. However, at the same time, government restrictions remained, and worshipers in several Buddhist, Catholic, and Cao Dai centers of worship reported that they believed that undercover government observers attended worship services and monitored the activities of the congregation and the clergy.

The Government released at least eight prominent religious prisoners as part of a wide-ranging prisoner amnesty in the Fall of 1998. Among these were five UBCV monks, including two of the most senior-ranking, Thich Quang Do and Thich Tue Sy; Catholic priests Dinh Viet Hieu and Nguyen Chau Dat; and Hoa Hao Buddhist Tran Huu Duyen.

However, operational and organizational restrictions on the hierarchies and clergy of most religious groups remain in place. While there were releases of religious prisoners, including others in addition to the eight prominent ones, detention and imprisonment of other persons for practicing religion illegally continued.

In April the Government issued a new decree on religion that prescribes the rights and responsibilities of religious believers. Similar to the Government's 1991 decree on religion, the decree also states for the first time that no religious organization can reclaim lands or properties taken over by the State following the end of the 1954 war against French rule and the 1975 Communist victory in the south. The decree also states that persons formerly detained or imprisoned must obtain special permission from the authorities before they may resume religious activities.

There were credible reports that Hmong Protestant Christians in several northwestern villages were forced to recant their faith and to drink blood from sacrificed chickens mixed with rice wine. Hmong church leaders told a North American church official that one Hmong Christian, Lu Seo Dieu, died in prison in Lao Cai province from mistreatment and lack of medical care. This report could not be confirmed. Prison conditions are poor in remote regions, and prison conditions in general are harsh.

Police authorities routinely question persons who hold dissident religious or political views. In May two prominent pastors of the unsanctioned Assemblies of God,

pastors Tran Dinh "Paul" Ai and Lo Van Hen, were detained and questioned by police after a Bible study session that they were conducting in Hanoi was raided by local police. Ai was questioned daily for more than 2 weeks regarding his religious activities, and Lo Van Hen, a member of the Black Tai ethnic minority, was returned to Dien Bien Phu for further questioning by police. Both were released before the end of May and allowed to return home. Ai later was issued a passport and allowed to travel abroad with his family on a religious worker visa.

There were numerous reports that police arbitrarily detained persons based on their religious beliefs and practice. A 1997 directive on administrative detention gives security officials broad powers to monitor citizens and control where they live and work for up to 2 years if they are believed to be threatening "national security." In their implementation of administrative detention, authorities held some persons under conditions resembling house arrest.

The Penal Code, as amended in 1997, established penalties for offenses that are only vaguely defined, including "attempting to undermine national unity" by promoting "division between religious believers and nonbelievers." In some cases, particularly involving Hmong Protestants, when authorities charge persons with practicing religion illegally they do so using provisions of the Penal Code that allow for jail terms up to 3 years for "abusing freedom of speech, press, or religion." There were reports that officials fabricate evidence, and some of the provisions of the law used to convict religious prisoners contradict international covenants such as the Universal Declaration on Human Rights.

There are no precise estimates available of the number of religious detainees and religious prisoners. There reportedly are at least 10 religious detainees, held without arrest or charge; however, the number may be greater. These persons include: Le Minh Triet (Tu Triet), a Hoa Hao leader detained at a government house in the south; and a number of Hmong and other ethnic minority Protestant detainees. The authorities use administrative detention as a means of controlling persons whom they believe hold dissident opinions. Anecdotal reports indicate that small groups of Protestants are detained briefly—sometimes for only a few days, at other times for weeks or months. Some persons are subject to prolonged detention without charge.

According to rough estimates, there are from 20 to 40 religious prisoners. This number is difficult to verify with any precision because of the secrecy surrounding the arrest, detention, and release process. The following persons reportedly continue to be held as religious prisoners: UBCV monks Thich Thein Minh and Thich Hue Dang; Catholic priests Mai Duc Chuong (Mai Huu Nghi), Pham Minh Tri, Nguyen Van De, Pham Ngoc Lien, Nguyen Thien Phung, and Nguyen Minh Quan; and Cao Daists Le Kim Bien and Pham Cong Hien. About 10 Hmong Protestant Christians in Lai Chau and Ha Giang provinces remain in detention; they include: Sung Phai Dia, Vu Gian Thao, Vang Gia Chua, Sung Va Tung, Sung Seo Chinh, Sinh Phay Pao, and Va Sinh Giay.

Officials acknowledge that the following Hmong Christians were sentenced and imprisoned under the section of the Penal Code that prohibits "abusing the freedom of religion": Sung Phai Dia, Vu Gian Thao, Ly A Giang, Giang A To, and Giang A Cat.

Unconfirmed reports from the central highlands suggest that some local officials have extorted cattle and money from Protestants in those areas. It is unclear whether their religious affiliation or other factors were the causes of these alleged crimes. Provincial officials in Ha Giang and Lai Chau provinces in the north have sought to pressure Hmong Christians to recant their faith.

The Government bans and actively discourages participation in "illegal" religious groups, including the UBCV, Protestant house churches, and unapproved Hoa Hao and Cao Dai groups. The Government restricts the number of clergy that the Buddhist, Catholic, Protestant, and Cao Dai churches may train. Restrictions are placed on the numbers of Buddhist monks and Catholic seminarians. Protestants are not allowed to operate a seminary or to ordain new clergy.

The Government restricts and monitors all forms of public assembly, including assembly for religious activities. On some occasions, large religious gatherings have been allowed, such as the 1998 and 1999 celebrations at La Vang. Within the past year, the Hoa Hao also have been allowed to hold two large public gatherings.

Religious and organizational activities by UBCV monks are illegal, and all UBCV activities outside private temple worship are proscribed. Protestant groups in central and southern provinces and some groups of Hoa Hao believers not affiliated with the group that held the May congress have petitioned the Government to be recognized officially. They have been unsuccessful thus far. Most evangelical house churches do not attempt to register because they believe that their applications would be denied, and they want to avoid government control.

The Government does not permit religious instruction in public schools. The Government restricts persons who belong to dissident and unofficial religious groups from speaking about their beliefs. It officially requires all religious publishing to be done by government-approved publishing houses. Many Buddhist sacred scriptures, Bibles, and other religious texts and publications are printed by these organizations and allowed to be distributed to believers. The Government allows, and in some cases encourages, links with coreligionists in other countries when the religious groups are approved by the Government. The Government actively discourages contacts between the illegal UBCV and its foreign Buddhist supporters, and between illegal Protestants, such as the house churches, and their foreign supporters. Contacts between the Vatican and the domestic Catholic Church are permitted, and the Government maintains a regular, active dialog with the Vatican on a range of issues, including organizational activities, the prospect of establishing diplomatic relations, and a possible papal visit. The Government allows religious travel for some, but not all, religious persons; Muslims are able to undertake the Hajj, and many Buddhist and Catholic officials also have been able to travel abroad. Persons who hold dissident religious opinions generally are not approved for foreign travel.

The Government does not designate persons' religions on passports, although citizens' "family books," which are household identification books, list religious and ethnic affiliation.

The law prohibits foreign missionaries from operating in the country. Proselytizing by citizens is restricted to regularly scheduled religious services in recognized places of worship. Immigrants and noncitizens must comply with the law when practicing their religions. Catholic and Protestant foreigners exercise leadership in worship services that are reserved for foreigners.

The government Office on Religious Affairs hosts periodic meetings to address religious issues according to government-approved agendas that bring together leaders of diverse religious traditions.

Adherence to a religious faith generally does not disadvantage persons in civil, economic, and secular life, although it likely would prevent advancement to the highest government and military ranks. Avowed religious practice bars membership in the Communist Party, although anecdotal reports indicate that a handful of the 2 million Communist Party members are religious believers.

The Government remained sensitive about international and nongovernmental organization investigations. In October 1998, the United Nations Special Rapporteur on Religious Intolerance, Abdelfattah Amor, visited Hanoi, Ho Chi Minh City, Hue, and Tay Ninh province. He met with government officials and representatives of the government-sanctioned Central Buddhist Church, the Catholic Church, Cao Dai, a Protestant church, and the small Muslim community. However, security officials prevented Amor from meeting several senior representatives of the non-government-sanctioned UBCV, including Thich Huyen Quang and Thich Quang Do, despite his repeated requests to do so.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government imposes some limits on freedom of movement. Most citizens enjoyed freedom of movement within the country; however, some local authorities required members of ethnic minority groups to obtain permission to travel outside certain highland areas. Officially, citizens had to obtain permission to change their residence (see Section l.f.). In practice many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. However, moving without permission restricted their ability to obtain legal work permits. Citizens formally are required to notify police if they intend to be away from their residence overnight and must register with police anywhere that they stay overnight; however, these requirements generally are not enforced. Holders of foreign passports must register to stay in private homes. In practice visitors of Vietnamese origin from overseas do not appear to have problems with this requirement and are allowed to stay with family and friends. Other foreigners complain that they are not allowed to do so.

The Government employs internal isolation to restrict the movement of political and religious dissidents (see Section 1.d.). The Government continued to use its 1997 decree on administrative detention to restrict where citizens live and work (see section l.f.).

Foreigners generally are free to travel throughout the country, except in some areas restricted on grounds of national security.

The Government retained the right to approve travel to border areas, to some areas in the central highlands, and to some islands, but in practice foreigners can travel to most border areas without prior approval. However, on several occasions, local police detained and fined foreigners whom police found had ventured too close to international borders and other sensitive military areas.

Although the Government no longer required citizens traveling abroad to obtain exit or reentry visas, the Government sometimes prevented persons from traveling by refusing to issue passports to persons who wished to travel. Persons who depart the country using passports marked dinh cu or "resettlement" appear to need a reentry permit to return.

Some persons who express dissident opinions on religious or political issues are not allowed to travel abroad (see Section 2.d.).

Citizens must demonstrate eligibility to emigrate to another country and show sponsorship abroad before the Government issues passports, which are required before a person is able to emigrate. Persons emigrating under refugee status are required to have a letter of introduction from the Ministry of Public Security before the passport office will issue them passports. Citizens' access to passports frequently was constrained by factors outside the law, such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passports based on personal animosities or on the officials' perception that an applicant did not meet program criteria, or in order to extort a bribe.

Because citizens who live overseas are considered a valuable potential source of foreign exchange and expertise for the country but also a potential security threat, the Government generally encourages them to visit but monitors many of them carefully.

The United States continued to process for admission and resettlement immigrants and refugee applicants, including Amerasians, former reeducation camp detainees, and family reunification cases. There are some concerns that some members of minority ethnic groups, particularly nonethnic Vietnamese such as the Montagnards, may not have ready access to these programs. The Government denied passports for emigration to certain Montagnard applicants.

The Government generally permits citizens who emigrate to return to visit, but it considers them Vietnamese citizens and therefore subject to the obligations of a Vietnamese citizen under the law, even if they have adopted another country's citizenship. The Government no longer requires reentry visas for citizens holding regular passports but who reside in another country. Holders of Vietnamese passports marked dinh cu or resettlement appear to need a reentry visa. However, emigrants are not permitted to use Vietnamese passports after they adopt other citizenship.

Vietnam and the United States continued to work together on the Resettlement Opportunity for Vietnamese Returnees Program (ROVR) in processing the residual few hundred ROVR persons who had returned from refugee camps elsewhere in southeast Asia.

Vietnam cooperated with the international community in implementing the Comprehensive Plan of Action (CPA), which was in effect in Vietnam between 1989 and June 1997, to resolve the situation of the thousands of Vietnamese who departed the country illegally. In 1989 as part of the CPA, Vietnam had signed a memorandum of understanding with the U.N. High Commissioner for Refugees (UNHCR) to accept voluntary repatriates from camps in countries of first asylum, provided that there was financial assistance. The agreement included a commitment to waive prosecution and punitive measures for the illegal departure from Vietnam of persons who return under the UNHCR voluntary repatriation program. The UNHCR, which monitored repatriates reported that they do not face retribution or discrimination.

The Constitution allows consideration of asylum under certain circumstances for foreigners persecuted abroad. Otherwise, the country does not have provisions for the granting of asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no reports that any individuals requested asylum. In the 1970's and 1980's, the Government admitted refugees from Cambodia, most of whom were ethnic Chinese.

Between 1993 and 1995, it admitted 30,000 persons from Cambodia, mainly ethnic Vietnamese. The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens do not have the right to change their government. Party control over the selection of candidates in elections for the National Assembly, the Presidency, the Prime Ministership, and local government undermines this right. All authority and political power is vested in the VCP; political opposition movements and other political parties are not tolerated. The VCP Central Committee is the supreme decisionmaking body in the nation, with the Politburo as the locus of policymaking. A standing board, consisting of the five most senior members of the Politburo, oversees day-

to-day implementation of leadership directives. Senior advisors to the Party, including the former party general secretary, President, and Prime Minister, also continue to exert significant influence on Politburo decisionmaking. The Government limited public debate and criticism to certain aspects of individual, state, or party performance determined by the VCP itself. No public challenge to the legitimacy of the one-party state is permitted; however, there were isolated instances of unsanctioned letters from private citizens critical of the Government that circulated publicly (see Section 2.a.).

Eligible citizens are required to vote in elections, although there is no penalty for not voting. Citizens elect the members of the National Assembly, ostensibly the main legislative body, but the Party must approve all candidates, most of whom are Party members. Most National Assembly members belong to the VCP, although 15 percent do not.

The National Assembly, although subject to the control of the Party (all of its senior leaders are party members), played an increasingly independent role, as a forum for the expression of local and provincial concerns and as a critic of corruption and inefficiency. However, the National Assembly generally does not initiate legislation and may not pass legislation that the Party opposes. Party officials occupied most senior government and National Assembly positions and continued to have the final say on key issues. During the year, the National Assembly continued to engage in vigorous debate on economic, legal, and social issues, including a business enterprise law and a press law. Legislators questioned and criticized ministers in sessions broadcast live on television.

The law provides the opportunity for equal participation in politics by women and minority groups, but in practice they are underrepresented. Most of the top leaders are men. There is one woman in the Politburo. Women are better represented in the National Assembly, where more than one-fourth of the 450 members are women. Women hold a few important positions. The Vice President is a woman, as are several ministers and vice ministers.

The president of the National Assembly, who is also a Politburo Standing Committee member, is a member of an ethnic minority.

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

The Government does not permit private, local human rights organizations to form or operate. It generally prohibits private citizens from contacting international human rights organizations, although some dissidents were able to do so despite opposition from the Government. The Government permitted the UNHCR and international visitors to monitor implementation of its repatriation commitments under the CPA and carried on a limited dialog with foreign human rights organizations based outside Vietnam.

The Government generally was willing to discuss human rights problems bilaterally with other governments if such discussions take place under the rubric of "exchanges of ideas" rather than as "investigations." Several foreign governments held official talks during the year concerning human rights.

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

The Constitution prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. Persons formerly interned in reeducation camps on the basis of pre-1975 association with the government of the former Republic of South Vietnam continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the former Republic of Vietnam remain incarcerated for activities after 1975. They and their families generally are not allowed employment with the Government. This prohibition is less restrictive than in past years because of the growth in private sector job opportunities.

Women.—International NGO workers and many women reported that domestic violence against women was common. The law addresses the problem of domestic violence, but authorities do not enforce it effectively. Many divorces reportedly are due to domestic violence, but many women likely remain in abusive marriages rather than confront the stigma of divorce.

Some women are forced to work as prostitutes, and trafficking in women for the purpose of forced prostitution, both domestically and internationally, is a serious problem (see Section 6.f.). Women and girls are trafficked from southern delta and highlands provinces to Cambodia, and from northern provinces into China. Women and girls frequently are misled by promises of well-paying jobs in those countries. Prostitution, although officially illegal, appears to be widely tolerated. The Ho Chi

Minh City People's Committee recently acknowledged that more than 10,000 women in the city engaged in prostitution. Hanoi and the port cities of Danang and Haiphong also have large numbers of women engaged in prostitution. There are reports that some exploiters in Ho Chi Minh City addicted young girls to heroin and forced them to work as prostitutes to earn cash for drugs. Many more women are compelled to work as prostitutes because of poverty, a lack of other employment opportunities, or because they are victimized by false promises of lucrative work. The Vietnam Women's Union and Youth Union, as well as international and domestic NGO's, are engaged actively in education and rehabilitation programs to combat these abuses.

While there is no legal discrimination, women face deeply ingrained societal discrimination. Despite extensive provisions in the Constitution, in legislation, and in regulations that mandate equal treatment, and although some women occupy high government posts, few women compete effectively for higher status positions. The Constitution provides that women and men must receive equal pay for equal work, but the Government does not enforce this provision. Very poor women, especially in rural areas but also in cities, perform menial jobs in construction, waste removal, and other jobs for extremely low wages. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace, and Labor Law provisions that call for preferential treatment of women, women do not always receive equal treatment. Nevertheless, women play an important role in the economy and are widely engaged in business and in social and educational institutions. Opportunities for young professional women have increased markedly, with greater numbers entering the civil service, universities, and the private sector.

The party-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operates micro-credit consumer finance programs and other programs to promote the advancement of women. International NGO's and other international organizations regard the union as effective, but they and Women's Union representatives believe that much time is required to overcome societal attitudes that relegate women to lower status than men. The Government also has a Committee for the Advancement of Women, which coordinates intraministerial programs affecting women.

Children.—International organizations reported that despite the government's promotion of child protection and welfare, children increasingly were at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education are strained. Thousands of children work in exploitative child labor (see Sections 6.c. and 6.d.). The Government continued a nationwide immunization campaign, and the government-controlled press regularly stressed the importance of health and education for all children. Reports from local sources indicate that responsible officials generally took these goals seriously but were constrained by severely limited budgets. According to a recent World Bank report, despite growth in incomes over the past decade, severe malnutrition remains an entrenched problem; about 45 percent of children under 5 years of age suffer from stunted growth.

Widespread poverty contributed to continued child prostitution, especially of girls, but also some boys as well, in major cities. Many prostitutes in Ho Chi Minh City are girls of ages 15 through 17. One NGO advocate stated that some child prostitutes, such as those from abusive homes, are forced into prostitution for economic reasons, having few other choices available to them. There are reports that some exploiters in Ho Chi Minh City addicted young girls to heroin and forced them to work as prostitutes to earn money for drugs.

Other children are trafficked domestically, as well as to foreign destinations for the purpose of forced prostitution. Although statistics are not reliable, children are trafficked from southern delta and highland provinces to Cambodia, and from northern provinces into China. Government agencies were engaged in combating these abuses. The Vietnam Women's Union and Youth Union are active in drawing attention to them and helping with education programs to warn vulnerable families of the dangers of deception by those who would lure young women and children into prostitution. Press reports documented the conviction and imprisonment of some traffickers (see Section 6.f.).

Street children often are subjected to abuse, including beatings by police (see Section 1.c.).

People With Disabilities.—Government provision of services to the disabled is limited, and the Government provides little official protection or effective support for the disabled. Government agencies responsible for services to the disabled worked

with domestic and foreign groups to "identify measures" to provide protection, support, and physical access for the disabled. Implementation is hampered by limited budgets. The 1995 Labor Law requires the State to protect the rights and encourage the employment of the disabled. It includes provisions for preferential treatment for firms that recruit disabled persons for training or apprenticeship and a special levy on firms that do not employ disabled workers. It is uncertain whether the Government enforces these provisions. The Government permitted international groups to assist those disabled by war or by subsequent accidents involving unexploded ordnance and has developed indigenous prosthetics-manufacturing capabilities. There are no laws mandating physical access to buildings.

National/Racial/Ethnic Minorities.—Although the Government states that it is opposed to discrimination against ethnic minorities, societal discrimination against minorities is widespread. In addition there continued to be credible reports that local officials sometimes restricted ethnic minority access to education, employment, and mail services. The Government continued to implement policies designed to narrow the gap in the standard of living between ethnic groups living in the highlands and richer lowland ethnic Vietnamese by granting preferential treatment to domestic and foreign companies that invest in highland areas. The stated goal of government resettlement policy in mountainous provinces is to move disadvantaged minorities provide incentives for disadvantaged minorities to relocate from inaccessible villages to locations where basic services are easier to provide; however, the effect of the policy sometimes has been to dilute the political and social solidarity of these groups. The Government continued to repress some highland minorities, particularly the Hmong, for practicing their religion without official approval (see Section 2.c.). Unlike the previous year, there were no reports that the Government repressed some highland minorities for suspected ties with resistance groups.

Section 6. Worker Rights

a. *The Right of Association.*—Unions are controlled by the Party and have only nominal independence; however, union leaders influence some key decisions, such as on health and safety issues and on minimum wage standards. Workers are not free to join or form unions of their choosing; such action requires approval from the local office of the Party-controlled Vietnam General Confederation of Labor (VGCL). The VGCL is the umbrella organization under which all local trade unions must operate, and it claims 4 million members in branches in each of the major cities and provinces. VGCL officers report that the VGCL represents 95 percent of public sector workers, 90 percent of workers in state-owned enterprises, and nearly 70 percent of private sector workers. The Labor Law requires provincial trade union organizations to establish unions within 6 months at all new enterprises with more than 10 employees as well as at existing enterprises that operate without trade unions. Management of those companies is required by law to accept and cooperate with those unions. In addition, while the Labor Code states that all enterprise level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated "labor associations" have been organized in occupations such as those of taxi, motorcycle and cyclo drivers, cooks, and market porters. Foreign governments are providing technical assistance and training to the Ministry of Labor, Invalids, and Social Affairs and to the VGCL.

The Labor Law provides for the right to strike under certain circumstances. The law requires that management and labor resolve labor disputes through the enterprise's own labor conciliation council. In a recent report, the ILO stated that many labor organizations failed to establish labor conciliation councils, and that without one, or if one fails to resolve the matter, it is referred to the provincial Labor Arbitration Council, which does not exist in some provinces. If the Council's decision is unsatisfactory to the union or if the province does not have an arbitration council, unions have the right to appeal to the Provincial People's Labor Arbitration Council. Labor courts, which were established in 1996 within the People's Court System, heard approximately 500 cases; most cited wrongful dismissal and matters of labor discipline. Since January 1995, the Labor Ministry has organized 150 training courses on the Labor Code for its staff and for managers of large enterprises.

The government-controlled labor unions stipulate written procedures for managing labor disputes that permit unresolved disputes to be arbitrated before a court. Unions have the right to appeal a council decision to the provincial people's court and the right to strike.

There were approximately 60 private and public strikes during the year, primarily against foreign-owned or joint venture companies, but some also involved state-owned and private firms. The Government tolerated these strikes, even though most were spontaneous and supported by organized labor after the fact. Approximately 250 strikes were reported from January 1995 through September 1999. Of these,

some 132 strikes were in enterprises with foreign investment, about 40 in state-owned enterprises, and 80 in private enterprises. The majority of these strikes took place in Ho Chi Minh City, Dong Nai province, and other southern provinces. The strikes mainly were caused by disputes over wages and related problems, including late payment of overtime pay and inappropriate labor disciple. Although most of the strikes did not follow an authorized conciliation and arbitration process, and thus were illegal, the Government tolerated the strikes and did not take action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, they were supported unofficially at the local and provincial levels of the VGCL on an informal basis. The Labor Law prohibits retribution against strikers, and there were no credible reports of such retribution. In some cases, the Government disciplined employers for illegal practices that led to strikes. VGCL officials stated that their general policy was not to use strikes to settle investment disputes, but only as a last resort. They stressed the need to educate workers on lawful strike procedure.

The Labor Code prohibits strikes at enterprises that serve the public and at those considered by the Government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in: Electrical production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the Government the right to suspend a strike considered detrimental to the national economy or public safety. Strikes are prohibited in 54 occupational sectors and businesses, including public services, businesses producing "essential" goods, and businesses serving national defense under the Ministries of Public Security and National Defense.

Individual unions legally are not free to affiliate with, join, or participate in, international labor bodies, and they do not do so in practice. However, the VGCL has relations with 95 labor organizations in 70 countries.

b. *The Right to Organize and Bargain Collectively.*—Workers must have the approval of the provincial or metropolitan branch of the VGCL in order to organize unions in their enterprises, but they also can bargain collectively through the Party-approved unions at their enterprises. During the year, many contracts were negotiated that ended the practice of annual renewal, as collective bargaining increased in importance. Multiyear contracts became more common despite initial resistance from foreign companies. Labor leaders became more active in supporting their workers by agreeing to place more workplace issues in collective bargaining agreements. Issues that are not in a contract, such as working on Sundays, have been spelled out so that companies cannot order workers to work a seventh day. Market forces also play a much more important role in determining wages. The Labor Law prohibits antiunion discrimination on the part of employers against employees seeking to organize.

There are a number of export processing zones and industrial zones, which are governed by the same labor laws as the rest of the country.

c. *Prohibition of Forced or Compulsory Labor.*—The Labor Law prohibits all forms of forced and bonded labor, including such labor by children; however, there were reports that thousands of children work in exploitative child labor. Some women are forced into prostitution, and trafficking in women for the purpose of forced prostitution is a problem (see Sections 5 and 6.f.). A study of child labor in Ho Chi Minh City found cases in which poor families had entered into "verbal agreements" with employers, who put the families' children to work; their salaries generally are sent to their parents. Officials state that juveniles in reeducation camps, which function much as reform schools or juvenile detention centers do elsewhere, are assigned work for educational purposes that does not generate income. Children were trafficked both domestically and internationally and forced to work as prostitutes (see Sections 5 and 6.f.).

During the year, the Government suspended the practice of required labor in the construction of national infrastructure projects; however, there is a long local tradition under which persons living along flood-prone levees voluntarily help to build or repair their critical flood control system. In 1998 the Government denied the use of prison labor without compensation, and there were no reports of this practice during the year.

d. *Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Law prohibits most child labor but allows exceptions for certain types of work. The Labor Law sets the minimum age for employment at 18 years of age, but enterprises may hire children between the ages of 15 and 18, as long as the firm obtains special permission from their parents and the Ministry of Labor, Invalids, and Social Affairs. The firm also must ensure that these young workers do not undertake hazardous work or work that would harm their physical or mental develop-

ment. These occupations are specified in the Labor Law. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care. It is not clear whether authorities have the resources to enforce these regulations. Children as young as 13 years of age can register at trade training centers, which are a form of vocational training. There were no reports that state-owned enterprises or companies with foreign investors used child labor.

Restrictions on working in hazardous operations apply to persons under the age of 18. The Labor Code permits the vocational training of children at the age of 13.

In rural areas, children work primarily on family farms and in other agricultural activities. They often begin working at the age of 6 and are expected to work as adults by the time they are 15 years of age. In urban areas, children work in family-owned small businesses. There are compulsory education laws that are not enforced effectively in rural areas, where children are needed to work in agriculture. However, the culture's strong emphasis on education leads parents who can afford to send their children to school to do so rather than allow them to work.

Many urban schools operate two sessions, allowing children to attend classes and to work.

In 1997 the U.N. Children's Fund (UNICEF) announced that Children below the age of 16 face increased risk of economic exploitation. The Government estimated in 1997 that approximately 29,000 children below the age of 15 were victims of exploitative labor. That estimate may have been low, since most of these children are working in the informal sector. In 1997 UNICEF cited evidence of children working in gold mines and as domestic servants, or working up to 14 hours a day in hazardous conditions for meager pay or no payment.

The Government did not commit sufficient resources to enforce its laws providing for children's labor safety, especially for children working in coal mines and as domestic servants. The ILO stated that street children both in Ho Chi Minh City and Hanoi usually participate in night education courses.

e. *Acceptable Conditions of Work*.—The Labor Law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for foreign-investment joint ventures is $45 (621,000 dong) in Hanoi and Ho Chi Minh City, and $40 (552,000 dong) elsewhere. The Government can exempt temporarily certain joint ventures from paying the minimum wage during the first months of an enterprise's operations, or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than $30 (414,000 dong). These minimum wage rates are inadequate to provide a worker and family with a decent standard of living. However, many workers receive bonuses and supplement their incomes by engaging in entrepreneurial activities, and households often include more than one wage earner. A decreasing number of workers receive government-subsidized housing. The Government enforces the minimum wage only at foreign and major Vietnamese firms.

In October the Government reduced the length of the workweek for government employees and employees of companies in the state sector from 48 hours to 40 hours; it intends to encourage the private business sector and foreign and international organizations that employ Vietnamese workers to implement a 40-hour week.

The Labor Law sets working hours at a maximum of 8 hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at 1.5 times the regular wage and 2 times the regular wage on holidays. The law limits compulsory overtime to 4 hours per week and 200 days per year. Annual leave with full pay for various types of work is also prescribed by the law. In a recent report, the ILO pointed out that the limit of 200 hours a year of overtime work is too low, and that workers and employers should have the right to agree to a greater amount of overtime work. It is uncertain how well the Government enforces these provisions.

According to the law, a female employee who is to be married, is pregnant, is on maternity leave, or is raising a child under 1 year of age cannot be dismissed unless the enterprise is closed. Female employees who are at least 7 months pregnant or are raising a child under 1 year of age cannot work overtime, at night, or in distant locations.

The Labor Law requires the Government to promulgate rules and regulations that ensure worker safety. The Ministry of Labor, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice, enforcement is inadequate because of the ministry's inadequate funding and a shortage of trained enforcement personnel. The VGCL reported that there are 300 labor inspectors in the country but that at least 600 are needed. There is growing evidence that workers, through labor unions, have been effective in improving working conditions.

Some foreign companies with operations in the country have established independent monitoring of problems at their factories. In some instances, they used NGO's and other nonprofit organizations to monitor workplace conditions and report abuses to the Ministry of Labor.

f. *Trafficking in Persons*.—The Penal Code prescribes harsh punishment for persons convicted of trafficking in women and children; however, some women are forced to work as prostitutes, and trafficking in women for the purpose of forced prostitution, both domestically and internationally, is a serious problem.

The Government, international NGO's, and the press reported an increase in recent years in trafficking in women. Women and girls are trafficked from the southern delta and highland provinces into Cambodia and from northern provinces into China. Women and girls frequently are misled by promises of well-paying jobs in those countries.

Prostitution, although officially illegal, appears to be widely tolerated. The Ho Chi Minh City People's Committee recently acknowledged that more than 10,000 women in the city engaged in prostitution. Hanoi and the port cities of Danang and Haiphong also have large numbers of women engaged in prostitution. There are reports that some persons in Ho Chi Minh City addicted young girls to heroin, then forced them to work as prostitutes to earn money to support their drug addiction. Many more women are compelled to work as prostitutes because of poverty, a lack of other employment opportunities, or because they are victimized by false promises of lucrative work. The Vietnam Women's Union and Youth Union, as well as international and domestic NGO's, are engaged actively in education and rehabilitation programs to combat these abuses.

The Government is working with international NGO's to supplement law enforcement measures and is cooperating with other national governments to prevent trafficking. NGO's reported that the problem appeared to grow during the year. Organized groups lure poor, often rural, women with promises of jobs or marriage and force them to work as prostitutes (see Sections 5 and 6.c.). Press and NGO reports noted that some women were kidnaped and transported to China and other countries against their will, where they were sold into forced marriages. The Government took measures to address this problem.

There is reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that are ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, many women are forced into conditions similar to indentured servitude; some may be forced into prostitution.

Children also are trafficked domestically and overseas to work as prostitutes. Government agencies were engaged in efforts to combat this abuse. One NGO advocate estimated that, among trafficked girl children, the average age was from 15 through 17 years; many were trafficked to Cambodia and China.

Government agencies and mass organizations are engaged to combat this problem. Some traffickers have been convicted and imprisoned. The Vietnam Women's Union and Youth Union's programs, as well as state-owned media, publicized the problem. Women's union advocacy and rehabilitation efforts help women and girls who have been trafficked.